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(2014/C 421/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Second Chamber) of 18 September 2014 (request for a preliminary ruling from the Varhoven administrativen sad — Bulgaria) — 'Valimar' OOD v Nachalnik na Mitnitsa Varna

(Case C-374/12) ([1])

(Reference for a preliminary ruling — Dumping — Iron or steel ropes and cables originating in Russia — Regulation (EC) No 384/96 — Articles 2(8) and (9) and 11(2), (3), (9) and (10) — Interim review — Expiry review of the anti-dumping measures — Validity of Regulation (EC) No 1279/2007 — Determination of the export price on the basis of sales to third countries — Reliability of export prices — Taking into consideration of price undertakings — Change in circumstances — Application of a methodology which is different from that used at the time of the original investigation)

(2014/C 421/02)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Appellant: 'Valimar' OOD

Respondent: Nachalnik na Mitnitsa Varna

Operative part of the judgment

Consideration of the questions referred has disclosed no factor of such a kind as to affect the validity of Council Regulation (EC) No 1279/2007 of 30 October 2007 imposing a definitive anti-dumping duty on certain iron or steel ropes and cables originating in the Russian Federation, and repealing the anti-dumping measures on imports of certain iron or steel ropes and cables originating in Thailand and Turkey.

([1]) OJ C 311, 13.10.2012.

Judgment of the Court (Grand Chamber) of 7 October 2014 — Federal Republic of Germany v Council of the European Union

(Case C-399/12) ([1])

(Action for annulment — EU external action — Article 218(9) TFEU — Establishing the position to be adopted on behalf of the European Union in a body set up by an international agreement — International agreement to which the European Union is not a party — International Organisation of Vine and Wine (OIV) — 'Acts having legal effects' — OIV recommendations)

(2014/C 421/03)

Language of the case: German

Parties

Applicant: Federal Republic of Germany (represented by: T. Henze, B. Beutler and N. Graf Vitzthum, acting as Agents)

Interveners in support of the applicant: Czech Republic (represented by: M. Smolek, E. Ruffer and D. Hadroušek, acting as Agents), Grand Duchy of Luxembourg (represented by: P. Frantzen, acting as Agent), Hungary (represented by: M.Z. Fehér and K. Szíjjártó, acting as Agents), Kingdom of the Netherlands (represented by: M. Bulterman, B. Koopman and J. Langer, acting as Agents), Republic of Austria (represented by: C. Pesendorfer, acting as Agent), Slovak Republic (represented by: B. Ricziová, acting as Agent), United Kingdom of Great Britain and Northern Ireland (represented by: J. Holmes, Barrister)

Defendant: Council of the European Union (represented by: E. Sitbon and J.-P. Hix, acting as Agents)

Intervener in support of the defendant: European Commission (represented by: F. Erlbacher, B. Schima and B. Eggers, acting as Agents)

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders the Federal Republic of Germany to pay the costs;*

3) *Orders the Czech Republic, the Grand Duchy of Luxembourg, Hungary, the Kingdom of the Netherlands, the Republic of Austria, the Slovak Republic, the United Kingdom of Great Britain and Northern Ireland and the European Commission to bear their own costs.*

([1]) OJ C 343, 10.11.2012.

Judgment of the Court (Fourth Chamber) of 2 October 2014 (request for a preliminary ruling from the Gerechtshof te 's-Hertogenbosch — Netherlands) — X v Voorzitter van het managementteam van het onderdeel Belastingdienst/Z van de rijksbelastingdienst

(Case C-426/12) ([1])

(Reference for a preliminary ruling — Directive 2003/96/EC — Taxation of energy products and electricity — Article 2(4)(b) — Dual use of energy products — Concept)

(2014/C 421/04)

Language of the case: Dutch

Referring court

Gerechtshof te 's-Hertogenbosch

Parties to the main proceedings

Appellant: X

Respondent: Voorzitter van het managementteam van het onderdeel Belastingdienst/Z van de rijksbelastingdienst

Operative part of the judgment

1. *Article 2(4)(b) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, as amended by Council Directive 2004/74/EC of 29 April 2004, must be interpreted as meaning that the fact of using, firstly, coal as a heating fuel in the sugar production process and, secondly, carbon dioxide generated by the combustion of that energy product to produce chemical fertilizers does not constitute 'dual use' of that energy product within the meaning of that provision.*

   However, the fact of using, firstly, coal as a heating fuel in the sugar production process and, secondly, carbon dioxide generated by the combustion of that energy product for the purposes of the same production process does constitute such 'dual use' if it is established that the sugar production process cannot be completed without using the carbon dioxide generated by the combustion of the coal.

2. *A Member State is entitled to apply, in its national law, a more restrictive scope of the concept of 'dual use' than that which it has under the second indent of Article 2(4)(b) of Directive 2003/96, as amended by Directive 2004/74, in order to levy a tax on energy products excluded from the scope of that directive.*

(1) OJ C 399, 22.12.2012.

Judgment of the Court (Second Chamber) of 17 September 2014 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Almer Beheer BV, Daedalus Holding BV v Van den Dungen Vastgoed BV, Oosterhout II BVBA

(Case C-441/12) (1)

(Reference for a preliminary ruling — Company law — Directive 2003/71/EC — Article 3(1) — Obligation to publish a prospectus when securities are offered for sale to the public — Enforced sale of securities)

(2014/C 421/05)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicants: Almer Beheer BV, Daedalus Holding BV

Defendants: Van den Dungen Vastgoed BV, Oosterhout II BVBA

Operative part of the judgment

Article 3(1) of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC, as amended by Directive 2008/11/EC of the European Parliament and of the Council of 11 March 2008, must be interpreted as meaning that the obligation to publish a prospectus prior to any offer of securities to the public is not applicable to an enforced sale of securities, such as that at issue in the main proceedings.

(1) OJ C 9, 12.1.2013.

Judgment of the Court (Fifth Chamber) of 18 September 2014 (request for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo — Spain) — Vueling Airlines SA v Instituto Galego de Consumo de la Xunta de Galicia

(Case C-487/12) ([1])

(Reference for a preliminary ruling — Air Transport — Common rules for the operation of air services in the European Union — Regulation (EC) No 1008/2008 — Pricing freedom — Checking in baggage — Price supplement — Concept of 'air fares' — Consumer protection — Imposition of a fine on an air carrier for an unfair contract term — National law requiring the carriage of passenger and checked-in baggage to be included in the base price of a plane ticket — Whether compatible with EU law)

(2014/C 421/06)

Language of the case: Spanish

Referring court

Juzgado de lo Contencioso-Administrativo

Parties to the main proceedings

Applicant: Vueling Airlines SA

Defendant: Instituto Galego de Consumo de la Xunta de Galicia

Operative part of the judgment

Article 22(1) of Regulation No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community must be interpreted as precluding a national law, such as that at issue in the main proceedings, that requires air carriers to carry, in all circumstances, not only the passenger, but also baggage checked in by him, provided that the baggage complies with certain requirements as regards, in particular, its weight, for the price of the plane ticket and without it being possible to charge any price supplement to carry such baggage.

([1]) OJ C 26, 26.1.2013.

Judgment of the Court (Fourth Chamber) of 17 September 2014 (request for a preliminary ruling from the Tartu Ringkonnakohus — Estonia) — Liivimaa Lihaveis MTÜ v Eesti-Läti programmi 2007-2013 Seirekomitee

(Case C-562/12) ([1])

(Reference for a preliminary ruling — Structural funds — Regulations (EC) No 1083/2006 and No 1080/2006 — European Regional Development Fund (ERDF) — Operational programme aiming to promote European territorial cooperation between the Republic of Estonia and the Republic of Latvia — Decision of the monitoring committee rejecting a subsidy — Provision that the decisions of that committee cannot be subject to legal review — Article 267 TFEU — Act adopted by an institution, organ or body of the European Union — Charter of Fundamental Rights of the European Union — Implementation of EU law — Article 47 — Right to effective judicial protection — Right of access to the courts — Determination of which Member State's courts have jurisdiction to rule on an action)

(2014/C 421/07)

Language of the case: Estonian

Referring court

Tartu Ringkonnakohus

Parties to the main proceedings

Appellant: Liivimaa Lihaveis MTÜ

Respondent: Eesti-Läti programmi 2007-2013 Seirekomitee

Intervening party: Eesti Vabariigi Siseministeerium

Operative part of the judgment

1) *Article 263 TFEU must be interpreted as meaning that, in the context of an operational programme under Council Regulation (EC) No 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, and Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 and intended to promote European territorial cooperation, an action against a decision of a monitoring committee rejecting an application for aid does not fall within the jurisdiction of the General Court of the European Union.*

2) *Point (b) of the first paragraph of Article 267 TFEU must be interpreted as meaning that a programme manual adopted by a monitoring committee in the context of an operational programme under Regulations No 1083/2006 and No 1080/2006 and intended to promote European territorial cooperation between two Member States, such as that at issue in the main proceedings, does not constitute an act of an institution, body, office or agency of the European Union and, in consequence, the Court of Justice of the European Union does not have jurisdiction to review the validity of the provisions of such a manual.*

3) *Regulation No 1083/2006, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding a provision of a programme manual adopted by a monitoring committee in the context of an operational programme established by two Member States and intended to promote European territorial cooperation, where that provision does not provide that a decision of the monitoring committee rejecting an application for aid can be subject to appeal before a court of a Member State.*

([1]) OJ C 38, 9.2.2013.

Judgment of the Court (Third Chamber) of 17 September 2014 (reference for a preliminary ruling from the Tartu Ringkonnakohus, Estonia) — AS Baltic Agro v Maksu- ja Tolliameti Ida maksu- ja tollikeskus

(Case C-3/13) ([1])

(Reference for a preliminary ruling — Dumping — Regulation (EC) No 661/2008 — Definitive anti-dumping duty on imports of ammonium nitrate originating in Russia — Conditions for exemption — Article 3(1) — First independent customer in the European Union — Acquisition of ammonium nitrate fertiliser through another company — Release of the goods — Application for invalidation of the customs declaration — Decision 2008/577/EC — Customs Code — Articles 66 and 220 — Error — Regulation (EEC) No 2454/93 — Article 251 — Post-release verification)

(2014/C 421/08)

Language of the case: Estonian

Referring court

Tartu Ringkonnakohus

Parties to the main proceedings

Applicant: AS Baltic Agro

Defendant: Maksu- ja Tolliameti Ida maksu- ja tollikeskus

Operative part of the judgment

1) *Article 3(1) of Regulation (EC) No 661/2008 of 8 July 2008, imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia following an expiry review pursuant to Article 11(2) and a partial interim review pursuant to Article 11(3) of Regulation (EC) No 384/96, must be interpreted as meaning that a company established in a Member State, which purchased ammonium nitrate originating in Russia, through another company also established in a Member State, with a view to importing it into the Union, may not be considered to be the first independent customer in the Union, within the meaning of that provision, and may not therefore be eligible for the exemption from definitive anti-dumping duty laid down by that regulation in respect of the ammonium nitrate.*

2) *Articles 66 and 220(2)(b) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Council Regulation (EC) No 1791/2006, of 20 November 2006, must be interpreted as not precluding a customs authority from making a subsequent entry in the accounts of anti-dumping duty when, as in the circumstances of the case in the main proceedings, the requests to invalidate the customs declarations were brought on the ground that the entry for the consignee was incorrect and that the authority had accepted those declarations or put in hand a verification exercise after receiving those requests.*

3) *Article 66 of Regulation No 2913/92, as amended by Regulation No 1791/2006, and Article 251 of Commission Regulation (EEC) No 2454/93 of 2 July 1993, laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, as amended by Commission Regulation (EC) No 312/2009, of 16 April 2009 are compatible with the fundamental right to equality before the law affirmed in Article 20 of the Charter of Fundamental Rights of the European Union in circumstances where, in the context of the common customs tariff, referred to in Articles 28 TFEU and 31 TFEU, the aforementioned provisions of Regulation No 2913/92, as amended by Regulation No 1791/2006, and of Regulation No 2454/93, as amended by Regulation No 312/2009, do not permit the invalidation, on request, of an incorrect customs declaration and thus the grant of the benefit of the exemption from anti-dumping duty to the consignee that the latter could have claimed, if the error had not been made.*

([1]) OJ C 63, 2.3.2013.

Judgment of the Court (Second Chamber) of 17 September 2014 (request for a preliminary ruling from the Förvaltningsrätten i Stockholm — Sweden) — Skandia America Corporation (USA), filial Sverige v Skatteverket

(Case C-7/13) ([1])

(Reference for a preliminary ruling — Common system of value added tax — Directive 2006/112/EC — VAT group — Internal invoicing for services supplied by a main company with its seat in a third country to its branch belonging to a VAT group within a Member State — Whether services supplied are taxable)

(2014/C 421/09)

Language of the case: Swedish

Referring court

Förvaltningsrätten i Stockholm

Parties to the main proceedings

Applicant: Skandia America Corporation (USA), filial Sverige

Defendant: Skatteverket

Operative part of the judgment

1. *Articles 2(1), 9 and 11 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that supplies of services from a main establishment in a third country to its branch in a Member State constitute taxable transactions when the branch belongs to a group of persons whom it is possible to regard as a single taxable person for value added tax purposes;*

2. *Articles 56, 193 and 196 of Directive 2006/112/EC must be interpreted as meaning that, in a situation such as that in the main proceedings where the main establishment of a company in a third country supplies services for consideration to a branch of that company in a Member State and where the branch belongs to a group of persons whom it is possible to regard as a single taxable person for value added tax purposes in that Member State, that group, as the purchaser of those services, becomes liable for the value added tax payable.*

([1]) OJ C 55, 23.2.2013.

Judgment of the Court (Second Chamber) of 2 October 2014 (request for a preliminary ruling from the Bundesverwaltungsgericht — Germany) — Martin Grund v Landesamt für Landwirtschaft, Umwelt und ländliche Räume des Landes Schleswig-Holstein

(Case C-47/13) ([1])

(Reference for a preliminary ruling — Common agricultural policy — Common rules for direct support schemes — Single payment scheme — Definition of 'permanent pasture' — Land used to grow grass and other herbaceous forage not part of the system of crop rotation of the holding for a minimum of five years — Land ploughed up and sown with a type of herbaceous forage other than that previously grown on it during that period)

(2014/C 421/10)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Martin Grund

Defendant: Landesamt für Landwirtschaft, Umwelt und ländliche Räume des Landes Schleswig-Holstein

Operative part of the judgment

The definition of 'permanent pasture' set out in Article 2(2)(c) of Commission Regulation (EC) No 1120/2009 of 29 October 2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers must be interpreted as covering agricultural land which is currently, and has been for five years or more, used to grow grass and other herbaceous forage, even though that land has been ploughed up and seeded with another variety of herbaceous forage other than that which was previously grown on it during that period.

([1]) OJ C 108, 13.4.2013.

Judgment of the Court (Fourth Chamber) of 2 October 2014 (request for a preliminary ruling from the Verwaltungsgerichtshof Baden-Württemberg — Germany) — U v Stadt Karlsruhe

(Case C-101/13) ([1])

(Area of freedom, security and justice — Regulation (EC) No 2252/2004 — Document 9303 of the International Civil Aviation Organisation (ICAO), Part 1 — Minimum security standards for passports and travel documents issued by the Member States — Machine readable passport — Inclusion of the birth name on the personal data page of the passport — Name to appear in a form not liable to give rise to confusion)

(2014/C 421/11)

Language of the case: German

Referring court

Verwaltungsgerichtshof Baden-Württemberg

Parties to the main proceedings

Applicant: U

Defendant: Stadt Karlsruhe

Operative part of the judgment

1. *The Annex to Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, as amended by Regulation (EC) No 444/2009 of the European Parliament and of the Council of 6 May 2009 must be interpreted as requiring the machine readable personal data page of passports issued by the Member States to satisfy all the compulsory specifications provided for by Part 1 of Document 9303 of the International Civil Aviation Organisation (ICAO).*

2. *The Annex to Regulation No 2252/2004, as amended by Regulation No 444/2009, read in conjunction with International Civil Aviation Organisation Document 9303, Part 1, must be interpreted, where the law of a Member State provides that a person's name comprises his forenames and surname, as not precluding that State from being entitled nevertheless to enter the birth name either as a primary identifier in Field 06 of the machine readable personal data page of the passport or as a secondary identifier in Field 07 of that page or in a single field composed of Fields 06 and 07.*

3. *The Annex to Regulation No 2252/2004, as amended by Regulation No 444/2009, read in conjunction with the provisions of International Civil Aviation Organisation Document 9303, Part 1, Section IV, point 8.6, must be interpreted, where the law of a Member State provides that a person's name comprises his forenames and surname, as precluding that State from being entitled to enter the birth name as an optional item of personal date in Field 13 of the machine readable personal data page of the passport.*

4. *The Annex to Regulation No 2252/2004, as amended by Regulation No 444/2009, read in conjunction with International Civil Aviation Organisation Document 9303, Part 1, must be interpreted, in the light of Article 7 of the Charter, as meaning that, where a Member State whose law provides that a person's name comprises his forenames and surname chooses nevertheless to include the birth name of the passport holder in Fields 06 and/or 07 of the machine readable personal data page of the passport, that State is required to state clearly in the caption of those fields that the birth name is entered there.*

([1]) OJ C 156, 1.6.2013.

Judgment of the Court (Second Chamber) of 2 October 2014 — Guido Strack v European Commission

(Case C-127/13 P) ([1])

(Appeal — Right to be heard — Right to be heard by a court or tribunal established in accordance with the law — Access to documents held by the institutions — Partial refusal to grant the appellant access to the documents concerned — Initial refusal — Implied decision deemed to exist — Replacement of an implied refusal by express decisions — Interest in bringing proceedings after the adoption of the express refusals — Exceptions to the right of access to documents — Safeguarding the interests of good administration — Protection of personal data and commercial interests)

(2014/C 421/12)

Language of the case: German

Parties

Appellant: Guido Strack (represented by: H. Tettenborn, Rechtsanwalt)

Other party to the proceedings: European Commission (represented by: B. Conte and P. Costa de Oliveira, acting as Agents)

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the General Court of the European Union in Strack v Commission, T-392/07, EU:T:2013:8 in so far as, by that judgment, the General Court annulled the decision of the European Commission of 24 July 2007;*

2. *Dismisses the cross-appeal for the remainder;*

3. *Dismisses the appeal;*

4. *Dismisses the action for annulment in so far as it is directed against the decision of the European Commission refusing access to the extract of the register concerning refusals of confirmatory applications for access to documents;*

5. *Orders Mr Guido Strack to bear his own costs in the present proceedings and to pay one third of the costs incurred by the European Commission;*

6. *Orders the European Commission to pay two thirds of the costs relating to the present proceedings;*

7. *Orders the costs relating to the proceedings at first instance which gave rise to the judgment in Strack v Commission (T-392/07, EU:T:2013:8) to be paid in accordance with the arrangements laid down in paragraph 7 of the operative part thereof.*

([1]) OJ C 147, 25.5.2013.

Judgment of the Court (Second Chamber) of 18 September 2014 (request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands)) — Hauck GmbH & Co. KG v Stokke A/S and Others

(Case C-205/13) ([1])

(Trade marks — Directive 89/104/EEC — Article 3(1)(e) — Refusal or invalidation of registration — Three-dimensional trade mark — Adjustable 'Tripp Trapp' children's chair — Sign consisting exclusively of the shape which results from the nature of the goods — Sign consisting of the shape which gives substantial value to the goods)

(2014/C 421/13)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Hauck GmbH & Co. KG

Respondents: Stokke A/S, Stokke Nederland BV, Peter Opsvik, Peter Opsvik A/S

Operative part of the judgment

1. *The first indent of Article 3(1)(e) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks must be interpreted as meaning that the ground for refusal of registration set out in that provision may apply to a sign which consists exclusively of the shape of a product with one or more essential characteristics which are inherent to the generic function or functions of that product and which consumers may be looking for in the products of competitors.*

2. *The third indent of Article 3(1)(e) of Directive 89/104 must be interpreted as meaning that the ground for refusal of registration set out in that provision may apply to a sign which consists exclusively of the shape of a product with several characteristics each of which may give that product substantial value. The target public's perception of the shape of that product is only one of the assessment criteria which may be used to determine whether that ground for refusal is applicable.*

3. *Article 3(1)(e) of Directive 89/104 must be interpreted as meaning that the grounds for refusal of registration set out in the first and third indents of that provision may not be applied in combination.*

([1]) OJ C 189, 29.6.2013.

Judgment of the Court (Second Chamber) of 17 September 2014 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Commerz Nederland NV v Havenbedrijf Rotterdam NV

(Case C-242/13) ([1])

(Reference for a preliminary ruling — Competition — State aid — Article 107(1) TFEU — Definition of aid — Guarantees provided by a public undertaking to a bank to facilitate lending to third party creditors — Guarantees deliberately provided by the director of that public undertaking in disregard of that undertaking's statutes — Presumption of opposition by the public body that owns that undertaking — Whether the guarantees may be imputed to the State)

(2014/C 421/14)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Commerz Nederland NV

Respondent: Havenbedrijf Rotterdam NV

Operative part of the judgment

On a proper construction of Article 107(1) TFEU, for the purposes of determining whether or not the guarantees provided by a public undertaking are imputable to the public authority controlling that undertaking, the following are relevant, together with the body of evidence arising from the circumstances of the case in the main proceedings and from the context in which they took place: on the one hand, that the sole director of the company providing those guarantees acted improperly, deliberately kept the provision of those guarantees secret and disregarded the undertaking's statutes and, on the other, that that public authority would have opposed the provision of the guarantees, had it been informed of it. In a situation such as that at issue in the main proceedings, those circumstances could, in themselves, exclude such imputability only if it may be inferred that the guarantees at issue were provided without the involvement of that same public authority.

([1]) OJ C 207, 20.7.2013.

Judgment of the Court (Seventh Chamber) of 2 October 2014 (request for a preliminary ruling from the Hof van beroep te Brussel — Belgium) — Orgacom BVBA v Vlaamse Landmaatschappij

(Case C-254/13) ([1])

(Reference for a preliminary ruling — Charges having equivalent effect to customs duties — Internal taxes — Import levy on manure imported into the Flanders Region — Articles 30 TFEU and 110 TFEU — Levy payable by the importer — Different levies on imported manure and manure produced within the Flanders Region)

(2014/C 421/15)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Appellant: Orgacom BVBA

Respondent: Vlaamse Landmaatschappij

Operative part of the judgment

Article 30 TFEU precludes a levy, such as that provided for under Article 21(5) of the Decree of the Flanders Region of 23 January 1991 on protection of the environment against fertiliser pollution, as amended by the Decree of 28 March 2003, which is applicable only to imports into the Flanders Region of surplus livestock manure and other fertilisers, which is levied on the importer whereas the tax on the surplus manure produced within the territory of the Flanders Region is levied on the producer and is calculated differently from the tax on imports. In that regard, it is immaterial that the Member State from which the surplus manure is imported into the Flanders Region provides for a tax reduction in the case of export of that surplus to other Member States.

([1]) OJ C 207, 20.7.2013.

Judgment of the Court (Seventh Chamber) of 18 September 2014 — Società Italiana Calzature SpA v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Vicini SpA

(Joined Cases C-308/13 P and C-309/13 P) ([1])

(Appeals — Community trade marks — Regulation (EC) No 40/94 — Registration of figurative marks containing the word elements 'GIUSEPPE ZANOTTI DESIGN' and 'BY GIUSEPPE ZANOTTI' — Opposition by the proprietor of word and figurative, national and community, trade marks, containing the word element 'ZANOTTI' — Opposition dismissed by the Board of Appeal)

(2014/C 421/16)

Language of the case: Italian

Parties

Appellant: Società Italiana Calzature SpA (represented by: A. Rapisardi and C. Ginevra, avvocati)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Bullock acting as agent), Vicini SpA (represented by: M. Franzosi and C. Giorgetti, avvocati)

Operative part of the judgment

The Court:

1. *Dismisses the appeals;*

2. *Orders Società Italiana Calzature SpA to pay the costs.*

([1]) OJ C 233, 10.08.2013.

Judgment of the Court (Third Chamber) of 17 September 2014 (request for a preliminary ruling from the Supremo Tribunal Administrativo — Portugal) — Cruz & Companhia Lda v Instituto de Financiamento da Agricultura e Pescas, IP (IFAP)

(Case C-341/13) ([1])

(Reference for a preliminary ruling — Protection of the European Union's financial interests — Regulation (EC, Euratom) No 2988/95 — Article 3 — Proceedings relating to irregularities — European Agricultural Guidance and Guarantee Fund (EAGGF) — Recovery of export refunds wrongly received — Limitation period — Application of a longer national limitation period — General limitation period — Administrative measures and penalties)

(2014/C 421/17)

Language of the case: Portuguese

Referring court

Supremo Tribunal Administrativo

Parties to the main proceedings

Appellant: Cruz & Companhia Lda

Respondent: Instituto de Financiamento da Agricultura e Pescas, IP (IFAP)

Operative part of the judgment

1. *Article 3 of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests must be interpreted as applying to procedures brought by the national authorities against recipients of European Union aid following irregularities found by the national body responsible for paying the export refunds under the European Agricultural Guidance and Guarantee Fund (EAGGF).*

2. *The limitation period referred to in the first subparagraph of Article 3(1) of Regulation No 2988/95 is applicable not only to proceedings brought in respect of irregularities leading to the imposition of administrative penalties within the meaning of Article 5 of that regulation, but also to proceedings leading to the adoption of administrative measures within the meaning of Article 4 of that regulation. Although Article 3(3) of that regulation permits Member States to apply longer limitation periods than those of four or three years provided for in the first subparagraph of Article 3(1) thereof, arising from general provisions of law pre-dating the adoption of that regulation, the application of a limitation period of 20 years goes beyond what is necessary to achieve the objective of protecting the European Union's financial interests.*

([1]) OJ C 260, 7.9.2013.

Judgment of the Court (Second Chamber) of 1 October 2014 — Council of the European Union v Alumina d.o.o., European Commission

(Case C-393/13 P) ([1])

(Appeal — Dumping — Implementing Regulation (EU) No 464/2011 — Importation of zeolite A powder originating in Bosnia and Herzegovina — Regulation (EC) No 1225/2009 — Article 2 — Determination of the normal value — Concept of 'ordinary course of trade')

(2014/C 421/18)

Language of the case: French

Parties

Appellant: Council of the European Union (represented by: J.-P. Hix, acting as Agent, assisted initially by G.M. Berrisch and subsequently by D. Geradin, avocats)

Other parties to the proceedings: Alumina d.o.o. (represented by: J.-F. Bellis and B. Servais, avocats), European Commission

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders the Council of the European Union to pay the costs.*

([1]) OJ C 274, 21.9.2013.

Judgment of the Court (Second Chamber) of 1 October 2014 (request for a preliminary ruling from the Court of Appeal (England and Wales) (Civil Division) — United Kingdom) — E v B

(Case C-436/13) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Judicial cooperation in civil matters — Regulation (EC) No 2201/2003 — Articles 8, 12 and 15 — Jurisdiction in matters of parental responsibility — Proceedings relating to the custody of a child habitually resident in the Member State of residence of his mother — Prorogation of jurisdiction in favour of a court of the Member State of residence of the father — Scope)

(2014/C 421/19)

Language of the case: English

Referring court

Court of Appeal (England and Wales) (Civil Division)

Parties to the main proceedings

Applicant: E

Defendant: B

Operative part of the judgment

Jurisdiction in matters of parental responsibility which has been prorogued, under Article 12(3) of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, in favour of a court of a Member State before which proceedings have been brought by mutual agreement by the holders of parental responsibility ceases following a final judgment in those proceedings.

([1]) OJ C 298, 12.10.2013.

Judgment of the Court (Second Chamber) of 2 October 2014 (request for a preliminary ruling from the Conseil d'État — France) — Société Fonderie 2A v Ministre de l'Économie et des Finances

(Case C-446/13) ([1])

(Reference for a preliminary ruling — Sixth VAT Directive — Article 8(1)(a) — Determination of the place of supply of goods — Supplier established in a Member State other than the Member State in which the person to whom the goods are supplied is established — Processing of the goods in the Member State where the person to whom the goods are supplied is established)

(2014/C 421/20)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Société Fonderie 2A

Defendant: Ministre de l'Économie et des Finances

Operative part of the judgment

Article 8(1)(a) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 95/7/EC of 10 April 1995, must be interpreted as meaning that the place of supply of goods sold by a company established in a Member State to a person established in another Member State, and on which the vendor, to make them fit to be supplied, has had finishing work carried out by a service provider established in that other Member State, before having them dispatched by the service provider to the person to whom they are being supplied, must be deemed to be in the Member State where the latter is established.

([1]) OJ C 304, 19.10.2013.

Judgment of the Court (Ninth Chamber) of 2 October 2014 — European Commission v Republic of Poland

(Case C-478/13) ([1])

(Failure of a Member State to fulfil obligations — Directive 2001/18/EC — Deliberate release into the environment of genetically modified organisms (GMOs) — Placing on the market — Article 31(3)(b) — Locations of GMO crops — Obligation to inform the competent authorities — Obligation to establish a public register — Cooperation in good faith)

(2014/C 421/21)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: D. Bianchi and M. Owsiany-Hornung, acting as Agents)

Defendant: Republic of Poland (represented by: B. Majczyba, acting as Agent)

Operative part of the judgment

1. *In not laying down an obligation to inform the competent Polish authorities of the locations at which genetically modified organism crops are being grown pursuant to Part C of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC, and in not establishing a register of those locations and in not making public the information relating to them, the Republic of Poland has failed to fulfil its obligations under Article 31(3)(b) of that directive.*

2. *The Republic of Poland is ordered to pay the costs.*

([1]) OJ C 336, 16.11.2013.

Judgment of the Court (Ninth Chamber) of 2 October 2014 (request for a preliminary ruling from the Hof van Cassatie van België — Belgium) — Vlaams Gewest v Heidi Van Den Broeck

(Case C-525/13) ([1])

(Reference for a preliminary ruling — Common agricultural policy — Regulation (EC) No 2419/2001 — Integrated administration and control system for certain aid schemes — Area aid application — Article 33 — Penalties — Irregularities committed intentionally)

(2014/C 421/22)

Language of the case: Dutch

Referring court

Hof van Cassatie van België

Parties to the main proceedings

Applicant: Vlaams Gewest

Defendant: Heidi Van Den Broeck

Operative part of the judgment

The first paragraph of Article 33 of Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92, as amended by Commission Regulation (EC) No 118/2004 of 23 January 2004, must be interpreted as meaning that, in the event of intentional irregularity found in an area aid application, the farmer is to be refused all of the aid to which that farmer would have been entitled under the aid scheme concerned by the application and for which the crop group concerned by that irregularity was eligible.

([1]) OJ C 377, 21.12.2013.

Judgment of the Court (Ninth Chamber) of 18 September 2014 (reference for a preliminary ruling from the Vergabekammer Arnsberg — Germany) — Bundesdruckerei GmbH v Stadt Dortmund

(Case C-549/13) ([1])

(Reference for a preliminary ruling — Article 56 TFEU — Freedom to provide services — Restrictions — Directive 96/71/EC — Procedures for the award of public service contracts — National legislation requiring tenderers and their subcontractors to undertake to pay a minimum wage to staff performing the services relating to the public contract — Subcontractor established in another Member State)

(2014/C 421/23)

Language of the case: German

Referring court

Vergabekammer Arnsberg

Parties to the main proceedings

Applicant: Bundesdruckerei GmbH

Defendant: Stadt Dortmund

Operative part of the judgment

In a situation such as that at issue in the main proceedings, in which a tenderer intends to carry out a public contract by having recourse exclusively to workers employed by a subcontractor established in a Member State other than that to which the contracting authority belongs, Article 56 TFEU precludes the application of legislation of the Member State to which that contracting authority belongs which requires that subcontractor to pay those workers a minimum wage fixed by that legislation.

([1]) OJ C 24, 25.1.2014.

Appeal brought on 18 September 2013 by Page Protective Services Ltd against the order of the General Court (Fifth Chamber) delivered on 9 July 2013 in Case T-221/13 Page Protective Services Ltd v European External Action Service (EEAS)

(Case C-501/13 P)

(2014/C 421/24)

Language of the case: French

Parties

Appellant: Page Protective Services Ltd (represented by: J.-P. Hordies, avocat, and E. Lock, solicitor)

Other party to the proceedings: European External Action Service (EEAS)

By order of 2 October 2014, the Court (Sixth Chamber) dismissed the appeal and ordered Page Protective Services Ltd to bear its own costs.

Request for a preliminary ruling from the Corte dei Conti — Sezione Giurisdizionale per la Regione Puglia (Italy) of 21 May 2014 — Vittoria De Bellis and Others v Istituto Nazionale di Previdenza dei Dipendenti dell'Amministrazione Pubblica (INPDAP)

(Case C-246/14)

(2014/C 421/25)

Language of the case: Italian

Referring court

Corte dei Conti — Sezione Giurisdizionale Per la Regione Puglia

Parties to the main proceedings

Applicants: Vittoria De Bellis, Diana Perrone, Cesaria Antonia Villani

Defendant: Istituto Nazionale di Previdenza dei Dipendenti dell'Amministrazione Pubblica (INPDAP)

By order of 15 October 2014, the Court (Fifth Chamber) declared that it clearly has no jurisdiction to answer the questions referred.

Request for a preliminary ruling from the Amtsgericht Rüsselsheim (Germany) lodged on 8 August 2014 — Dorothea Eckert and Karl-Heinz Dallner v Condor Flugdienst GmbH

(Case C-380/14)

(2014/C 421/26)

Language of the case: German

Referring court

Amtsgericht Rüsselsheim

Parties to the main proceedings

Applicants: Dorothea Eckert, Karl-Heinz Dallner

Defendant: Condor Flugdienst GmbH

By order of the Court of Justice of 9 September 2014, the present case was removed from the Court's Register.

Request for a preliminary ruling from the Tribunal du travail de Bruxelles (Belgium) lodged on 28 August 2014 — Aliny Wojciechowski v Office national des pensions (ONP)

(Case C-408/14)

(2014/C 421/27)

Language of the case: French

Referring court

Tribunal du travail de Bruxelles

Parties to the main proceedings

Applicant: Aliny Wojciechowski

Defendant: Office national des pensions (ONP)

Question referred

On a proper construction of the principle of sincere cooperation and Article 4(3) TEU, on the one hand, and of Article 34 (1) of the Charter of Fundamental Rights, on the other, is a Member State precluded from reducing or refusing a retirement pension payable to an employed person by virtue of the service performed, in accordance with the legislation of that Member State, where the total number of years worked in that Member State and within the European institutions exceeds the 'occupational record unit' of 45 years referred to in Article 10(a) of Royal Decree No 50 of 24 October 1967 on the retirement and survival pension of employed persons?

Request for a preliminary ruling from the Juzgado de Primera Instancia No 2 de Santander (Spain) lodged on 10 September 2014 — Banco Primus, S.A. v Jesús Gutiérrez García

(Case C-421/14)

(2014/C 421/28)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 2 de Santander

Parties to the main proceedings

Applicant: Banco Primus, S.A.

Defendant: Jesús Gutiérrez García

Questions referred

First question:

1. Must the Fourth Transitional Provision of Law No 1/2013 be interpreted so as not to constitute an obstacle to the protection of the consumer?

2. Under Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts [1], and in particular Articles 6(1) and 7(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, is a consumer permitted to raise a complaint regarding the presence of unfair terms outside the period specified under national legislation for raising such a complaint, and is the national court required to examine such terms?

3. Under Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Articles 6 (1) and 7(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, is a national court required to assess, of its own motion, whether a term is unfair and to determine the appropriate consequences, even where an earlier decision of that court reached the opposite conclusion or declined to make such an assessment and that decision was final under national procedural law?

Second question:

4. In what way may the quality/price ratio affect the review of the unfairness of non-essential terms of a contract? When conducting an indirect review of such factors, is it relevant to have regard to the limits imposed on prices under national legislation? Is it possible that terms that are valid when viewed in abstract cease to be so where it is found that the price of the transaction is very high by comparison with the market standard?

Third question:

5. For the purposes of Article 4 of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, can circumstances arising after the conclusion of the contract be taken into account if an examination of the national legislation suggests that this is required?

Fourth question:

6. Must Article 693(2) of the LEC [Ley de Enjuiciamiento Civil (Law on Civil Procedure)], as amended by Law 1/2013, be interpreted so as not to constitute an obstacle to the protection of consumer interests?

7. Under Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Articles 6 (1) and 7(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, must a national court, when it finds there to be an unfair term concerning accelerated repayment, declare that that term does not form part of the contract and determine the consequences inherent in such a finding, even where the seller or supplier has waited the minimum time provided for in the national provision?

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

Request for a preliminary ruling from the Juzgado de lo Social No 33 de Barcelona (Spain) lodged on 12 September 2014 — Christian Pujante Rivera v Gestora Clubs Dir, S.L., Fondo de Garantía Salarial

(Case C-422/14)

(2014/C 421/29)

Language of the case: Spanish

Referring court

Juzgado de lo Social No 33 de Barcelona

Parties to the main proceedings

Applicant: Christian Pujante Rivera

Defendants: Gestora Clubs Dir, S.L., Fondo de Garantía Salarial

Questions referred

1. If temporary workers, whose contracts have been terminated on the lawful ground that those contracts are temporary, are to be regarded as falling outside the scope and protection of Directive 98/59 ([1]) on collective redundancies, by virtue of Article 1(2)(a) thereof (judgment on the request for a preliminary ruling in Case C-392/13 pending), would it be consistent with the purpose of the Directive if — conversely — such workers were taken into account for the purposes of determining the number of workers '*normally*' employed at an establishment (or, in Spain, an undertaking) in order to calculate the numerical threshold for collective redundancies (10 % or 30 workers) laid down in Article 1(a)(i) of the Directive?

2. The requirement under the second subparagraph of Article 1(1)(b) of Directive 98/59 that '*terminations*' be 'assimilated' to '*redundancies*' is made subject to the condition '*that there [be] at least five redundancies*'. Must that condition be interpreted as relating to the '*redundancies*' previously effected or brought about by the employer, as provided for in Article 1(1)(a) of the Directive, and not to the minimum number of '*assimilable terminations*' that must exist in order for such assimilation to take place?

3. Does the concept of '*terminations of an employment contract which occur on the employer's initiative for one or more reasons not related to the individual workers concerned*', as referred to in the last subparagraph of Article 1(1) of Directive 98/59, cover the termination of a contract between the employer and the worker which, although initiated by the worker, comes about in response to a previous change in working conditions that was initiated by the employer on account of the critical difficulties being experienced by the undertaking and for which compensation is ultimately to be awarded in an amount equivalent to that payable for unfair dismissal?

(1) Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies (OJ 1998 L 225, p. 16).

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 18 September 2014 — Valsts ieņēmumu dienests v SIA 'Veloserviss'

(Case C-427/14)

(2014/C 421/30)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Applicant: Valsts ieņēmumu dienests

Defendant: SIA 'Veloserviss'

Questions referred

Should Article 78(3) of Council Regulation (EEC) No 2913/92 (1) of 12 October 1992 establishing the Community Customs Code be interpreted as meaning that the principle of the protection of legitimate expectations limits the possibility of undertaking for a second time a post-clearance examination and revising the results of the first post-clearance examination?

May the national law of a Member State establish the procedure for the undertaking of post-clearance examinations provided for in Article 78(3) of Council Regulation (EEC) No 2913/92 of 12 October 1992, establishing the Community Customs Code, and limits on the revision of the results of those examinations?

Should Article 78(3) of Council Regulation (EEC) No 2913/92 of 12 October 1992, establishing the Community Customs Code, be interpreted as meaning that national legislation may legitimately contain limitations on the revision of the results of a first post-clearance examination, if information is received indicating that the provisions governing the customs procedure were applied on the basis of incorrect and incomplete information, a matter which was not known at the time of adopting the decision on the first post-clearance examination?

(1) OJ 1992 L 302, p. 1.

Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas lodged on 18 September 2014 — Air Baltic Corporation AS v Lietuvos Respublikos specialiųjų tyrimų tarnyba

(Case C-429/14)

(2014/C 421/31)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

Appellant in cassation: Air Baltic Corporation AS

Other party to the proceedings: Lietuvos Respublikos specialiųjų tyrimų tarnyba

Questions referred

1. Are Articles 19, 22 and 29 of the Montreal Convention to be understood and interpreted as meaning that an air carrier is liable to third parties, inter alia to the passengers' employer, a legal person with which a transaction for the international carriage of passengers was entered into, for damage occasioned by a flight's delay, on account of which the applicant (the employer) incurred additional expenditure connected with the delay (for example, the payment of travel expenses)?

2. If the first question is answered in the negative, is Article 29 of the Montreal Convention to be understood and interpreted as meaning that those third parties have the right to bring claims against the air carrier on other bases, for example, in reliance upon national law?

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 19 September 2014 — Valsts ieņēmumu dienests v Artūrs Stretinskis

(Case C-430/14)

(2014/C 421/32)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Applicant: Valsts ieņēmumu dienests

Defendant: Artūrs Stretinskis

Questions referred

1. Must Article 143(1)(h) of Commission Regulation No 2454/93 ([1]) of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 ([2]) establishing the Community Customs Code be interpreted as referring not only to situations in which the parties to the transaction are exclusively natural persons, but also to situations in which there is a family or kinship relationship between a director of one of the parties (a legal person) and the other party to the transaction (a natural person) or a director of that party (in the case of a legal person)?

2. If the answer is affirmative, must the judicial body hearing the matter carry out an in-depth examination of the circumstances of the case in relation to the actual influence of the natural person concerned over the legal person?

([1]) OJ 1993 L 253, p. 1.
([2]) OJ 1992 L 302, p. 1.

Appeal brought on 23 September 2014 by National Iranian Oil Company against the judgment delivered on 16 July 2014 in Case T-578/12 National Iranian Oil Company v Council

(Case C-440/14 P)

(2014/C 421/33)

Language of the case: French

Parties

Appellant: National Iranian Oil Company (represented by: J.-M. Thouvenin, avocat)

Other parties to the proceedings: Council of the European Union, European Commission

Form of order sought

— set aside the judgment of 16 July 2014 of the Seventh Chamber of the General Court of the European Union in Case T-578/12;

— grant the forms of order sought by the appellant in the proceedings before the General Court;

— order the defendant to pay the costs of both proceedings.

Pleas in law and main arguments

In support of its action, the appellant raises six grounds of appeal against the judgment of the General Court delivered on 16 July 2014.

As the first ground of appeal, the appellant claims that the General Court erred in law in paragraph 43 of the judgment under appeal by holding that by referring to Article 46(2) of Regulation (EU) No 267/2012 ([1]), Council Implementing Regulation (EU) No 945/2012 ([2]) must be considered to state clearly that its legal basis is constituted by Article 46(2) of Regulation No 267/2012. A legal basis lays down the legal form which the measure based on it must take; however, Article 46(2) does not lay down any legal form.

As the second ground of appeal, the appellant claims that the General Court erred in law in paragraphs 54 to 56 of the judgment under appeal, which is stated in the claim that 'it is not apparent from Article 215(2) that the individual restrictive measures taken against natural or legal persons, groups or non-State entities must be adopted according to the procedure provided for in Article 215(1) TFEU'. First, Article 215(1), the only provision of the TFEU dealing with restrictive measures, lays down clearly that the procedure applicable with respect to such measures is the procedure provided for in that article, and does not provide for any other. Secondly, Article 291 TFEU is incompatible with Article 215(2) TFEU. Finally, in the alternative, Article 291(2) TFEU cannot be regarded as capable of providing the Council with a legal basis in addition to that constituted by Article 215(2) TFEU, for the adoption of restrictive measures.

As the third ground of appeal, which is put forward in the alternative in the event that it is held that recourse to Article 291 (2) TFEU, as a basis for the adoption of individual restrictive measures, is legally possible in the context of a policy of adopting restrictive measures initially based on Article 215 TFEU, the appellant claims that the General Court erred in law by holding, in essence, in paragraphs 74 to 83 of its judgment, that the Council of the European Union, to reproduce the wording of Article 291(2), 'duly justified' the recourse to that procedure in derogation in this case. First, the justification requirement thus set out cannot be satisfied by a justification which is not express. Secondly, even if an implied justification is capable of satisfying that requirement, it is not fulfilled in this case, since the General Court interpreted the texts concerned wrongly.

As the fourth ground of appeal, which is put forward in the alternative in the event that it is held that recourse to Article 291(2) TFEU, as a basis for the adoption of individual restrictive measures, is legally possible in the context of a policy of adopting restrictive measures initially based on Article 215 TFEU, the appellant claims that the General Court erred in law by holding, in paragraph 86 of its judgment, that Article 46(2) of Regulation No 267/2012 'reserves to the Council the power to implement the provisions of Article 23(2) and (3) of that regulation', which suffices to fulfil the obligation to state reasons concerning the statement of the legal basis of that provision, which is Article 291(2) TFEU. According to the appellant, the General Court came to that conclusion as a result of a legally flawed interpretation of Article 46(2) of Regulation No 267/2012.

As the fifth ground of appeal, which is put forward in the alternative in the event that it is held that recourse to Article 291 (2) TFEU, as a basis for the adoption of individual restrictive measures, is legally possible in the context of a policy of adopting restrictive measures initially based on Article 215 TFEU, the appellant claims that the General Court erred in paragraph 87 of its judgment by holding that the obligation to state reasons for legal acts of the European Union did not oblige the Council to state expressly that Regulation (EU) No 267/2012 was based on Article 291(2) TFEU, as far as concerns the legal basis of Article 46(2) of Regulation No 267/2012.

As the sixth ground of appeal, the appellant claims that the General Court erred in law in paragraph 115 of its judgment by holding that the criterion set out in Article 23(2)(d) of Regulation (EU) No 267/2012 (the contested criterion) is compatible with the principles of the rule of law and more generally with EU law since it is 'neither arbitrary nor discretionary' and, in paragraph 123 of its judgment that 'the contested criterion limits the Council's power of assessment, by providing for objective criteria, and ensures the level of foreseeability required by EU law'. The General Court also infringed the appellant's rights of defence. The appellant points out first that it is by rewriting the contested criterion that the General Court held it to be compatible with EU law, whereas its lawfulness should be assessed with reference to the way it is expressed in the regulation. It notes next that the fact that the General Court rewrote the contested criterion in order to hold that it is lawful adversely affects the rights of the defence by depriving it of the right to rely on that rewritten text for the purposes of its defence, since it was unaware of the meaning of that rewritten text at the time it developed that defence, while opposing it. Finally, the appellant alleges a lack of consistency in the General Court's arguments which infringes its obligation to state reasons.

([1]) Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1)

([2]) Council Implementing Regulation (EU) No 945/2012 of 15 October 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 282, p. 16)

Request for a preliminary ruling from the Højesteret (Denmark) lodged on 24 September 2014 — DI [Dansk Industri], acting on behalf of Ajos A/S v Estate of Karsten Eigil Rasmussen

(Case C-441/14)

(2014/C 421/34)

Language of the case: Danish

Referring court

Højesteret

Parties to the main proceedings

Applicant: DI [Dansk Industri], acting on behalf of Ajos A/S

Defendant: Estate of Karsten Eigil Rasmussen

Questions referred

1. Does the general EU law principle prohibiting discrimination on grounds of age include a prohibition on a scheme such as the Danish one, under which employees are not entitled to severance allowance if they are entitled to an old-age pension financed by their employer under a pension scheme which they have joined before attaining the age of 50 years, irrespective of whether they choose to remain on the employment market or retire?

2. Is it compatible with EU law for a Danish court, in a case between an employee and a private employer concerning payment of a severance allowance which the employer under national law as described in question 1 is exempt from having to pay but where that result is not compatible with the general EU law principle prohibiting discrimination on grounds of age, to undertake a weighing-up of that principle and its direct effect with the principle of legal certainty and the related principle of the protection of legitimate expectations and, following that weighing-up, reaches the conclusion that the principle of legal certainty must prevail over the principle prohibiting discrimination on grounds of age, with the result that under national law the employer is exempt from having to pay the severance allowance? Guidance is also sought as to whether the fact that the employee, depending on the circumstances, may claim compensation from the State as a result of the Danish legislation's incompatibility with EU law has an impact on the issue of whether such a weighing-up may be considered.

Appeal brought on 25 September 2014 by Zweckverband Tierkörperbeseitigung in Rheinland-Pfalz, im Saarland, im Rheingau-Taunus-Kreis und im Landkreis Limburg-Weilburg i. L. against the judgment of the General Court (Fifth Chamber) delivered on 16 July 2014 in Case T-309/12 Zweckverband Tierkörperbeseitigung in Rheinland-Pfalz, im Saarland, im Rheingau-Taunus-Kreis und im Landkreis Limburg-Weilburg v European Commission

(Case C-447/14 P)

(2014/C 421/35)

Language of the case: German

Parties

Appellant: Zweckverband Tierkörperbeseitigung in Rheinland-Pfalz, im Saarland, im Rheingau-Taunus-Kreis und im Landkreis Limburg-Weilburg i. L. (represented by: A. Kerkmann, Rechtsanwältin)

Other parties to the proceedings: European Commission, Saria Bio-Industries AG & Co. KG, SecAnim GmbH, Knochen-und Fett-Union GmbH (KFU)

Form of order sought

The appellant claims that the Court should:

1. set aside the judgment of the General Court of the European Union in Case T-309/12 *Zweckverband Tierkörperbeseitigung* v *Commission* ([1]) and, if the Court of Justice takes the view that it has all the necessary information to be able to itself give final judgment in the matter, annul Commission Decision of 25 April 2012 on State aid SA.25051 (C-19/2010, ex NN 23/2010) granted by Germany to the Zweckverband Tierkörperbeseitigung in Rhineland-Palatinate, Saarland, Rheingau-Taunus-Kreis and Landkreis Limburg-Weilburg, Document C(2012) 2557 final, and order the Commission to pay the entire costs of the appeal and of the proceedings before the General Court;

2. in the alternative, set aside the judgment under appeal and refer the case back to the General Court, and reserve the decision on costs.

Pleas in law and main arguments

In support of its appeal, the appellant relies, essentially, on the following pleas in law:

The General Court wrongly classified the financing of the epidemic reserve by the contribution payments of the appellant's members as State aid by holding that, with regard to the activity of providing animal epidemic reserve capacity in its area of competence, the appellant must be treated as an undertaking within the meaning of Article 107(1) TFEU. It is true that the General Court correctly states first of all that activities which fall within the exercise of public powers are not of an economic nature justifying the application of the TFEU rules of competition. The General Court also correctly states that it is necessary to examine each of the appellant's activities separately in order to determine whether they may be a public activity. However, the General Court wrongly concluded that the provision of the epidemic reserve capacity does not fall within the exercise of public powers, but is an economic activity which classifies the appellant as a whole as an undertaking.

In addition, in finding that the appellant did not incur any net costs for the provision of the epidemic reserve, the General Court infringed the obligation to state the grounds of judgments. It also failed to examine the appellant's evidence proving that a cross-subsidisation of economic activities by contribution payments is excluded.

Contrary to the findings of the General Court, the provision of an epidemic reserve capacity, including its organisation and financing by the appellant, constitutes a service of general economic interest (SGEI). The judgment under appeal therefore infringes Article 106(2) and Article 107(1) TFEU.

In addition, the General Court also infringed Article 107(1) TFEU by finding both that the appellant obtained an advantage because the criteria of the *Altmark* ([2]) judgment of the Court of Justice were not met and that the contribution payments used for the rehabilitation of inherited waste constituted aid.

The General Court also infringed Article 106(2) TFEU by finding that the appellant should not have alleged infringement of Article 106(2) TFEU without challenging the Union SGEI guidelines applied by the Commission.

([1]) ECLI:EU:T:2014:676
([2]) Judgment in *Altmark*, C-280/00, ECLI:EU:C:2003:415.

GENERAL COURT

Judgment of the General Court of 10 October 2014 — Soliver v Commission

(Case T-68/09) ([1])

(Competition — Agreements, decisions and concerted practices — European market in carglass — Decision finding an infringement of Article 81 EC — Market-sharing agreements and exchanges of commercially sensitive information — Regulation (EC) No 1/2003 — Single and continuous infringement — Participation in the infringement)

(2014/C 421/36)

Language of the case: Dutch

Parties

Applicant: Soliver NV (Roulers, Belgium) (represented by: H. Gilliams, J. Bocken and T. Baumé, lawyers)

Defendant: European Commission (represented by: A. Bouquet, M. Kellerbauer and F. Ronkes Agerbeek, acting as Agents)

Re:

Application for annulment of Commission Decision C(2008) 6815 final of 12 November 2008 relating to a proceeding pursuant to Article 81 EC and Article 53 of the EEA agreement (Case COMP/39.125 — Carglass), as amended by Commission Decision C(2009) 863 final of 11 February 2009, in so far as it concerns the applicant and, in the alternative, for a reduction in the amount of the fine imposed on the applicant by that decision.

Operative part of the judgment

The Court:

1. *Annuls Article 1(d) and Article 2(d) of Commission Decision C(2008) 6815 final of 12 November 2008 relating to a proceeding pursuant to Article 81 EC and Article 53 of the EEA Agreement (Case COMP/39.125 — Carglass), as amended by Commission Decision C(2009) 863 final of 11 February 2009, in so far as Soliver NV was thereby found to have participated, from 19 November 2001 to 11 March 2003, in an unlawful cartel on the carglass market in the European Economic Area (EEA) and a fine of EUR 4 396 000 was imposed on it on that basis;*

2. *Orders the European Commission to pay the costs.*

([1]) OJ C 90, 18.4.2009.

Judgment of the General Court of 16 October 2014 — Alcoa Trasformazioni v Commission

(Case T-177/10) ([1])

(State aid — Electricity — Preferential tariff — Decision declaring aid incompatible with the common market and ordering its recovery — Advantage — Obligation to state reasons — Amount of the aid — New aid)

(2014/C 421/37)

Language of the case: Italian

Parties

Applicant: Alcoa Trasformazioni Srl (Portoscuso, Italy) (represented by: M. Siragusa, T. Müller-Ibold, F. Salerno, G. Scassellati Sforzolini and G. Rizza, lawyers)

Defendant: European Commission (represented by: V. Di Bucci and E. Gippini Fournier, agents)

Intervener in support of the applicant: Italian Republic (represented by: G. Palmieri, Agent, and S. Fiorentino, avvocato dello Stato)

Re:

Action for annulment of Commission Decision 2010/460/EC of 19 November 2009 relating to State Aid C 38/A/04 (ex NN 58/2004) and C 36/B/2006 (ex NN 38/2006) granted by Italy in favour of Alcoa Trasformazioni (OJ 2010, L 227, p. 62).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Alcoa Trasformazioni Srl to bear its own costs and to pay those incurred by the European Commission, including those relating to the application for interim measures;*

3. *Orders the Italian Republic to bear its own costs.*

([1]) OJ C 161, 19.6.2010.

Judgment of the General Court of 16 October 2014 — LTTE v Council

(Joined Cases T-208/11 and T-508/11) ([1])

(Common foreign and security policy — Restrictive measures against certain persons and entities with a view to combating terrorism — Freezing of funds — Applicability of Regulation (EC) No 2580/2001 to situations of armed conflict — Possibility for an authority of a third State to be classified as a competent authority within the meaning of Common Position 2001/931/CFSP — Factual basis of the decisions to freeze funds — Reference to terrorist acts — Need for a decision of a competent authority for the purpose of Common Position 2001/931)

(2014/C 421/38)

Language of the case: English

Parties

Applicant: Liberation Tigers of Tamil Eelam (LTTE) (Herning, Denmark) (represented by: V. Koppe, A.M. van Eik and T. Buruma, lawyers)

Defendant: Council of the European Union (represented by: G. Étienne and E. Finnegan, acting as Agents)

Interveners in support of the defendant: Kingdom of the Netherlands (represented: in Case T-208/11, initially by M. Bulterman, N. Noort and C. Schillemans, and subsequently, as well as in Case T-508/11, by C. Wissels, M. Bulterman and J. Langer, acting as Agents); United Kingdom of Great Britain and Northern Ireland (represented: initially by S. Behzadi-Spencer, H. Walker and S. Brighouse, and subsequently by S. Behzadi-Spencer, H. Walker and E. Jenkinson, acting as Agents, assisted by M. Gray, Barrister) (intervener in Case T-208/11 only); and European Commission (represented initially by F. Castillo de la Torre and S. Boelaert, and subsequently by Castillo de la Torre and É. Cujo, acting as Agents)

Re:

Application, initially, in Case T-208/11, for annulment of Council Implementing Regulation (EU) No 83/2011 of 31 January 2011 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) No 610/2010 (OJ 2011 L 28, p. 14), and, in Case T-508/11, for annulment of Council Implementing Regulation (EU) No 687/2011 of 18 July 2011 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulations (EU) No 610/2010 and No 83/2011 (OJ 2011 L 188, p. 2), in so far as those measures apply to the applicant.

Operative part of the judgment

The Court:

1) *Annuls Council Implementing Regulation (EU) No 83/2011 of 31 January 2011, No 687/2011 of 18 July 2011, No 1375/2011 of 22 December 2011, No 542/2012 of 25 June 2012, No 1169/2012 of 10 December 2012, No 714/2013 of 25 July 2013, No 125/2014 of 10 February 2014 and No 790/2014 of 22 July 2014 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulations (EU) Nos 610/2010, 83/2011, 687/2011, 1375/2011, 542/2012, 1169/2012, 714/2013 and 125/2014 in so far as those measures concern the Liberation Tigers of Tamil Eelam (LTTE);*

2) *Maintains the effects of Implementing Regulation No 790/2014 for three months following delivery of this judgment;*

3) *Orders the Council of the European Union to pay, in addition to its own costs, the costs of the LTTE;*

4) *Orders the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the European Commission to bear their own respective costs.*

([1]) OJ C 179, 18. 6. 2011.

Judgment of the General Court of 16 October 2014 — Portovesme v Commission

(Case T-291/11) ([1])

(State aid — Electricity — Preferential tariff — Decision declaring the aid incompatible with the internal market — Concept of State aid — New aid — Equal treatment — Reasonable period)

(2014/C 421/39)

Language of the case: Italian

Parties

Applicant: Portovesme Srl (Rome, Italy) (represented by: F. Ciulli, G. Dore, M. Liberati and A. Vinci, lawyers)

Defendant: European Commission (represented by: V. Di Bucci and É. Gippini Fournier, acting as Agents)

Re:

Application, primarily, for the annulment in whole or in part 'to the extent deemed reasonable' of Commission Decision 2011/746/EU of 23 February 2011 on State aid granted by Italy to Portovesme Srl, ILA SpA, Eurallumina SpA and Syndial SpA (State aid measures C 38/B/04 (ex NN 58/04) and C 13/06 (ex N 587/05)) (OJ 2011 L 309, p. 1) or, in the alternative, for annulment of that decision in so far as it orders the recovery of the aid in question.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Portovesme Srl to pay the costs.*

(1) OJ C 232, 6.8.2011.

Judgment of the General Court of 16 October 2014 — Eurallumina v Commission

(Case T-308/11) (1)

(State aid — Electricity — Preferential rate — Decision declaring the aid incompatible with the internal market — Concept of State aid — New aid)

(2014/C 421/40)

Language of the case: Italian

Parties

Applicant: Eurallumina SpA (Portoscuso, Italy) (represented by: V. Leone, lawyer)

Defendant: European Commission (represented by: V. Di Bucci and É. Gippini Fournier, agents)

Re:

By way of principal claim, application for annulment, in so far as it concerns the applicant, of Commission Decision 2011/746/EU of 23 February 2011 on State aid granted by Italy to Portovesme Srl, ILA SpA, Eurallumina SpA and Syndial SpA (State aid measures C 38/B/04 (ex NN 58/04) and C 13/06 (ex N 587/05) (OJ 2011 L 309, p. 1) and, in the alternative, application for annulment of Article 2 and 3 of that decision, the latter in so far as an order is made for restitution of the aid granted to the applicant and, in the further alternative, application for annulment of Article 3 of that same decision, again in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. *dismisses the action;*

2. *orders Eurallumina SpA to pay the costs.*

(1) OJ C 238, 13.8.2011.

Judgment of the General Court of 8 October 2014 — Alouminion v Commission

(Case T-542/11) (1)

(State aid — Aluminium — Preferential electricity tariff granted by contract — Decision declaring the aid unlawful and incompatible with the internal market — Termination of the contract — Judicial suspension, in interlocutory proceedings, of the effects of the termination of the contract — New aid)

(2014/C 421/41)

Language of the case: Greek

Parties

Applicant: Alouminion AE (Maroussi, Greece) (representanted by: G. Dellis, N. Korogiannakis, E. Chrysafis, D. Diakopoulos and N. Keramidas, lawyers)

Defendant: European Commission (represented by: D. Triantafyllou, É. Gippini Fournier, Agents, and by V. Chatzopoulos, lawyer)

Intervener in support of the defendant: Dimosia Epicheirisi Ilektrismou AE (DEI) (Athens, Greece) (representanted by: E. Bourtzalas, D. Waelbroeck, A. Oikonomou, E. Salaka and C. Synodinos, lawyers)

Re:

Application for the annulment of Commission Decision 2012/339/EU of 13 July 2011 on the State aid No SA.26117 — C 2/10 (ex NN 62/09) implemented by Greece in favour of Aluminium of Greece SA (OJ 2012 L 166, p. 83).

Operative part of the judgment

The Court:

1. *Annuls Commission Decision 2012/339/EU of 13 July 2011 on the State aid No SA.26117 — C 2/10 (ex NN 62/09) implemented by Greece in favour of Aluminium of Greece SA;*

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

3. *Orders Dimosia Epicheirisi Ilektrismou AE (DEI) to bear its own costs.*

(1) OJ C 370, 17.12.2011.

Judgment of the General Court of 16 October 2014 — Evropaïki Dynamiki v Commission

(Case T-297/12) (1)

(Non-contractual liability — Public service contracts — Disclosure by the Commission to third parties of information allegedly harmful to the applicant's reputation — Non-pecuniary loss — Sufficiently serious infringement of a legal rule conferring rights on individuals)

(2014/C 421/42)

Language of the case: Greek

Parties

Applicant: Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: V. Christianos and S. Paliou, lawyers)

Defendant: European Commission (represented by: S. Lejeune and S. Delaude, agents, assisted by E. Petritsi, lawyer)

Re:

Action for compensation for the harm allegedly suffered due to the disclosure by the Commission in its letter of 3 July 2007 to third parties of certain information concerning an administrative investigation by the Commission in respect of the applicant and the applicant's personnel recruitment policy.

Operative part of the judgment

The Court:

1. *dismisses the action;*

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

(1) OJ C 273, 8.9.2012.

Judgment of the General Court of 8 October 2014 — Fuchs v OHIM — Les Complices (*Star within a circle*)

(Case T-342/12) ([1])

(Community trade mark — Opposition proceedings — Application for a Community figurative mark representing a star within a circle — Earlier Community and national figurative marks representing a star within a circle — Relative ground for refusal — Likelihood of confusion — Distinctive character of the earlier mark — Article 8(1)(b) of Regulation No 207/2009 — Revocation of the earlier Community mark — Continued interest in bringing proceedings — Failure to find that there was no need to adjudicate in part)

(2014/C 421/43)

Language of the case: English

Parties

Applicant: Max Fuchs (Freyung, Germany) (represented by: C. Onken, lawyer)

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: Les Complices SA (Montreuil-sous-Bois, France)

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 8 May 2012 (Case R 2040/2011-5), relating to opposition proceedings between Les Complices SA and Max Fuchs.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Max Fuchs to pay the costs.*

([1]) OJ C 295, 29.9.2012.

Judgment of the General Court of 16 October 2014 — Novartis v OHIM — Tenimenti Angelini (LINEX)

(Case T-444/12) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark LINEX — Earlier national word mark LINES PERLA — Relative ground for refusal — Likelihood of confusion — Article 76(1), in fine, of Regulation (EC) No 207/2009 — Article 8(1)(b) of Regulation No 207/2009)

(2014/C 421/44)

Language of the case: English

Parties

Applicant: Novartis AG (Basel, Switzerland) (represented by: M. Douglas, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Tenimenti Angelini SpA (Montalcino, Italy) (represented by: R. Almaraz Palmero, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 6 August 2012 (Case R 414/2011-4), relating to opposition proceedings between Tenimenti Angelini SpA and Novartis AG.

Operative part of the judgment

The Court:

1) *Annuls the decision of the Fourth Board of Appeal of the Office for the Harmonisation of the Internal Market (Trade Marks and Designs) (OHIM) of 6 August 2012 (Case R 414/2011-4);*

2) *Orders OHIM to bear its own costs and pay those incurred by the applicant;*

3) *Orders the intervener to bear its own costs.*

([1]) OJ C 399, 22.12.2012.

Judgment of the General Court of 15 October 2014 — El Corte Inglés v OHIM

(Case T-515/12) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark The English Cut — Earlier national word and Community figurative marks El Corte Inglés — Relative grounds for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — No likelihood of association — Connection between the signs — No similarity between the signs — Article 8 (5) of Regulation No 207/2009)

(2014/C 421/45)

Language of the case: Spanish

Parties

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

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

Other party to the proceedings before the Board of Appeal of OHIM: The English Cut SL (Málaga, Spain)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 6 September 2012 (Case R 1673/2011-1) relating to opposition proceedings between El Corte Inglés SA and The English Cut S.L.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

([1]) OJ C 26, 26.1.2013.

Judgment of the General Court of 16 October 2014 — Alro v Commission

(Case T-517/12) ([1])

(State aid — Electricity — Preferential tariffs — Decision to initiate the procedure provided for in Article 108(2) TFEU — Action for annulment — Act not open to challenge — Aid measure fully implemented, in part, as at the date of the decision and, in part, when the action was brought — Inadmissibility)

(2014/C 421/46)

Language of the case: English

Parties

Applicant: Alro SA (Slatina, Romania) (represented by: C. Quigley QC, O. Bretz, Solicitor, and S. Verschuur, lawyer)

Defendant: European Commission (represented by: É. Gippini Fournier and T. Maxian Rusche, Agents)

Re:

Application, principally, for annulment of Commission Decision C(2012) 2517 final of 25 April 2012 to initiate the formal investigation procedure under Article 108(2) TFEU into State aid SA 33624 (2012/C) (2011/NN) — Romania — Preferential electricity tariffs granted to Alro Slatina SA and, in the alternative, for annulment of Decision C(2012) 2517 final in so far as it applies to the period from 1 January 2007 to 31 December 2009.

Operative part of the judgment

The Court:

1) *Dismisses the action as inadmissible;*

2) *Orders Alro SA to pay the costs.*

([1]) OJ C 32, 2. 2. 2013.

Judgment of the General Court of 8 October 2014 — Bermejo Garde v EESC

(Case T-529/12 P) ([1])

(Appeal — Civil service — Officials — Recruitment — Vacancy notice — Appointment to the post of director — Withdrawal of the appellant's application — Appointment of another candidate — Actions for annulment — Annulment at first instance of the contested vacancy notice on the grounds that the authority issuing that measure lacked competence — Failure to provide an explicit answer to all of the pleas in law and arguments raised by the parties — Principle of sound administration — Inadmissibility of the forms of order seeking the annulment of decisions taken on the basis of the contested vacancy notice — Article 91(2) of the Staff Regulations — Claim for damages — Right to effective judicial protection — Duty of the Civil Service Tribunal to provide a statement of reasons — Whether the state of the proceedings permits final judgment to be given — Dismissal of the claim)

(2014/C 421/47)

Language of the case: French

Parties

Appellant: Moises Bermejo Garde (Brussels, Belgium) (represented by: L. Levi, lawyer)

Other party to the proceedings: European Economic and Social Committee (EESC) (represented by: M. Lernhart, acting as Agent, assisted by B. Wägenbaur, lawyer)

Re:

Appeal against the judgment of the European Union Civil Service Tribunal (First Chamber) of 25 September 2012 in *Bermejo Garde* v *EESC* (F-51/10, not yet published in the ECR), seeking the partial setting aside of that judgment.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the European Union Civil Service Tribunal (First Chamber) of 25 September 2012 in Bermejo Garde v EESC (F-51/10) in so far as it rejected the appellant's claim for damages without providing a statement of reasons;*

2. *Dismisses the remainder of the appeal;*

3. *Rejects the claim for damages brought before the Civil Service Tribunal by Mr Moises Bermejo Garde;*

4. *Orders Mr Bermejo Garde to bear his own costs in relation to the present appeal proceedings;*

5. *Orders the European and Economic Social Committee (EESC) to bear its own costs at first instance and on appeal and to pay the costs incurred by Mr Bermejo Garde in the proceedings at first instance.*

([1]) OJ C 55, 23.2.2013.

Judgment of the General Court of 9 October 2014 — Bermejo Garde v EESC

(Case T-530/12 P) ([1])

(Appeal — Civil service — Officials — Psychological harassment — Illegal activities affecting the interests of the European Union — Serious failure to comply with the obligations of officials — Articles 12(a) and 22(a) of the Staff Regulations — Denunciation by the appellant — Reassignment following that denunciation — No consultation of OLAF by the immediate superior who received the information — Measures adversely affecting a person — Good faith — Rights of the defence — Competence of the authority issuing the measure)

(2014/C 421/48)

Language of the case: French

Parties

Appellant: Moises Bermejo Garde (Brussels, Belgium) (represented by: L. Levi, lawyer)

Other party to the proceedings: European Economic and Social Committee (EESC) (represented initially by G. Nijborg, and subsequently by U. Schwab and M. Lernhart, acting as Agents, assisted by B. Wägenbaur, lawyer)

Re:

Appeal against the judgment of the European Union Civil Service Tribunal (First Chamber) of 25 September 2012 in *Bermejo Garde* v *EESC* (F-41/10, not yet published in the ECR), seeking the setting aside of that judgment.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the European Union Civil Service Tribunal (First Chamber) of 25 September 2012 in Bermejo Garde v EESC (F-41/10) in so far as it dismisses Mr Moises Bermejo Garde's action for annulment of Decision No 133/10 A of the European Economic and Social Committee (EESC) of 24 March 2010 relieving him of his previous post and of EESC Decision No 184/10 A of 13 April 2010 concerning his reassignment;*

2. *Dismisses the remainder of the appeal;*

3. *Refers the case back to the Civil Service Tribunal;*

4. *Reserves the costs.*

([1]) OJ C 55, 23.2.2013.

Judgment of the General Court of 16 October 2014 — Alpiq RomIndustries and Alpiq RomEnergie v Commission

(Case T-129/13) ([1])

(State aid — Electricity — Preferential tariffs — Decision to open the procedure laid down in Article 108 (2) TFEU — Action for annulment — Act not subject to appeal — Aid measure implemented in full prior to the date on which the action was brought — Inadmissible)

(2014/C 421/49)

Language of the case: German

Parties

Applicants: Alpiq RomIndustries Srl (Bucarest, Romania) and Alpiq RomEnergie Srl (Bucarest) (represented by: H. Wollmann and F. Urlesberger, lawyers)

Defendant: European Commission (represented by: E. Gippini Fournier, T. Maxian Rusche and R. Sauer, Agents)

Re:

Application for annulment of Commission Decision C (2012) 2542 final of 25 April 2012 to open the proceedings provided for in Article 108(2) TFEU concerning State Aid SA 33451 (2012/C) (ex 2012/NN) — Romania — Preferential tariffs in contracts between Hidroelectrica SA and electricity suppliers.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Alpiq RomIndustries Srl and Alpiq RomEnergie Srl to pay the costs.*

([1]) OJ C 141, 18.5.2013.

Judgment of the General Court of 15 October 2014 — Skysoft Computersysteme v OHIM — British Sky Broadcasting Group and Sky IP International (SKYSOFT)

(Case T-262/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark SKYSOFT — Earlier Community word mark SKY — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2014/C 421/50)

Language of the case: English

Parties

Applicant: Skysoft Computersysteme GmbH (Kleinmachnow, Germany) (represented by: P. Ehrlinger and T. Hagen, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Bullock and N. Bambara, acting as Agents)

Other parties to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: British Sky Broadcasting Group plc (Isleworth, United Kingdom); and Sky IP International Ltd (Isleworth) (represented by J. Barry and S. Wright, solicitors, and P. Roberts, barrister)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 20 March 2013 (Case R 2503/2011-4) concerning opposition proceedings between British Sky Broadcasting Group plc and Sky IP International Ltd, on one side, and Skysoft Computersysteme GmbH, on the other.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Skysoft Computersysteme GmbH to pay the costs.*

([1]) OJ C 207, 20.7.2013.

Judgment of the General Court of 16 October 2014 — Junited Autoglas Deutschland v OHIM — Belron Hungary (United Autoglas)

(Case T-297/13) ([1])

(Community trade mark — Opposition proceedings — Application for the Community word mark United Autoglas — Earlier national figurative mark AUTOGLASS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2014/C 421/51)

Language of the case: English

Parties

Applicant: Junited Autoglas Deutschland GmbH & Co. KG (Cologne, Germany) (represented by: C. Weil, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Belron Hungary Kft — Zug Branch (Zug, Switzerland) (represented by: L. Christy, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 3 April 2013 (Case R 206/2012-2) concerning opposition proceedings between Belron Hungary Kft — Zug Branch and Junited Autoglas Deutschland GmbH & Co. KG.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Junited Autoglas Deutschland GmbH & Co. KG to pay the costs.*

([1]) OJ C 215, 27.7.2013.

Judgment of the General Court of 16 October 2014 — Federación Española de Hostelería v EACEA

(Case T-340/13) ([1])

(Action for annulment — Lifelong learning programme — Contract concerning the 'Virtual simulator for language training for tourism professionals (e-client)' — Pre-information letter — Contractual nature of dispute — Act not subject to appeal — No reclassification of contract)

(2014/C 421/52)

Language of the case: Spanish

Parties

Applicant: Federación Española de Hostelería (Madrid, Spain) (represented by: B. Miguelsanz Roldán, F.J. del Nogal Méndez, R. Fernández Flores and M.P. Abad Marco, lawyers)

Defendant: Education, Audiovisual and Culture Executive Agency (EACEA) (represented by: H. Monet and A. Jaume, Agents, assisted initially by J.L. Buendía Sierra, N. Ruiz García and A. Balcells Cartagena, then, J.L. Buendía Sierra and A. Balcells Cartagena, lawyers)

Re:

Application for annulment of the EACEA's pre-information letter of 5 April 2013 informing the applicant that it had to reimburse EUR 181 686,11 following the audit of the 'Virtual simulator for language training for tourism professionals (e-client)'.

Operative part of the judgment

The Court:

1. *Dismisses the action as inadmissible;*

2. *Orders the Federación Española de Hostelería to pay the costs.*

([1]) OJ C 245, 24.8.2013.

Judgment of the General Court (Appeal Chamber) of 10 October 2014 — EMA v BU

(Case T-444/13 P) ([1])

(Appeal — Civil Service — Temporary staff — Fixed-term contract — Non-renewal decision — Jurisdiction of the Civil Service Tribunal — Article 8, first subparagraph of the CEOS — Duty to have regard for the welfare of staff)

(2014/C 421/53)

Language of the case: French

Parties

Appellant: European Medicines Agency (EMA) (represented by: T. Jabłoński and N. Rampal Olmedo, acting as Agents, assisted by D. Waelbroeck and A Duron, lawyers)

Other party to the proceedings: BU (London, United Kingdom) (represented by: S. Orlandi, lawyer)

Re:

Appeal brought against the judgment of the Civil Service Tribunal of the European Union (Third chamber) of 26 June 2013, *BU v EMA* (F-135/11, F-51/12 and F-110/12, ECR SC, EU:F:2013:93) and seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *The appeal is dismissed;*

2. *The European Medicines Agency (EMA) is ordered to bear its own costs and to pay those incurred by BU in the present proceedings.*

([1]) OJ C 325, 9.11.2013.

Judgment of the General Court of 16 October 2014 — Larrañaga Otaño v OHIM (GRAPHENE)

(Case T-458/13) ([1])

(Community trade mark — Application for Community word mark GRAPHENE — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009)

(2014/C 421/54)

Language of the case: Spanish

Parties

Applicants: Joseba Larrañaga Otaño (San Sebastián, Spain) and Mikel Larrañaga Otaño (San Sebastián) (represented by: F. Bueno Salamero, lawyer)

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

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 10 June 2013 (Case R 208/2013-2) concerning an application for registration of the word sign GRAPHENE as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Joseba Larrañaga Otaño and Mikel Larrañaga Otaño to pay the costs.*

(1) OJ C 313, 26.10.2013.

Judgment of the General Court of 16 October 2014 — Larrañaga Otaño v OHIM (GRAPHENE)

(Case T-459/13) (1)

(Community trade mark — Application for Community word mark GRAPHENE — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009)

(2014/C 421/55)

Language of the case: Spanish

Parties

Applicants: Joseba Larrañaga Otaño (San Sebastián, Spain) and Mikel Larrañaga Otaño (San Sebastián) (represented by: F. Bueno Salamero, lawyer)

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

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 12 June 2013 (Case R 210/2013-2) concerning an application for registration of the word sign GRAPHENE as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Joseba Larrañaga Otaño and Mikel Larrañaga Otaño to pay the costs.*

(1) OJ C 313, 26.10.2013.

Judgment of the General Court of 10 October 2014 — Marchiani v Parliament

(Case T-479/13) (1)

(Rules governing the payment of expenses and allowances to Members of the European Parliament — Parliamentary assistance allowance — Recovery of undue payments)

(2014/C 421/56)

Language of the case: French

Parties

Applicant: Jean-Charles Marchiani (Toulon, France) (represented by: C.-S. Marchiani, lawyer)

Defendant: European Parliament (represented by: N. Lorenz and C. Karamarcos, Agents)

Re:

Application for the annulment of (i) the decision of the Secretary-General of the European Parliament of 4 July 2013 concerning the recovery from the applicant of a sum of EUR 107 694,72 and of (ii) the related debit note of 5 July 2013.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Jean-Charles Marchiani to pay the costs.*

(1) OJ C 336, 16.11.2013.

Judgment of the General Court of 15 October 2014 — Court of Auditors v BF

(Case T-663/13) (1)

(Appeal — Civil service — Recruitment — Appointment to a post of Director of Human Resources — Rejection of application — Obligation to state reasons in the report tabled by the Pre-selection Committee)

(2014/C 421/57)

Language of the case: French

Parties

Appellant: Court of Auditors of the European Union (represented by: T. Kennedy and J. Vermer, agents)

Other party to the proceedings: BF (Luxembourg, Luxembourg) (represented by: L. Levi, lawyer)

Re:

Appeal brought against the judgment of the Civil Service Tribunal (First Chamber) of 17 October 2013 in Case F-69/11 *BF* v *Court of Auditors*, seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *dismisses the appeal;*

2. *orders the Court of Auditors of the European Union to bear its own costs and to pay those incurred by Mr BF in connection with the present proceedings.*

(1) OJ C 52, 22.2.2014.

Judgment of the General Court of 16 October 2014 — Schönberger v Court of Auditors

(Case T-26/14 P) (1)

(Appeal — Civil service — Officials — Promotion — 2011 promotion year — Guiding multiplication rates — Inter partes proceedings)

(2014/C 421/58)

Language of the case: German

Parties

Appellant: Peter Schönberger (Luxembourg, Luxembourg) (represented by: O. Mader, lawyer)

Other party to the proceedings: Court of Auditors of the European Union (represented by: B. Schäfer and I. Ní Riagáin Düro, acting as Agents)

Re:

Appeal against the judgment of the European Union Civil Service Tribunal (First Chamber) of 5 November 2013 in *Schönberger* v *Court of Auditors* (F-14/12, ECR-SC, EU:F:2013:167), seeking the setting aside of that judgment.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the European Union Civil Service Tribunal (First Chamber) of 5 November 2013 in Schönberger v Court of Auditors (F-14/12);*

2. *Refers the case back to the Civil Service Tribunal;*

3. *Reserves the costs.*

([1]) OJ C 93, 29.3.2014.

Order of the General Court of 2 October 2014 — MPM-Quality and Eutech v OHIM — Elton Hodinářská (MANUFACTURE PRIM 1949)

(Case T-215/12) ([1])

(Community trade mark — Invalidity proceedings — Community figurative mark MANUFACTURE PRIM 1949 — Earlier international and national marks PRIM — Bad faith — Article 165(4) of Regulation (EC) No 207/2009 — Articles 41 and 56 of Regulation No 207/2009 — Article 52(1)(b) of Regulation No 207/2009 — Lack of genuine use of the earlier mark — Action in part manifestly inadmissible and in part manifestly lacking any foundation in law)

(2014/C 421/59)

Language of the case: Czech

Parties

Applicants: MPM-Quality v.o.s. (Frýdek-Místek, Czech Republic); and Eutech a.s. (Šternberk, Czech Republic) (represented by: M. Kyjovský, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Gája and D. Botis, Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Elton Hodinářská a.s. (Nové Mesto nad Metují, Czech Republic) (represented by: T. Matoušek, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 5 March 2012 (Case R 826/2010-4) relating to invalidity proceedings between (i) MPM-Quality v.o.s. and Eutech a.s. and (ii) Elton Hodinářská a.s.

Operative part of the order

The Court:

1. *Dismisses the action;*

2. *Orders MPM-Quality v.o.s. and Eutech a.s to pay the costs.*

([1]) OJ C 273, 8.9.2012.

Order of the General Court of 30 September 2014 — Bitiqi and Others v Commission and Others

(Case T-410/13) ([1])

(Action for annulment — Common Foreign and Security Policy — 'Rule of law' mission conducted by the European Union in Kosovo (Eurlex Kosovo) — Decisions of the head of the mission not to renew the employment contracts — Manifest lack of jurisdiction)

(2014/C 421/60)

Language of the case: French

Parties

Applicants: Burim Bitiqi (London, United Kingdom); Arlinda Gjebrea (Pristina, Kosovo); Anna Gorska (Warsaw, Poland); Agim Hajdini (London); Josefa Martínez Estéve (Valencia, Spain); Denis Vasile Miron (Bucharest, Romania); James Nicholls (Swindon, United Kingdom); Zornitsa Popova Glodzhani (Varna, Bulgaria); Andrei Mihai Popovici (Bucharest); and Amaia San José Ortiz (Llodio, Spain) (represented: initially by A. Coolen, D. de Abreu Caldas, É. Marchal and J. N. Louis, then by D. de Abreu Caldas, M. de Abreu Caldas and J. N. Louis, avocats)

Defendants: European Commission (represented by: F. Erlbacher and A. C. Simon, acting as Agents); European External Action Service (EEAS) (represented by: S. Marquardt, É. Chaboureau and M. Silva, acting as Agents); AND Eulex Kosovo (represented by: B. Borchardt, acting as Agent, and by A. Fouquet Dörte, lawyer)

Intervener in support of the defendants: Council of the European Union (represented by: A. Vitro and M. Bauer, acting as Agents)

Re:

Action for annulment of the decisions of the head of the mission 'Rule of law' conducted by the European Union in Kosovo (Eulex Kosovo) of 27 May and 2 July 2013 not to renew the applicants' employment contracts.

Operative part of the order

1. *The action is dismissed.*

2. *Burim Bitiqi, Arlinda Gjebrea, Anna Gorska, Agim Hajdini, Josefa Martínez Estéve, Denis Vasile Miron, James Nicholls, Zornitsa Popova Glodzhani, Andrei Mihai Popovici, Amaia San José Ortiz are ordered to pay the costs incurred by the European Commission, the European External Action Service (EEAS) and Eulex Kosovo.*

3. *The Council of the European Union is ordered to bear its own costs.*

([1]) OJ C 325, 9.11.2013.

Order of the General Court of 2 October 2014 — Marcuccio v Commisison

(Case T-447/13 P) ([1])

(Appeal — Civil service — Officials — Reimbursement of recoverable costs — Article 92(1) of the Rules of Procedure of the Civil Service Tribunal — Availability of a parallel remedy — Appeal in part manifestly inadmissible and in part manifestly unfounded)

(2014/C 421/61)

Language of the case: Italian

Parties

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

Other party to the proceedings: European Commission (represented by: initially, C. Berardis-Kayser and J. Banquero Cruz, and subsequently C. Berardis-Kayser and G. Gattinara, acting as Agents, and A. Dal Ferro, lawyer)

Re:

Appeal against the order of the Civil Service Tribunal of the European Union (single judge) of 18 June 2013 in Case F-143/11 Marcuccio v Commission, ECR-SC, EU:F:2013:81, seeking to have that order set aside.

Operative part of the order

1. *The appeal is dismissed.*

2. *Mr Luigi Marcuccio is ordered to bear his own costs and to pay the costs incurred by the European Commission in the present case.*

(1) OJ C 291, 5.10.2013.

Action brought on 3 October 2014 — Holistic Innovation Institute v REA

(Case T-706/14)

(2014/C 421/62)

Language of the case: Spanish

Parties

Applicant: Holistic Innovation Institute, SLU (Madrid, Spain) (represented by: R. Muñiz García, lawyer)

Defendant: Research Executive Agency (REA)

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision excluding the applicant from the INACHUS and ZONeSEC projects;

— compensate the applicant and order the defendant to pay the amount of EUR 781 250, corresponding to the two projects from which it has been excluded, together with interest at the statutory rate from when the payments were to accrue; and

— compensate the applicant and order the defendant to pay the amount determined by the expert appointed by the General Court, for the additional harm that exclusion from the projects caused to the applicant.

Pleas in law and main arguments

The present action is directed against the decision of the Research Executive Agency of the European Commission of 24 July 2014, reference ARES (2014) 2461172, terminating negotiations and rejecting the participation of the applicant in the European projects INACHUS (607522) and ZONeSEC (607292) of the Call for Proposals FP7-SEC-2013-1 of the Seventh Framework Programme.

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

1. The decision is manifestly unfounded, containing a mere ostensible statement of reasons.

2. The independent evaluators reported favourably on projects in which the applicant company participated.

3. After those reports, the defendant changed the criteria as a retaliatory measure against the director of the applicant, who had previously brought proceedings against the European Commission in connection with a dispute relating to the company Rose Visión S.L.

4. The agents of the defendant put pressure on the other participants in the projects to exclude the applicant before the decision, in an attempt thereby to avoid having to take the contested decision.

5. The defendant's conduct caused the applicant damage and prejudicial consequences.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (1st Chamber) of 15 October 2014 — Moschonaki v Commission

(Case F-55/10 RENV)

(Civil service — Officials — Referral back to the Tribunal after annulment — Recruitment — Vacancy notice internal to the institution — Eligibility conditions in the vacancy notice — Appointing authority's discretion)

(2014/C 421/63)

Language of the case: French

Parties

Applicant: Chrysanthe Moschonaki (Brussels, Belgium) (represented by: N. Lhoëst, lawyer)

Defendant: European Commission (represented by: J. Currall and B. Eggers, Agents)

Re:

Referral back after annulment — Application to annul the decision refusing to take into consideration the applicant's candidature for a post as assistant librarian and for an order that the Commission pays her a sum by way of compensation for the material and non-material harm suffered.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of 30 September 2009 by which the European Commission rejected Ms Moschonaki's candidature for the post of '[a]ssistant [l]ibrarian/[d]ocumentalist';*

2. *Orders the European Commission to pay Ms Moschonaki the sum of EUR 5 000;*

3. *Declares that the European Commission is to bear its own costs and orders it to pay the costs incurred by Ms Moschonaki in Cases F-55/10, T-476/11 P and F-55/10 RENV.*

Judgment of the Civil Service Tribunal (Second Chamber) of 10 July 2014 — CG v EIB

(Case F-103/11) ([1])

(Civil Service — Staff of the EIB — Psychological harassment — Inquiry procedure — Decision of the President not to act on a complaint — Opinion of the committee of inquiry — Incorrect definition of psychological harassment — Intentional nature of the conduct — Finding of conduct and symptoms constituting psychological harassment — Search for the causal link — Absence — Inconsistency of the opinion of the committee of inquiry — Manifest error of assessment — Maladministration — Obligation of confidentiality — Protection of personal data — Action for compensation)

(2014/C 421/64)

Language of the case: French

Parties

Applicant: CG (represented initially by: N. Thieltgen, and subsequently by: J.-N. Louis and D. de Abreu Caldas, lawyers)

Defendant: EIB (represented by: G. Nuvoli and T. Gilliams, acting as Agents, and A. Dal Ferro, lawyer)

Intervener in support of the form of order sought by the applicant: European Data Protection Supervisor (represented initially by: I. Chatelier and H. Kranenborg, and subsequently by: I. Chatelier and A. Buchta, acting as Agents)

Re:

Application for annulment of the decision of the President of the EIB not to take any action following the inquiry concerning alleged psychological harassment and to annul the final conclusion of the committee of inquiry and claim for damages.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of the President of the European Investment Bank of 27 July 2011;*

2. *Orders the European Investment Bank to pay CG the sum of EUR 35 000;*

3. *Dismisses the remainder of the action;*

4. *Orders the European Investment Bank to bear its own costs and to pay the costs incurred by CG;*

5. *Orders the European Data Protection Supervisor, intervener, to bear its own costs.*

([1]) OJ C 6, 7.1.2012, p. 25.

Judgment of the Civil Service Tribunal (Second Chamber) of 10 July 2014 — CG v EIB

(Case F-115/11) ([1])

(Civil Service — Staff of the EIB — Appointment — Post of Head of division — Appointment of a candidate other than the applicant — Irregularities in the selection procedure — Duty of impartiality on the members of the selection board — Blameworthy conduct by the president of the selection board towards the applicant — Conflict of interests — Oral presentation made by all candidates — Documents provided for the oral presentation likely to favour one of the candidates — Candidate having taken part in the drafting of the documents provided — Infringement of the principle of equal treatment — Action for annulment — Claim for compensation)

(2014/C 421/65)

Language of the case: French

Parties

Applicant: CG (represented initially by: N. Thieltgen, lawyer, and subsequently by: J.-N. Louis and D. de Abreu Caldas, lawyers)

Defendant: European Investment Bank (EIB) (represented by: G. Nuvoli and T. Gilliams, acting as Agents, and A. Dal Ferro, lawyer)

Re:

Application for annulment of the decision of the President of the EIB not to appoint the applicant but another candidate to the post of head of a division within the EIB and a claim for damages.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of the President of the European Investment Bank of 28 July 2011 appointing Mr A. to the post of Head of the Risk Policy and Pricing Division;*

2. *Orders the European Investment Bank to pay CG the sum of EUR 25 000;*

3. *Dismisses the remainder of the action;*

4. *Orders the European Investment Bank to bear its own costs and to pay the costs incurred by CG.*

(1) OJ C 6, 7.1.2012, p. 28.

Judgment of the Civil Service Tribunal (Second Chamber) of 18 September 2014 — Cerafogli v ECB

(Case F-26/12) (1)

(Civil service — ECB staff — Access of ECB staff to documents connected with their employment relationship — Rules applicable to requests from ECB staff — Pre-litigation procedure — Rule of correspondence — Plea of illegality raised for the first time in the action — Admissibility — Right to effective judicial protection — Consultation of the Staff Committee for the purpose of adopting rules applicable to requests from ECB staff for access to documents connected with their employment relationship)

(2014/C 421/66)

Language of the case: English

Parties

Applicant: Maria Concetta Cerafogli (Frankfurt am Main, Germany) (represented by: S. Pappas, lawyer)

Defendant: European Central Bank (ECB) (represented by: A. Sáinz de Vicuña Barroso, E. Carlini and S. Lambrinoc, acting as Agents, assisted by B. Wägenbaur, lawyer)

Re:

Application for annulment of the ECB's decision refusing to grant the applicant access to documents, and a claim for damages.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of 21 June 2011 whereby the Deputy Director-General of the Directorate General for Human Resources, Budget and Organisation of the European Central Bank partially rejected the request for access to certain documents submitted by Ms Cerafogli on 20 May 2011;*

2. *Orders the European Central Bank to pay Ms Cerafogli EUR 1 000;*

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

4. *Declares that the European Central Bank is to bear its own costs and orders it to pay the costs incurred by Ms Cerafogli.*

(1) OJ C 184, 23.6.2012, p. 22.

Judgment of the Civil Service Tribunal (First Chamber) of 6 May 2014 — Forget v Commission

(Case F-153/12) ([1])

(Civil service — Official — Remuneration — Family allowances — Household allowance — Condition governing the grant — Registered partnership under the law of Luxembourg — Couple comprised of stable, non-marital partners having access to legal marriage — Official who does not fulfil the conditions laid down in Article 1(2)(c)(iv) of Annex VII to the Staff Regulations)

(2014/C 421/67)

Language of the case: French

Parties

Applicant: Claude Forget (Steinfort, Luxembourg) (represented by: M. Kerger, lawyer)

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

Intervener in support of the defendant: Council of the European Union (represented by: M. Bauer et A. Bisch, acting as Agents)

Re:

Application for annulment of the decision refusing payment of the household allowance and of the survivor's pension for the applicant's partner.

Operative part of the judgment

The Tribunal:

1. *Dismisses the application;*

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

3. *Orders the Council of the European Union to bear its own costs.*

([1]) OJ C 55, 23.02.2013, p. 26.

Judgment of the Civil Service Tribunal (2nd Chamber) of 19 June 2014 — BN v Parliament

(Case F-157/12) ([1])

(Civil service — Officials — Application for annulment — Official of Grade AD 14 temporarily filling a post as adviser to a Director — Claim of psychological harassment made against the Director General — Long-term sick leave — Decision to appoint the applicant to a post as adviser in another Directorate General — Duty to have regard to the welfare of officials — Principle of sound administration — Interest of the service — Rule that the grade must correspond with the post — Application for damages — Harm resulting from a failure to take a decision)

(2014/C 421/68)

Language of the case: French

Parties

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

Defendant: European Parliament (represented by: O. Caisou-Rousseau and V. Montebello-Demogeot, Agents)

Re:

Application for annulment of the decision reassigning the applicant and of the implied decision ending, with retroactive effect, his duties as adviser to the Director of a Directorate of the European Parliament and an application for compensation for the harm suffered.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Declares that the European Parliament is to bear its own costs and is ordered to pay the costs incurred by BN.*

(1) OJ C 71, 09/03/2013, p. 31.

Judgment of the Civil Service Tribunal (Second Chamber) of 18 September 2014 — Radelet v European Commission

(Case F-7/13) (1)

(Civil Service — Officials posted to a third country — Articles 5 and 23 of Annex X to the Staff Regulations — Provision of accommodation by the institution — Authorisation given to the official to rent accommodation — Action for compensation — Non-pecuniary loss — Allocation of uncomfortable and insalubrious accommodation — Lack of proof)

(2014/C 421/69)

Language of the case: French

Parties

Applicant: Luc Radelet (Antananarivo, Madagascar) (represented by: É. Boigelot, lawyer)

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

Re:

Civil Service — Application for annulment of the decision rejecting the claim against the decision taken in response to the request of the applicant, posted to the Commission Delegation in Antananarivo, Madagascar, for compensation for the difficulties encountered when taking up his residence in that city.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

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

(1) OJ C 114, 20.4.2013, p. 47.

Judgment of the Civil Service Tribunal (First Chamber) of 22 May 2014 — CU v EESC

(Case F-42/13) (1)

(Civil service — Temporary staff — Contract for an indefinite period — Decision to terminate a contract)

(2014/C 421/70)

Language of the case: French

Parties

Applicant: CU (represented by: L. Levi and A. Blot, lawyers)

Defendant: European Economic and Social Committee (represented initially by: M. Arsène and L. Camarena Januzec, acting as Agents, F.-M. Hislaire and M. Troncoso Ferrer, lawyers, and subsequently by M. Pascua Mateo and L. Camarena Januzec, acting as Agents, F.-M. Hislaire and M. Troncoso Ferrer, lawyers)

Re:

Application for annulment of the decision to terminate the applicant's employment contract and application for compensation for the material and non-material damage allegedly suffered.

Operative part of the judgment

The Tribunal:

1. *Annuls the decisions of the European Economic and Social Committee of 16 October 2012 and 31 January 2013 terminating CU's temporary staff contract for an indefinite period;*

2. *Orders the European Economic and Social Committee to pay CU the amount of EUR 25 000;*

3. *Dismisses the remainder of the action;*

4. *Declares that the European Economic and Social Committee is to bear its own costs and orders it to pay the costs incurred by CU.*

(1) OJ C 207, 20.07.2013, p. 61.

Judgment of the Civil Service Tribunal (Second Chamber) of 10 July 2014 — CW v Parliament

(Case F-48/13) (1)

(Civil service — Officials — Staff report — Opinions and comments included in the staff report — Manifest errors of assessment — Misuse of powers — None)

(2014/C 421/71)

Language of the case: English

Parties

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

Defendant: European Parliament (represented by: M. Dean and S. Alves, acting as Agents)

Re:

Application for annulment of the applicant's staff report for 2011.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders CW to bear her own costs and to pay the costs incurred by the European Parliament.*

(1) OJ C 207, 20.7.2013, p. 63.

Judgment of the Civil Service Tribunal (First Chamber) of 18 September 2014 — CV v EESC

(Case F-54/13) ([1])

(Civil service — Action for damages — Administrative investigations — Disciplinary procedure — Psychological harassment)

(2014/C 421/72)

Language of the case: French

Parties

Applicant: CV (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: European Economic and Social Committee (represented initially by: M. Arsène and L. Camarena Januzec, acting as Agents, F.-M. Hislaire and M. Troncoso Ferrer, lawyers, and subsequently by M. Pascua Mateo and L. Camarena Januzec, acting as Agents, F.-M. Hislaire and M. Troncoso Ferrer, lawyers)

Re:

Application for annulment of the EESC's decision rejecting a request made by the applicant on the basis of Article 90(1) of the Staff Regulations for compensation for the harm allegedly suffered as a result of the excessive zeal, or even harassment, on the part of the administration.

Operative part of the judgment

The Tribunal:

1. *Dismisses the application;*

2. *Declares that each party is to bear its own costs.*

([1]) OJ C 207, 20.07.2013, p. 64.

Judgment of the Civil Service Tribunal (Third Chamber) of 15 October 2014 — de Brito Sequeira Carvalho v Commission

(Case F-107/13) ([1])

(Staff case — Officials — Retired official — Disciplinary proceedings — Disciplinary measure — Pension deduction — Examination of the incriminating witness by the Disciplinary Board — Failure to hear from the official concerned — Failure to respect the right to be heard)

(2014/C 421/73)

Language of the case: French

Parties

Applicant: José Antonio de Brito Sequeira Carvalho (Lisbon, Portugal) (represented by: É. Boigelot and R. Murru, lawyers)

Defendant: European Commission (represented by: J. Currall and C. Ehrbar, acting as Agents)

Subject-matter of proceedings

Application for annulment of the decision of the Commission to impose a disciplinary measure on the applicant under Article 9(2) of Annex IX to the Staff Regulations and requests for damages for the non-pecuniary harm allegedly suffered and reimbursement of amounts already deducted.

Operative part of the judgment

The Tribunal:

1) *Annuls the decision of the European Commission of 14 March 2013 imposing on Mr de Brito Sequeira Carvalho, for disciplinary reasons, a deduction of one third of his net monthly pension amount for a period of two years.*

2) *Dismisses the remainder of the action.*

3) *Order the European Commission is to bear its own costs and to pay the costs incurred by M. de Brito Sequeira Carvalho.*

(1) OJ 2004 C 24, p. 41.

Judgment of the Civil Service Tribunal (Single Judge Chamber) of 15 October 2014 — De Bruin v Parliament

(Case F-15/14) (1)

(Civil Service — Probationer — Article 34 of the Staff Regulations — Report on the probationary period — Extension of the probationary period — Dismissal at the end of the probationary period — Grounds for dismissal — Performance — Hasty performance of tasks — Manifest errors of assessment — Irregularities in the procedure — Period given to the Reports Committee to deliver its opinion)

(2014/C 421/74)

Language of the case: French

Parties

Applicant: Evert Anton De Bruin (Lent, Netherlands) (represented by: A. Salerno, lawyer)

Defendant: European Parliament (represented by: M. Dean and M. Ecker, acting as Agents)

Re:

Application for annulment of the decision of the Parliament to terminate the applicant's employment contract at the end of the extension period of his probationary period.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders Mr De Bruin to bear his own costs and to pay the costs incurred by the European Parliament.*

(1) OJ C 184, 16.6.2014, p. 40.

Order of the Civil Service Tribunal (2nd Chamber) of 30 September 2014 — DM v BEREC

(Case F-35/12) ([1])

(Civil service — Member of the contract staff — Conditions of engagement — Medical examination on engagement — Article 100 of the CEOS — Deferment of medical cover — Contract terminated at the end of the probationary period — Claims for annulment which have become devoid of purpose — Deferment of medical cover on the engagement of the member of staff concerned by another agency of the European Union — No effect — No need to adjudicate)

(2014/C 421/75)

Language of the case: French

Parties

Applicant: DM (represented by: initially, D. Abreu Caldas, A. Coolen, J.-N. Louis, É. Marchal and S. Orlandi, lawyers, then D. Abreu Caldas, J.-N. Louis and S. Orlandi, lawyers)

Defendant: The Body of European Regulators for Electronic Communications (represented by: M. Chiodi, Agent, D. Waelbroeck, A. Duron, lawyers)

Re:

Application for annulment of the decision to defer the applicant's medical cover from the date of his entry into service and of the decision rejecting the applicant's complaint.

Operative part of the order

1. *There is no further need to adjudicate on the dispute.*

2. *The Body of European Regulators for Electronic Communications is to bear its own costs and is ordered to pay the costs incurred by DM.*

([1]) OJ C 138 of 12/05/2012, p. 37.

Order of the Civil Service Tribunal (First Chamber) of 9 November 2013 — Marcuccio v Commission

(Case F-9/13) ([1])

(Civil service — Time-limit for bringing proceedings — Action out of time — Action manifestly inadmissible)

(2014/C 421/76)

Language of the case: Italian

Parties

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

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

Re:

Application for annulment of the Commission's decision to set off the sum corresponding to the costs it was ordered to pay by the General Court in Case T-176/04 against the greater sum which the applicant is required to pay pursuant to the order in Case T-241/03.

Operative part of the order

1. *The application is dismissed as manifestly inadmissible.*

2. *Mr Marcuccio is ordered to bear his own costs and to pay the costs incurred by the European Commission.*

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

Order of the Civil Service Tribunal (Second Chamber) of 10 July 2014 — Mészáros v Commission

(Case F-22/13) (1)

(Civil service — Competitions — Notice of competition EPSO/AD/207/11 — Successful candidate included on the reserve list — Verification by the appointing authority of the conditions for taking part in an AD 7 grade competition — Professional experience of a shorter duration than the minimum duration required — Manifest error of assessment by the selection board — Withdrawal by the appointing authority of the offer of employment — Mandatory duty of the appointing authority)

(2014/C 421/77)

Language of the case: English

Parties

Applicant: Mátyás Tamás Mészáros (Kraków, Poland) (represented by: M. Pecyna, lawyer)

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

Re:

Application for annulment of the decision rejecting the request for recruitment of the applicant made by ESTAT and finding that the applicant did not meet the conditions for admission to competition EPSO/AD/207/11.

Operative part of the order

1. *The action is dismissed as manifestly unfounded.*

2. *The European Commission is to bear its own costs and shall pay the costs incurred by Mr Mészáros.*

(1) OJ C 291, 5.10.2013, p. 7.

Order of the Civil Service Tribunal (First Chamber) of 20 March 2014 — Marcuccio v Commission

(Case F-33/13)

(Civil service — Article 34(1) and (6) of the Rules of Procedure — Application lodged by fax within the time-limit for bringing proceedings — Lawyer's handwritten signature different from that on the original application received by post — Action out of time — Manifest inadmissibility)

(2014/C 421/78)

Language of the case: Italian

Parties

Applicant: Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa and L. Mansullo, lawyers)

Defendant: European Commission

Re:

Application for annulment of the decision rejecting the applicant's request for payment of financial compensation for the days of leave not taken when he was on sick leave from 4 January 2002 to 31 May 2005.

Operative part of the order

1. *The application is dismissed as manifestly inadmissible.*

2. *Mr Marcuccio is order to bear his own costs.*

Order of the Civil Service Tribunal (First Chamber) of 12 February 2014 — CL v EEA

(Case F-71/13) ([1])

(Staff cases — Member of the temporary staff — Duty to provide assistance — Article 24 of the Staff Regulations — Moral harassment on the part of the hierarchical superior — Rejection of the request for an administrative inquiry to be initiated — Action manifestly inadmissible)

(2014/C 421/79)

Language of the case: French

Parties

Applicant: CL (represented by: S. Orlandi, J.-N. Louis and D. Abreu Caldas, lawyers)

Defendant: European Environment Agency (represented by: O. Cornu, acting as Agent, and B. Wägenbaur, lawyer)

Re:

Application for annulment of the rejection of the applicant's request for an administrative inquiry to be initiated with a view to proving or clarifying the facts relating to harassment.

Operative part of the order

1. *The action is dismissed.*

2. *CL shall bear his own costs and pay the costs incurred by the European Environment Agency.*

([1]) OJ C 274 of 21/09/2013, p. 32.

Order of the Civil Service Tribunal (First Chamber) of 13 February 2014 — Probst v Commission

(Case F-75/13) ([1])

(Staff cases — Officials — Expatriation allowance — Article 4 of Annex VII to the Staff Regulations — Request for re-examination — Material new facts — Action manifestly inadmissible)

(2014/C 421/80)

Language of the case: French

Parties

Applicant: Norbert Probst (Genval, Belgium) (represented by: initially, D. Abreu Caldas, A. Coolen, J.-N. Louis, É. Marchal and S. Orlandi, lawyers, and subsequently by D. Abreu Caldas, J.-N. Louis and S. Orlandi, lawyers)

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

Re:

Application for annulment of the decision not to grant the applicant the benefit of the expatriation allowance.

Operative part of the order

1. *The action is dismissed as manifestly inadmissible.*

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

(1) OJ C 274 of 21/09/2013, p. 34.

Order of the Civil Service Tribunal (1st Chamber) of 9 September 2014 — Moriarty v Parliament

(Case F-98/13) (1)

(Civil service — Promotion — 2012 promotion procedure — Non-inclusion in the list of promoted officials — Application manifestly lacking any legal basis)

(2014/C 421/81)

Language of the case: French

Parties

Applicant: Rainer Moriarty (Colmar-Berg, Luxembourg) (represented by: A. Salerno and B. Cortese, lawyers)

Defendant: European Parliament (represented by: E. Despotopoulou and E. Taneva, Agents)

Re:

Application to annul the decision adopting the list of officials promoted in respect of the 2012 promotion procedure, in so far as, first, it does not include the applicant's name among the officials of Grade AST 6, non-attested, promoted to Grade AST 7 and, secondly, it contains the name of another official.

Operative part of the order

1. *Mr Moriarty's action is dismissed as manifestly lacking any legal basis.*

2. *Mr Moriarty is to bear his own costs and is ordered to pay the costs incurred by the European Parliament.*

(1) OJ C 367, 14.12.2013, p. 40.

Order of the Civil Service Tribunal (First Chamber) of 18 September 2014 — Lebedef v Commission

(Case F-118/13) (1)

(Civil service — Preliminary issues — Manifest inadmissibility)

(2014/C 421/82)

Language of the case: French

Parties

Applicant: Giorgio Lebedef (Senningerberg, Luxembourg) (represented by: F. Frabetti, lawyer)

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

Re:

Application for annulment of the Career Development Report relating to the period from 1 July 2001 to 31 December 2002 and annulment of the merit points awarded during the 2003 promotion exercise.

Operative part of the order

1. *The action is dismissed as being manifestly inadmissible.*

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

([1]) OJ C 52 of 22/02/2014, p. 53.

Action brought on 25th April 2014 — ZZ v European Market and Securities Authority (ESMA)

(Case F-39/14)

(2014/C 421/83)

Language of the case: English

Parties

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

Defendant: European Market and Securities Authority (ESMA)

Subject-matter and description of the proceedings

The annulment of the decision not to renew the contract of the applicant and the compensation of the non-material harm endured.

Form of order sought

— Annul the decision ESMA/2013/ED/23, dated 28th June 2013, concerning the applicant's non-renewal of the contract;

— order the defendant to pay compensatory damages amounting to 20 000 euro for the endured non-material harm;

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

Action brought on 12th June 2014 — ZZ v Commission

(Case F-53/14)

(2014/C 421/84)

Language of the case: English

Parties

Applicant: ZZ (represented by: V. Simeons, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

The annulment of the decisions withdrawing both the dependent child allowance that was granted to the applicant in favour of her mother and the covering by the Joint Sickness Insurance Scheme of the European institutions (JSIS), and the annulment of the decisions to recover the sums paid to the applicant.

Form of order sought

— Annul the three PMO.1 decisions of 20 August 2013, which revoked the decisions initially granting her the allowance for the maintenance of the applicant's mother in the period from 1 March 2010 until 28 February 2013 (decisions of 11 May 2010,5 May 2011 and 16 January 2012);

— annul the decision of PMO.3 of 25 September 2013 revoking the JSIS coverage of her mother and informing her about the recovery of the reimbursement of the medical expenses;

— annul the decision of PMO.l of 23 October 2013 on the recovery of the overpaid sums under Article 85 of the SR;

— so far as it is necessary, annul the decision of 12 March 2014 rejecting the complaint;

— order the defendant to pay the costs.

Action brought on 17 June 2014 — ZZ v Commission

(Case F-55/14)

(2014/C 421/85)

Language of the case: French

Parties

Applicant: ZZ (represented by: L. Levi and A. Tymen, lawyers)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision not to renew the applicant's contract, which should have been for an indefinite period.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decision of 31 October 2013 not to renew the applicant's contract as a member of the contract staff, which contract should have been for an indefinite period;

— annul the decision of the AECE of 6 March 2014 rejecting the applicant's complaint of 15 November 2013, in that it took account of additional factors not contained in the contested decision of 31 October 2013;

— award the applicant damages to the sum of EUR 20 000;

— order the Commission to pay all the costs.

Action brought on 25 June 2014 — ZZ v Commission

(Case F-57/14)

(2014/C 421/86)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision to impose a disciplinary penalty consisting of a reprimand on the applicant following a disciplinary enquiry and the award of damages.

Form of order sought

— Annul the decision of the Appointing Authority dated 19 March 2014, notified on 20 March 2014 and, so far as is necessary, the decision dated 6 September 2013 adopted by the DG Human Resources and Security;

— Order the Commission to pay the applicant the sum calculated *ex aequo et bono* of EUR 5 000;

— Order the Commission to pay the Costs.

Action brought on 30 June 2014 — ZZ v Commission

(Case F-60/14)

(2014/C 421/87)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the proposed crediting of pensionable years relating to the transfer of the applicant's pension rights to the Union pension scheme applying the new GIP relating to Articles 11 and 12 of Annex VIII to the Staff Regulations.

Form of order sought

The applicant claims that the Tribunal should:

— declare illegal and inapplicable Article 9 of the general implementing provisions for Article 11(2) of Annex VIII to the Staff Regulations;

— annul the decision of 4 November 2013 to quantify pension rights acquired prior to his entering the service, as part of the transfer of those rights to the pension scheme of the institutions of the European Union, pursuant to the general implementing provisions for Article 11(2) of Annex VIII to the Staff Regulations of 3 March 2011;

— order the Commission to pay the costs.

Action brought on 7 July 2014 — ZZ v Commission

(Case F-61/14)

(2014/C 421/88)

Language of the case: French

Parties

Applicant: ZZ (represented by: A. Salerno, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision not to promote the applicant to grade AD 13 in the 2013 promotion exercise.

Form of order sought

— Annul the decision not to promote the applicant to grade AD 13 in the 2013 promotion exercise;

— Order the Commission to pay all the costs.

Action brought on 11 July 2014 — ZZ v Commission

(Case F-63/14)

(2014/C 421/89)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: S. Orlandi, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decisions concerning the transfer of the applicants' pension rights to the European Union pension scheme applying the new GIP on Articles 11 and 12 of Annex VIII to the Staff Regulations.

Form of order sought

— Declare unlawful and therefore inapplicable Article 9 of the general implementing provisions of Article 11(2) of Annex VIII to the Staff Regulations;

— Annul the decisions to credit the pension rights acquired by the applicants before taking up their duties, in the context of the transfer of those rights in the EU institutions' pension scheme, pursuant to the general implementing provisions of Article 11(2) of Annex VIII to the Staff Regulations of 3 March 2011;

— Order the Commission to pay the costs.

Action brought on 26 August 2014 — ZZ and Others v Commission

(Case F-85/14)

(2014/C 421/90)

Language of the case: French

Parties

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

Defendant: Commission

Subject-matter and description of the proceedings

Inapplicability of Article 7 of Annex V and Article 8 of Annex VII of the Staff Regulations, as amended by Regulation No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations and the CEOS and annulment of the decisions withdrawing the reimbursement of travel expenses from the place of employment to the place of origin and abolishing travelling time.

Form of order sought

— Declare Article 7 of Annex V of the Staff Regulations and Article 8 of Annex VII of the Staff Regulations unlawful;

— annul the decision not to grant any further travelling time or reimbursement of annual travel expenses to the applicants, from the year 2014 onwards;

— order the Commission to pay the costs.

Action brought on 2 September 2014 — ZZ v Commission

(Case F-89/14)

(2014/C 421/91)

Language of the case: French

Parties

Applicant: ZZ (represented by: M.-A. Lucas, lawyer)

Defendant: Commission

Subject-matter and description of the proceedings

Annulment of the Commission's decision refusing to pay the applicant the expatriation allowance and ordering it to pay that allowance to him, together with interest, since taking up his duties.

Form of order sought

— Annul the decision refusing to pay the applicant the expatriation allowance, adopted on 11/11/2013 as appointing authority (PMO), notified on 19/11/2013;

— order the defendant to pay him that allowance from the date he took up his duties at the Commission;

— order the defendant to pay the applicant interest at the rate applied by the ECB for its refinancing operations on the amount corresponding to each of those allowances, from the date when it became due until full payment;

— order the Commission to pay the costs.

Action brought on 5 September 2014 — ZZ and ZZ v Council

(Case F-91/14)

(2014/C 421/92)

Language of the case: French

Parties

Applicants: ZZ and ZZ (represented by: D. de Abreu Caldas and M. de Abreu Caldas, lawyers)

Defendant: Council

Subject-matter and description of the proceedings

Annulment of the decision concerning the transfer of the applicants' pension rights to the European Union pension scheme applying the new GIP relating to Articles 11 and 12 of Annex VIII to the Staff Regulations.

Form of order sought

— annul the decision calculating the bonus to the first applicant's pension rights acquired before that applicant's entry into service in the Council and the decision fixing the number of years of pensionable service obtained once and for all by the second applicant under Articles 11(2) of Annex VIII to the Staff Regulations;

— order the Council to pay the costs.

Action brought on 17 September 2014 — ZZ v ECB

(Case F-95/14)

(2014/C 421/93)

Language of the case: French

Parties

Applicant: ZZ (represented by: L. Levi and M. Vandenbussche, lawyers)

Defendant: European Central Bank

Subject-matter and description of the proceedings

Annulment of the decision of the Executive Board of the ECB not to grant the applicant an additional salary increase, in the context of the annual revision of salaries and bonuses for 2014.

Form of order sought

— Annul the decision of the Executive Board, adopted on 25 February 2014 and notified to the staff on 3 Mars 2014, not to grant the applicant an additional increase in salary for 2014;

— annul the decision dismissing the special appeal dated 1July 2014 and received on 8 July 2014;

— if necessary, annul the decision of the competent Head of Department/DG-H not to consider or propose the applicant for an Additional Salary Increase, notified implicitly by the decision of the Executive Board of 25 February 2014 and by the decision to dismiss the special appeal of 1 July 2014;

— order compensation for the material damage consisting of the loss of an opportunity to obtain an Additional Salary Increase in 2014, evaluated at EUR 54 635 or alternatively annulment of the procedure leading up to the decision of 25 February 2014 and the organisation by the ECB of a new procedure for granting additional salary increases for 2014;

— order the defendant to pay compensation for the non-material damage suffered, assessed ex aequo et bono at EUR 5 000;

— order the ECB to pay the all the costs.

Order of the Civil Service Tribunal of 31 March 2014 — BO v Commission

(Case F-121/11) ([1])

(2014/C 421/94)

Language of the case: French

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

([1]) OJ C 25, 28.1.2012, p. 72.

Order of the Civil Service Tribunal of 31 March 2014 — CK v Commission

(Case F-3/13) ([1])

(2014/C 421/95)

Language of the case: French

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

([1]) OJ C 129, 4.5.2013, p. 31.

Order of the Civil Service Tribunal of 30 April 2014 — Lecolier v Commission

(Case F-83/13) ([1])

(2014/C 421/96)

Language of the case: French

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

([1]) OJ C 344, 23.11.2013, p. 69.

Order of the Civil Service Tribunal of 7 May 2014 — Deweerdt and Others v Court of Auditors

(Case F-105/13) ([1])

(2014/C 421/97)

Language of the case: French

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

([1]) OJ C 15, 18.1.2014, p. 21.

Order of the Civil Service Tribunal of 30 April 2014 — Lecolier v Commission

(Case F-123/13) ([1])

(2014/C 421/98)

Language of the case: French

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

([1]) OJ C 52, 22.2.2014, p. 54.

Order of the Civil Service Tribunal of 7 May 2014 — Deweerdt and Lebrun v Court of Auditors

(Case F-2/14) ([1])

(2014/C 421/99)

Language of the case: French

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

([1]) OJ C 61, 1.3.2014, p. 22.

Order of the Civil Service Tribunal of 30 April 2014 — Lecolier v Commission

(Case F-18/14)

(2014/C 421/100)

Language of the case: French

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

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