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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court (Eighth Chamber) of 12 February 2015 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Lb Group Ltd v Ministero dell'Economia e delle Finanze, Amministrazione Autonoma dei Monopoli di Stato (AAMS), Galassia Game Srl

(Case C-651/13) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure — Identical questions referred — Articles 49 TFEU and 56 TFEU — Freedom of establishment — Freedom to provide services — Games of chance — National legislation — Reorganisation of the licencing system through an alignment of licence expiry dates — New call for tenders — Licences with a shorter period than that of licences awarded in the past — Restriction — Overriding reasons of general interest — Proportionality)

(2015/C 127/02)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Lb Group Ltd

Defendants: Ministero dell'Economia e delle Finanze, Amministrazione Autonoma dei Monopoli di Stato (AAMS), Galassia Game Srl

Operative part of the order

Articles 49 TFEU and 56 TFEU and the principles of equal treatment and effectiveness must be interpreted as not precluding national legislation, such as that in issue in the main proceedings, which provides for the organisation of a new call for tenders relating to licences with a period of validity shorter than that of licences awarded in the past due to a reorganisation of the licencing system through an alignment of licence expiry dates.

([1]) OJ C 112, 14.4.2014.

Order of the Court (Eighth Chamber) of 12 February 2015 — (request for a preliminary ruling from the Tribunale ordinario di Cagliari — Italy) — Criminal proceedings against Mirko Saba

(Case C-652/13) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure — Identical questions referred — Articles 49 TFEU and 56 TFEU — Freedom of establishment — Freedom to provide services — Games of chance — National legislation — Reorganisation of the licencing system through an alignment of licence expiry dates — New call for tenders — Licences with a shorter period than that of licences awarded in the past — Restriction — Overriding reasons of general interest — Proportionality)

(2015/C 127/03)

Language of the case: Italian

Referring court

Tribunale ordinario di Cagliari

Criminal proceedings against

Mirko Saba

Operative part of the order

Articles 49 TFEU and 56 TFEU and the principles of equal treatment and effectiveness must be interpreted as not precluding national legislation, such as that in issue in the main proceedings, which provides for the organisation of a new call for tenders relating to licences with a period of validity shorter than that of licences awarded in the past due to a reorganisation of the licencing system through an alignment of licence expiry dates.

([1]) OJ C 112, 14.4.2014.

Order of the Court (Eighth Chamber) of 11 December 2014 (request for a preliminary ruling from the Juzgado de lo Social No 1 de Granada (Spain) — Marta León Medialdea v Ayuntamiento de Huetor Vega

(Case C-86/14) ([1])

(Reference for a preliminary ruling — Social policy — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Successive fixed-term contracts in the public sector — Clause 3.1 — Definition of 'fixed-term worker' — Clause 5. 1 — Measures to prevent the abusive use of successive fixed-term employment contracts or relationships — Penalties — Conversion of temporary contracts into non-permanent contracts of an indefinite duration — Right to compensation)

(2015/C 127/04)

Language of the case: Spanish

Referring court

Juzgado de lo Social No 1 de Granada (Spain)

Parties to the main proceedings

Applicants: Marta León Medialdea

Defendants: Ayuntamiento de Huetor Vega

Operative part of the order

1. *Clauses 2 and 3.1 of the framework agreement on fixed-term work, concluded on 18 March 1999 which is annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP must be interpreted as meaning that a worker, such as the applicant in the main proceedings, comes within the scope of that framework agreement in so far as that worker is bound to his or her employer by fixed-term employment contracts within the meaning of those clauses.*

2. *The framework agreement on fixed-term work must be interpreted as precluding national legislation, such as that in issue in the main proceedings, which contains no effective measures for penalising abuse, within the meaning of Clause 5.1 of that framework agreement, resulting from the use of successive fixed-term employment contracts by a public sector employer, where there is no effective measure in the internal legal order for penalising such abuse.*

3. *It is for the referring court to assess, in accordance with the legislation, collective agreements and/or national practice, what the nature of the compensation granted to a worker, such as the applicant in the main proceedings, should be in order for that compensation to constitute a sufficiently effective measure to penalise the abuse, within the meaning of Clause 5.1 of the framework agreement on fixed-term work.*

   It is also for the referring court, should it be necessary, to give the relevant provisions of domestic law an interpretation which is, so far as possible, consistent with EU law.

([1]) OJ C 142, 12.5.2014.

Order of the Court (Eighth Chamber Chamber) of 12 February 2015 — (request for a preliminary ruling from the Tribunale ordinario di Cagliari — Italy) — Criminal proceedings against Claudia Concu, Isabella Melis

(Case C-457/14) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure — Identical questions referred — Articles 49 TFEU and 56 TFEU — Freedom of establishment — Freedom to provide services — Games of chance — National legislation — Reorganisation of the licencing system through an alignment of licence expiry dates — New call for tenders — Licences with a shorter period than that of licences awarded in the past — Restriction — Overriding reasons of general interest — Proportionality)

(2015/C 127/05)

Language of the case: Italian

Referring court

Tribunale ordinario di Cagliari

Criminal proceedings against

Claudia Concu, Isabella Melis

Operative part of the order

Articles 49 TFEU and 56 TFEU and the principles of equal treatment and effectiveness must be interpreted as not precluding national legislation, such as that in issue in the main proceedings, which provides for the organisation of a new call for tenders relating to licences with a period of validity shorter than that of licences awarded in the past due to a reorganisation of the licencing system through an alignment of licence expiry dates.

([1]) OJ C 439, 8.12.2014.

Order of the Court (Eighth Chamber) of 12 February 2015 — (request for a preliminary ruling from the Tribunale ordinario di Cagliari — Italy) — Criminal proceedings against Roberto Siddu

(Case C-478/14) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure — Identical questions — Articles 49 TFEU and 56 TFEU — Freedom of establishment — Freedom to provide services — Games of chance — National rules — Reorganisation of the licensing system through the alignment of licence expiry dates — New call for tenders — Licences with a period of validity shorter than that of licences awarded in the past — Restriction — Compelling reasons of general interest — Proportionality)

(2015/C 127/06)

Language of the case: Italian

Referring court

Tribunale ordinario di Cagliari — Italy

Criminal proceedings against

Roberto Siddu

Operative part of the order

Articles 49 TFEU and 56 TFEU and the principles of equal treatment and effectiveness must be interpreted as meaning that they do not preclude national legislation, such as that at issue in the main proceedings, which provides for the organisation of a new call for tenders concerning licences with a period of validity shorter than that of licences awarded in the past on account of a reorganisation of the system through the alignment of licence expiry dates.

([1]) OJ C 7, 12.1.2015.

Order of the Court (Eighth Chamber) of 12 February 2015 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Società Sogno di Tolosa Ltd and Others v Ministero dell'Economia e delle Finanze, Agenzia delle Dogane e dei Monopoli di Stato

(Case C-480/14) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure — Identical questions referred — Articles 49 TFEU and 56 TFEU — Freedom of establishment — Freedom to provide services — Games of chance — National legislation — Reorganisation of the licencing system through an alignment of licence expiry dates — New call for tenders — Licences with a shorter period than that of licences awarded in the past — Restriction — Overriding reasons of general interest — Proportionality)

(2015/C 127/07)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Società Sogno di Tolosa Limited, Ds di Dimarco Enzo & C. Sas, Centro Servizi di Barillà Marco, Assok di Rambaldi Stefano e Casbarra Luca Snc, Dg Comunicazioni di Di Giorno Giancarlo, Tamara Maraboli, Andrea Cappiello, Depa di Delberba C. Sas, Luca Campioni, Danio Milazzo, Andrea Menna, Emilio Schiavone, Sandro Casalboni, Lorena Bertora, Andromeda di Novellis Alessandro e Stellini Roberto Snc

Defendants: Ministero dell'Economia e delle Finanze, Agenzia delle Dogane e dei Monopoli di Stato

In the presence of: Carmelo Sisino, Gianni Viano, Vincenzo Brancati, Marco Decortes, Filippo Sangineto, Luca Piccolo, Salvatore Rosolia, Giada Aricò, Giuseppe Parrelli, Wett-Pads Vermittlungs, Galassio Game Srl

Operative part of the order

Articles 49 TFEU and 56 TFEU and the principles of equal treatment and effectiveness must be interpreted as not precluding national legislation, such as that in issue in the main proceedings, which provides for the organisation of a new call for tenders relating to licences with a period of validity shorter than that of licences awarded in the past due to a reorganisation of the licencing system through an alignment of licence expiry dates.

([1]) OJ C 7, 12.1.2015.

Appeal brought on 4 February 2014 by Recaro Holding GmbH, formerly Recaro Beteiligungs-GmbH against the judgment of the General Court (Seventh Chamber) delivered on 21 November 2013 in Case T-524/12: Recaro Holding GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-57/14 P)

(2015/C 127/08)

Language of the case: English

Parties

Appellant: Recaro Holding GmbH, formerly Recaro Beteiligungs-GmbH (represented by: J. Weiser, Rechtsanwalt)

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

By order of 14 January 2015 the Court of Justice (Seventh Chamber) has dismissed the appeal and ordered Recaro Holding GmbH to bear its own costs.

Appeal brought on 3 July 2014 by Asos plc against the judgment of the General Court (Seventh Chamber) delivered on 29 April 2014 in Case T-647/11: Asos plc v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-320/14 P)

(2015/C 127/09)

Language of the case: English

Parties

Appellant: Asos plc (represented by: P. Kavanagh, Solicitor, A. Lykiardopoulos QC, A. Edwards-Stuart, Barrister)

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

By order of 13 January 2015 the Court of Justice (Sixth Chamber) has dismissed the appeal and ordered Asos plc to bear its own costs.

Appeal brought on 30 July 2014 by Argo Group International Holdings Ltd against the judgment of the General Court (Second Chamber) delivered on 20 May 2014 in Case T-247/12: Argo Group International Holdings Ltd v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-370/14 P)

(2015/C 127/10)

Language of the case: English

Parties

Appellant: Argo Group International Holdings Ltd (represented by: F. Petillion, avocat, J. Janssen, Barrister)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Arisa Assurances SA

By order of 12 February 2015 the Court of Justice (Ninth Chamber) has dismissed the appeal and ordered Argo Group International Holdings Ltd to bear its own costs.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 22 December 2014 — Simona Kornhaas v Thomas Dithmar as liquidator of the assets of Kornhaas Montage und Dienstleistung Ltd

(Case C-594/14)

(2015/C 127/11)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Simona Kornhaas

Defendant: Thomas Dithmar as liquidator of the assets of Kornhaas Montage und Dienstleistung Ltd

Questions referred

a) If a liquidator brings an action before a German court against a director of a *private company limited by shares* under English and Welsh law, in respect of whose assets in Germany insolvency proceedings have been opened pursuant to Article 3(1) of the Insolvency Regulation ([1]), the purpose of the action being to seek reimbursement of payments which the director made before the opening of the insolvency proceedings but after the company had become unable to pay its debts, is that action governed by German insolvency law within the meaning of Article 4(1) of the Insolvency Regulation?

b) Does an action as referred to above infringe freedom of establishment under Articles 49 and 54 TFEU?

([1]) Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings, OJ 2000 L 160, p. 1.

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 7 January 2015 — DHL Express (Austria) GmbH

(Case C-2/15)

(2015/C 127/12)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant: DHL Express (Austria) GmbH

Respondent authority: Post-Control-Kommission

Other party to the proceedings: Bundesminister für Verkehr, Innovation und Technologie

Questions referred

1. Does Directive 97/67/EC ([1]) of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive 2008/6/EC ([2]) of the European Parliament and of the Council of 20 February 2008, in particular Article 9 thereof, preclude national rules under which postal service providers are obliged to contribute to the financing of the national regulatory authority's operational costs irrespective of whether they provide universal services?

2. If the first question is answered in the affirmative:

   (a) Is it sufficient for a financing obligation to exist that the provider concerned provides postal services which are to be classified under the national rules as universal services, but which go beyond the mandatory minimum range of universal services under the directive?

   (b) When determining an undertaking's share of the financial contributions, is one to proceed in the same way as when determining the financial contributions to the compensation fund under Article 7(4) of the directive?

   (c) Do the requirement to respect the principles of non-discrimination and proportionality within the meaning of Article 7(5) of the directive and the 'taking account of inter-changeability with the universal service' within the meaning of recital 27 in the preamble to Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 then mean that shares of turnover which are attributed to value-added services, hence postal services not assignable to the universal service, but which are connected with the universal service, are excluded and are not taken into account when determining the share?

([1]) OJ 1998 L 15, p. 14.
([2]) Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services (OJ 2008 L 52, p. 3).

Request for a preliminary ruling from the Landgericht Essen (Germany) lodged on 12 January 2015 — Criminal proceedings against Kanapathippilai Kanageswaran

(Case C-7/15)

(2015/C 127/13)

Language of the case: German

Referring court

Landgericht Essen

Party to the main proceedings

Kanapathippilai Kanageswaran

Question referred

Is the inclusion of the Liberation Tigers of Tamil Eelam in the list referred to in Article 2(3) of Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism ([1]) for the period from 9 September 2007 to 24 May 2009 inclusive, in particular on the basis of the Council Decisions of 29 May 2006 (2006/379/EC) ([2]), 28 June 2007 (2007/445/EC) ([3]), 20 December 2007 (2007/868/EC) ([4]), 15 July 2008 (2008/583/EC) ([5]), and 26 January 2009 (2009/62/EC) ([6]), invalid?

([1]) OJ 2001 L 344, p. 70.
([2]) OJ 2006 L 144, p. 21.
([3]) OJ 2007 L 169, p. 58.
([4]) OJ 2007 L 340, p. 100.
([5]) OJ 2008 L 188, p. 21.
([6]) OJ 2009 L 23, p. 25.

Request for a preliminary ruling from the Landgericht München I (Germany) lodged on 19 January 2015 — Verband Sozialer Wettbewerb e.V. v Innova Vital GmbH

(Case C-19/15)

(2015/C 127/14)

Language of the case: German

Referring court

Landgericht München I

Parties to the main proceedings

Applicant: Verband Sozialer Wettbewerb e.V.

Defendant: Innova Vital GmbH

Question referred

Must Article 1(2) of Regulation (EC) No 1924/2006 ([1]) be interpreted as meaning that the provisions of that regulation apply also to nutrition and health claims made in commercial communications in advertisements for foods to be delivered as such to the final consumer if the commercial communication or advertisement is addressed exclusively to the professional sector?

([1]) Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods; OJ 2006 L 404, p. 9.

Request for a preliminary ruling from the Budapest Környéki Törvényszék (Hungary) lodged on 21 January 2015 — Criminal proceedings against István Balogh

(Case C-25/15)

(2015/C 127/15)

Language of the case: Hungarian

Referring court

Budapest Környéki Törvényszék

Party to the main proceedings

István Balogh

Question referred

Article 1(1) of Directive 2010/64/EU ([1]) of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings reads: 'This Directive lays down rules concerning the right to interpretation and translation in criminal proceedings and proceedings for the execution of an European arrest warrant'. Must this formulation be taken to mean, inter alia, that, during a special procedure (Chapter XXIX of a büntetőeljárásról szóló 1998. évi XIX. törvény (Law XIX of 1998 on criminal procedure)), a court in Hungary must apply this Directive, that is to say, must a special procedure under Hungarian law be regarded as being covered by the expression 'criminal proceedings', or must this expression be interpreted as referring only to procedures which conclude with a final decision concerning the criminal liability of the defendant?

([1]) OJ 2010 L 280, p. 1.

Action brought on 2 February 2015 — European Commission v Kingdom of Spain

(Case C-38/15)

(2015/C 127/16)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: E. Manhaeve and D. Loma-Osorio Lerena, acting as Agents)

Defendant: Kingdom of Spain

Form of order sought

— Declare that the Kingdom of Spain has failed to fulfil its obligations:

  — under Article 4 of Council Directive 91/271/EEC ([1]) of 21 May 1991 concerning urban waste-water treatment, in relation to the agglomeration of Pontevedra-Marín-Poio-Bueu (Galicia); and

  — under Article 5(2) and (3) of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment in relation to the agglomerations of Bollulos Par del Condado; Abrera; Berga; Capellades; Figueres; El Terri (Banyoles) and Pontevedra-Marín-Poio-Bueu.

— Order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

Following an investigation carried out in the context of infringement procedure 2002/2123, the European Commission, by a letter of formal notice of 19 December 2003, drew the Kingdom of Spain's attention to its duty to fulfil its obligations under Articles 3, 4, 5 6 and 14 of Directive 91/271, in particular as regards the treatment of urban waste water in 'sensitive areas'.

The subject-matter of the proceedings has been reduced as Spain has brought the sanitation, treatment and waste facilities of certain agglomerations into compliance. Nevertheless, at the time of bringing the application the infringement of Articles 4 and 5 of the Directive continues in respect of the situation of the agglomerations of Bollulos Par del Condado (in the Autonomous Community of Andalucia); Abrera, Berga, Capellades, Figueres and El Terri-Banyoles (in the Autonomous Community of Cataluña) and Pontevedra-Marín-Poio-Bueu (in the Autonomous Community of Galicia).

([1]) OJ 1991 L 135, p. 40.

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 5 February 2015 — Hauptzollamt Frankfurt am Main v Duval GmbH & Co. KG

(Case C-44/15)

(2015/C 127/17)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Appellant: Hauptzollamt Frankfurt am Main

Respondent: Duval GmbH & Co. KG

Questions referred

1. In the absence of an abstract definition of what constitutes a thermometer as referred to in CN heading 9025, should CN heading 9025 ('thermometers') be taken, exceptionally, to comprise only the devices listed in the Explanatory Notes to the Harmonised Commodity Description and Coding System concerning CN heading 9025, Section B (thermometers and pyrometers, recording or not — Nos 08.0 to 28.0)?

2. If this question is to be answered in the negative: Should it be deduced from the listing of the devices in the Explanatory Notes to the HS concerning CN heading 9025 that devices which do not function in ways that are incorporated in those devices (measuring of temperature by means, for example, of the mechanical expansion of liquids or metals, physical changes or electrical impulses, etc.) cannot be classified as falling under CN heading 9025?

3. If this question too is to be answered in the negative: Do thermometers within the meaning of CN heading 9025 also include devices which indicate that the temperature of an object which is to be measured has reached a predetermined value (threshold value), even if the device does not meet such criteria as reproducibility of the measurement result, continuous indication of changes in temperature and the possibility of using the device repeatedly?

Appeal brought on 20 February by PP Nature-Balance Lizenz GmbH against the judgment of the General Court (Fifth Chamber) of 11 December 2014 in Case T-189/13 *PP Nature-Balance Lizenz GmbH* v *European Commission*

(Case C-82/15 P)

(2015/C 127/18)

Language of the case: German

Parties

Appellant: PP Nature-Balance Lizenz GmbH (represented by: M. Ambrosius, Rechtsanwalt)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 11 December 2014 in Case T-189/13;

— annul the contested Implementing Decision C(2013)369 to the extent that it requires the Member States to amend the authorisation so as to remove the locomotory indication;

— order the Commission to pay the costs.

Pleas in law and main arguments

The appellant relies upon five grounds of appeal.

First ground of appeal: infringement of Article 116 of Directive 2001/83/EC ([1]) read in conjunction with the precautionary principle.

The General Court invokes the precautionary principle in order to raise serious doubts as to the benefit of the medicinal product. The precautionary principle is, however, aimed at the evaluation of risks, rather than the efficacy, of a pharmaceutical product.

Second ground of appeal: infringement of Article 116 of Directive 2001/83/EC in so far as the General Court accepted four studies as new information

New information which can be taken into account for the purposes of Article 31 of Directive 2001/83/EC includes only that which is available post-authorisation, such as at the time of the first extension. The General Court was, however, of the opinion that the evaluation undertaken by the Committee for Medicinal Products for Human Use (CHMP) was independent from that undertaken by the national authorities. As a result, any information would prima facie be new whenever a matter had not yet been referred to the Committee.

Third ground of appeal: infringement of Article 116 of Directive 2001/83/EC with regard to the consideration of the criterion of the unproven efficacy of the medicinal product

The General Court adopted the view that the existence of studies which are not suitable for proving efficacy was per se sufficient to find that a medicinal product is not beneficial or less beneficial than previously considered to be the case. In fact, the General Court should have found in this context that the grounds which led to the failure of a study ought to be taken into consideration.

Fourth ground of appeal: distortion of the evidence

The General Court distorted evidence in that it found there to be no contradiction between the risk assessment of hypersensitive reactions, undertaken by the rapporteur, co-rapporteur and SAG-N, and the evaluation of the CHMP.

Fifth ground of appeal: infringement of Article 10(a) of and the Annex to Directive 2001/83/EC

The General Court infringed Article 10(a) of and the Annex to Directive 2001/83/EC in so far as it held that this provision is only applicable in the event of first marketing authorisation procedures. In addition, the General Court infringed Article 10(a) of Directive 2001/83/EC in that it approved the fact that the CHMP concentrated on the assessment of merely four studies, whereas there are over eighty studies in total on tolperisone.

([1]) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001 L 311, p. 67).

Appeal brought on 25 February 2015 by Banco Privado Português, SA, in liquidation, and Massa Insolvente do Banco Privado Português, SA, in liquidation, against the judgment delivered by the General Court (Fourth Chamber) on 12 December 2014 in Case T-487/11 Banco Privado Português and Massa Insolvente do Banco Privado Português v Commission

(Case C-93/15 P)

(2015/C 127/19)

Language of the case: Portuguese

Parties

Appellants: Banco Privado Português, SA, in liquidation, and Massa Insolvente do Banco Privado Português, SA, in liquidation (represented by: C. Fernández Vicién, F. Pereira Coutinho, M. Esperança Pina, M. Ferreira Santos, R. Leandro Vasconcelos, advogados)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court of Justice should admit the present action and, having declared it well founded, it should:

— set aside the contested judgment, substituting it for a judgment which annuls the Commission's decision ([1]) in its entirety;

— in the alternative, set aside the contested judgment substituting it for a judgment which annuls the decision in so far as it declared the State aid involved in the guarantee to be unlawful and incompatible for the period between 5 December 2008 and 5 June 2009;

— in the alternative, set aside the contested judgment substituting it for a judgment which annuls the decision in so far as it ordered the recovery of the (alleged) aid under Articles 2 to 4 thereof;

— in the alternative, set aside the contested judgment substituting it for a judgment which annuls the decision in so far as it ordered the recovery between 5 December 2008 and 5 June 2009; and

— order the Commission to pay the costs both at first instance and on appeal.

Pleas in law and main arguments

1. First plea: the General Court attempted to compensate for the lack of reasoning in the Commission's decision by providing its own reasons, and it erred in law in its examination of the Commission's reasons in finding that they were sufficient.

2. Second plea: the General Court misinterpreted Article 107 TFEU and incorrectly applied the law to the facts in considering that BPP had been granted an advantage, turning the guarantee into aid incompatible with the internal market.

3. Third plea: the General Court erred in law in finding that the Commission did not commit a manifest error of assessment or an error of law in failing to take into account the exception under Article 107(3)(b) TFEU.

4. Fourth plea: the General Court erred in law in upholding the recovery decision, in that it upheld the decision to order the recovery of (alleged) aid which was not incompatible with the internal market, given that BPP did not obtain any advantage, it did not find that the decision at issue ordered the recovery of aid on procedural grounds, and it erred in finding that the Commission had not departed from the principles laid down in its guidelines at the time the amount of the aid was calculated.

5. Fifth plea: the General Court did not observe the principles of legal certainty and legitimate expectations in upholding the decision at issue in so far as it ordered the recovery of the (alleged) aid.

6. Sixth plea: the General Court did not take into account the Commission's infringement of BPP's right to fair treatment, in so far as the present case was treated differently from similar situations.

(1) Commission Decision No 2011/346/EU of 20 July 2010 on State aid C 33/09 (ex NN 57/09, CP 191/09) implemented by Portugal in the form of a State guarantee to Banco Privado Português, SA (OJ 2011, L 159, p. 95).

Appeal brought on 24 February 2015 by Tudapetrol Mineralölerzeugnisse Nils Hansen KG against the judgment of the General Court (Third Chamber) of 12 December 2014 in Case T-550/08 *Tudapetrol Mineralölerzeugnisse Nils Hansen KG* v *European Commission*

(Case C-94/15 P)

(2015/C 127/20)

Language of the case: German

Parties

Appellant: Tudapetrol Mineralölerzeugnisse Nils Hansen KG (represented by: Dr. U. Itzen and J. Ziebarth LLM, Rechtsanwältinnen)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

1. set aside the judgment of the General Court (Third Chamber) of 12 December 2014 in Case T-550/08 in so far as it concerns the appellant;

2. in the alternative, reduce appropriately the fine of EUR 12 million imposed on the applicant under Article 2 of the contested decision of 1 October 2008;

3. in the further alternative, refer the case back to the General Court for a fresh decision;

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

Pleas in law and main arguments

The present appeal is brought against the judgment of the General Court (Third Chamber) of 12 December 2014, *Tudapetrol Mineralölerzeugnisse Nils Hansen KG* v *European Commission*, by which the General Court rejected the application to annul Commission Decision C(2008) 5476 final of 1 October 2008 in Case COMP/39181 — Candle waxes, in so far as it concerns the applicant and, in the alternative, for a reduction in the amount of the fine imposed upon it.

The appellant relies on the following grounds of appeal:

By its first ground of appeal, the appellant complains that the General Court infringed Articles 101 and 296 of the TFEU and its essential rights of defence and procedural rights since the General Court held it liable to pay a fine contrary to the principles for attributing liability to an undertaking for the purposes of EU competition law. The fundamental inconsistency lies in the fact that the General Court treated the appellant, on the one hand, and the separately fined limited partnership, H&R KG, and its subsidiary, on the other hand, as separate undertakings for the purposes of the fine. At the same time, the General Court, as well as the Commission before it, considered these undertakings as a single undertaking, 'H&R/Tudapetrol', for the purposes of finding an alleged infringement and the attribution of liability. The same undertakings cannot, however, have committed an infringement as *one* undertaking yet be considered as *two* undertakings for the purposes of the imposition of a fine. The General Court therefore incorrectly confirmed a double penalty for the same acts of what was allegedly a single undertaking.

By its second ground of appeal, the appellant complains that the General Court infringed the obligation to state the reasons for the judgment under appeal (Article 296 TFEU). This is, first, because the judgment under appeal did not contain any sufficiently individualised findings as to the accusations against the appellant. On the basis of the undifferentiated reasons, which were confirmed by the General Court, for the infringement by the entity not described further other than as 'H&R/Tudapetrol', it is not possible to know which acts were attributed to the appellant, neither from the Commission Decision, nor the judgment under appeal. The appellant complains that its individual objections to the finding of the facts of the case were not dealt with comprehensively. The General Court only partially considered and ruled upon the objections raised. In so far as the General Court did address the appellant's objections, the General Court erred in law in its reasoning by contravening the rules of evidence or logic, or by distortion of the evidence before the court.

By its third ground of appeal, the appellant alleges that the General Court materially infringed the appellant's rights of defence. In particular, the General Court, as the Commission before it, failed to carry out a sufficiently individualised statement of the allegations upheld against the appellant and instead incorrectly reasoned throughout on the basis of the unclear denomination 'H&R/Tudapetrol'. This had the result that it was not possible for the appellant to know which individual allegations were raised against it, nor the evidence upon which those allegations were grounded. The principle of *in dubio pro reo* was therefore infringed and the appellant's defence of the allegations raised was improperly impaired.

Appeal brought on 26 February 2015 by Netherlands Maritime Technology Association, formerly Scheepsbouw Nederland against the judgment of the General Court (Seventh Chamber) delivered on 9 December 2014 in Case T-140/13: Netherlands Maritime Technology Association v European Commission

(Case C-100/15 P)

(2015/C 127/21)

Language of the case: English

Parties

Appellant: Netherlands Maritime Technology Association, formerly Scheepsbouw Nederland (represented by: K. Struckmann, Rechtsanwalt, G. Forwood, Barrister)

Other parties to the proceedings: European Commission, Kingdom of Spain

Form of order sought

The appellant claims that the Court should:

— Set aside the judgment under appeal insofar as it rejected the Appellant's application for annulment of the Decision;

— Annul the contested Decision, or alternatively, refer the case back to the General Court for determination in accordance with the judgment of the Court of Justice as to points of law; and

— In any event, award the Appellant its costs, including its costs in the proceedings before the General Court.

Pleas in law and main arguments

The appellant argues that the General Court erred in law when considering the sufficiency and completeness of the Commission's preliminary examination, specifically:

— In failing to properly consider all the arguments relied upon by the Appellant at first instance;

— In committing a manifest error of appreciation; and

— In giving insufficient and contradictory reasoning.

The main arguments can be summarized as follows:

— Regarding the first ground, the General Court misread the Appellant's arguments with respect to the complex structure of the New STL Scheme, its self-implementation and selectivity and thus did not consider whether the Decision properly analysed the functioning of the scheme as a whole, and in conjunction with other provisions of tax and corporate law.

— Regarding the second ground, the General Court committed a manifest error in its reading of the Decision, leading it to conclude, wrongly, that the Decision sufficiently assessed the scope of beneficiaries of the New STL Scheme.

— Regarding the third ground, the General Court failed to provide sufficient and coherent reasoning as to why the contested decision was right not to consider EIGs as potential beneficiaries of the New STL Scheme, or to define a reference framework to assess the effects of the measure. Furthermore, the General Court failed to provide sufficient reasoning explaining why the contested decision sufficiently explained how the New STL Scheme was an inherent part of the general system.

Order of the President of the Court of 23 January 2015 — European Commission v Italian Republic

(Case C-124/14) ([1])

(2015/C 127/22)

Language of the case: Italian

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

([1]) OJ C 175, 10.6.2014.

GENERAL COURT

Judgment of the General Court of 3 March 2015 — Bial-Portela v OHIM — Isdin (ZEBEXIR)

(Case T-366/11 RENV) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark ZEBEXIR — Earlier Community word mark ZEBINIX — Relative grounds for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 127/23)

Language of the case: English

Parties

Applicant: Bial-Portela & C[a], SA (São Mamede do Coronado, Portugal) (represented by: B. Braga da Cruz and J. Pimenta, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Isdin, SA (Barcelona, Spain) (represented by: P. López Ronda, G. Macias Bonilla and G. Marín Raigal, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 6 April 2011 (Case R 1212/2009-1), concerning opposition proceedings between Bial-Portela & Ca, SA and Isdin, SA.

Operative part of the judgment

The Court:

1. *Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 6 April 2011 (Case R 1212/2009-1);*

2. *Orders OHIM to bear its own costs and to pay those of Bial-Portela & C[a], SA;*

3. *Orders Isdin, SA to bear its own costs.*

([1]) OJ C 269, 10.9.2011.

Judgment of the General Court of 4 March 2015 — United Kingdom v ECB

(Case T-496/11) ([1])

(Economic and monetary policy — ECB — Action for annulment — Eurosystem Oversight Policy Framework — Challengeable act — Admissibility — Oversight of payment and securities settlement systems — Application to central counterparty clearing systems of a requirement to be located in a Member State party to the Eurosystem — Competence of the ECB)

(2015/C 127/24)

Language of the case: English

Parties

Applicant: United Kingdom of Great Britain and Northern Ireland (represented initially by S. Ossowski, S. Behzadi-Spencer and E. Jenkinson, subsequently by S. Behzadi-Spencer and E. Jenkinson, and finally by V. Kaye, acting as Agents, and by K. Beal QC and P. Saini QC)

Defendant: European Central Bank (ECB) (represented initially by A. Sáinz de Vicuña Barroso and K. Laurinavičius, subsequently by A. Sáinz de Vicuña Barroso and P. Papapaschalis and finally by P. Papapaschalis and P. Senkovic, acting as Agents, and by R. Subiotto QC, F.-C. Laprévote, lawyer, and P. Stuart, Barrister)

Intervener in support of the applicant: Kingdom of Sweden (represented by A. Falk, C. Meyer-Seitz, C. Stege, S. Johannesson, U. Persson and H. Karlsson, acting as Agents)

Interveners in support of the defendant: Kingdom of Spain (represented by A. Rubio González, abogado del Estado); and French Republic (represented by G. de Bergues, D. Colas and E. Ranaivoson, acting as Agents)

Re:

Action for annulment of the Eurosystem Oversight Policy Framework published by the ECB on 5 July 2011, in so far as it sets a location requirement applicable to central counterparties established in Member States that are not party to the Eurosystem.

Operative part of the judgment

The Court:

1) *Annuls the Eurosystem Oversight Policy Framework, published by the European Central Bank (ECB) on 5 July 2011, in so far as it sets a requirement to be located within a Member State party to the Eurosystem for central counterparties involved in the clearing of securities;*

2) *Orders the ECB to bear its own costs and to pay those incurred by the United Kingdom of Great Britain and Northern Ireland;*

3) *Orders the Kingdom of Spain, the French Republic and the Kingdom of Sweden to bear their own costs.*

([1]) OJ C 340, 19.11.2011.

Judgment of the General Court of 27 February 2015 — LS Fashion v OHIM — Gestión de Activos Isorana (L'Wren Scott)

(Case T-41/12) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark L'Wren Scott — Earlier national word mark LOREN SCOTT — Relative ground for refusal — Genuine use of the mark — Article 42(2) and (3) of Regulation (EC) No 207/2009 — No likelihood of confusion — Article 8 (1)(b) of Regulation No 207/2009)

(2015/C 127/25)

Language of the case: English

Parties

Applicant: LS Fashion, LLC (Wilmington, Delaware, United States) (represented by: R. Black and S. Davies, Solicitors)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Gestión de Activos Isorana, SL (La Orotava, Spain) (represented by: F. Brandolini Kujman, J.-B. Devaureix and L. Montoya Terán, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 24 November 2011 (Case R 1584/2009-4) concerning opposition proceedings between Gestión de Activos Isorana, SL, and LS Fashion, LLC.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders LS Fashion, LLC to pay the costs.*

([1]) OJ C 109, 14.4.2012.

Judgment of the General Court of 27 February 2015 — Breyer v Commission

(Case T-188/12) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Written submissions lodged by the Republic of Austria in infringement proceedings before the Court — Refusal of access)

(2015/C 127/26)

Language of the case: German

Parties

Applicant: Patrick Breyer (Wald-Michelbach, Germany) (represented by: M. Starostik, lawyer)

Defendant: European Commission (represented initially by P. Costa de Oliveira and H. Krämer, then H. Krämer and M. Konstantinidis, Agents, and initially by A. Krämer and R. Van der Hout, then by R. Van der Hout, lawyers)

Interveners in support of the applicant: Republic of Finland (represented by: J. Heliskoski and S. Hartikainen, Agents; and the Kingdom of Sweden (represented initially by A. Falk, C. Meyer-Seitz, C. Stege, S. Johannesson, U. Persson, K. Ahlstrand-Oxhamre and H. Karlsson, then by A. Falk, C. Meyer-Seitz, U. Persson, L. Sedenborg, N. Otte Widgren, E. Karlsson and F. Sjövall, Agents)

Re:

Application for annulment, first, of the Commission decision of 16 March 2012 rejecting a request made by the applicant for access to its legal opinion relating to Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (OJ 2006 L 105, p. 54), and, second, the Commission decision of 3 April 2012 refusing to grant the applicant complete access to the documents relating to the transposition of Directive 2006/24 by the Republic of Austria and the documents relating to the case which gave rise to the judgment of 29 July 2010 in *Commission* v *Austria*, C-189/09, EU:C:2010:455, in so far as, with regard to the latter decision, it concerned access to the written submissions lodged by the Republic of Austria in the course of those proceedings which was refused.

Operative part of the judgment

The Court:

1. *Annuls the Commission decision of 3 April 2012 refusing to grant Mr Patrick Breyer complete access to the documents relating to the transposition by the Republic of Austria of Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC and to documents relating to case which gave rise to the judgment of 29 July 2010 in Commission v Austria, C-189/09 in so far as it refuses access to the written submissions lodged by the Republic of Austria in that case.*

2. *Declares that there is no longer any need to give a ruling on the application for annulment of the Commission decision of 16 March 2012 rejecting a request by Mr Breyer for access to its legal opinion relating to Directive 2006/14.*

3. *Orders the Commission, in addition to its own costs, to bear half the costs incurred by Mr Breyer.*

4. *Orders the Republic of Finland and the Kingdom of Sweden to bear their own costs.*

([1]) OJ C 194, 30.6.2015.

Judgment of the General Court of 27 February 2015 — Spa Monopole v OHIM — Olivar Del Desierto (OLEOSPA)

(Case T-377/12) ([1])

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

(2015/C 127/27)

Language of the case: French

Parties

Applicant: Spa Monopole, compagnie fermière de Spa SA/NV (Spa, Belgium) (represented by: L. De Brouwer, E. Cornu and E. De Gryse, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Olivar Del Desierto, SL (Almería, Spain)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 22 June 2012 (Case R 135/2011-4) concerning opposition proceedings between Spa Monopole, compagnie fermière de Spa SA/NV and Olivar Del Desierto, SL.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 22 June 2012 (Case R 135/2011-4), in so far as it dismisses the opposition in respect of cosmetic products, falling within Class 3 of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended;*

2. *Orders OHIM to pay the costs.*

(1) OJ C 331, 27.10.2012.

Judgment of the General Court of 4 March 2015 — Nissan Jidosha v OHIM (CVTC)

(Case T-572/12) (1)

(Community trade mark — Request for renewal of the Community figurative mark CVTC — Partial renewal — Article 47 of Regulation (EC) No 207/2009)

(2015/C 127/28)

Language of the case: English

Parties

Applicant: Nissan Jidosha KK (Yokohama, Japan) (represented by: B. Brandreth, Barrister, and D. Cañadas Arcas, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 6 September 2012 (Case R 2469/2011-1), relating to a request for renewal of the registration of the Community figurative mark CVTC.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Nissan Jidosha KK to pay the costs.*

(1) OJ C 79, 16.3.2013.

Judgment of the General Court of 5 March 2015 — Rose Vision and Seseña v Commission

(Case T-45/13) ([1])

(Arbitration clause — Seventh Framework Programme for Research, Technological Development and Demonstration Activities (2007-2013) — Grant agreements relating to the FIRST, FutureNEM and sISI projects — Actions for annulment and compensation — Reclassification of the actions — Admissibility — Suspension of payments — Deadline for providing the audit report — Dissemination of information to third parties)

(2015/C 127/29)

Language of the case: Spanish

Parties

Applicants: Rose Vision, SL (Seseña, Spain); and Julián Seseña (Pozuelo de Alarcón, Spain) (represented by: M. Muñiz Bernuy and A. Alonso Villa, lawyers)

Defendant: European Commission (represented by: R. Lyal and A. Sauka, acting as Agents, assisted by J. Rivas Andrés and X. M. García García, lawyers)

Re:

First, action for annulment of the Commission's letter by which it suspended the payments under grant agreement No 246910, relating to the FutureNEM project, and of financial audit report 11-INFS-025, on the basis of which it adopted that measure, and, secondly, action for damages for the harm allegedly suffered by the applicants as a consequence of the Commission's conduct, up to a maximum of EUR 5 854 264, without prejudice to the damages which may be assessed in the course of the present proceedings as well as interest accrued.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Rose Vision, SL and Mr Julián Seseña to pay the costs.*

([1]) OJ C 178, 22.6.2013.

Judgment of the General Court of 27 February 2015 — Bayer Intellectual Property v OHIM — Interhygiene (INTERFACE)

(Case T-227/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark INTERFACE — Earlier Community word mark Interfog — Relative ground for refusal — Likelihood of confusion — Identity of the goods — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 127/30)

Language of the case: English

Parties

Applicant: Bayer Intellectual Property GmbH (Monheim am Rhein, Germany) (represented by: E. Armijo Chávarri and A. Sanz Cerralbo, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: initially, A. Schifko and, subsequently, D. Walicka, Agents)

Other party to the proceedings before the Board of Appeal of OHIM: Interhygiene GmbH (Cuxhaven, Germany)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 4 February 2013 (Case R 1688/2011-4), relating to opposition proceedings between Interhygiene GmbH and Bayer Intellectual Property GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Bayer Intellectual Property GmbH to pay the costs.*

([1]) OJ C 178, 22.6.2013.

Judgment of the General Court of 27 February 2015 — EESC v Achab

(Case T-430/13 P) ([1])

(Appeal — Civil service — Officials — Remuneration — Expatriation allowance — Naturalisation — Article 4(1)(a) and (b) of Annex VII to the Staff Regulations — Recovery of overpayments — Paragraph 2 of Article 85 of the Staff Regulations)

(2015/C 127/31)

Language of the case: French

Parties

Appellant: European Economic and Social Committee (EESC) (represented initially by M. Arsène, subsequently by M. Pascua Mateo and L. Camarena Januzec, acting as Agents, and D. Waelbroeck and A. Duron, lawyers)

Other party to the proceedings: Mohammed Achab (represented by: N. Lhoëst, lawyer)

Re:

Appeal brought against the judgment of the Civil Service Tribunal of the European Union (Third Chamber) of 26 June 2013 in *Achab* v *EESC* (F-21/12, ECR-SC, EU:F:2013:95), seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders the European Economic and Social Committee (EESC) to bear its own costs and pay those incurred by Mr Mohammed Achab in the present proceedings.*

([1]) OJ C 325, 9.11.2013.

Judgment of the General Court of 3 March 2015 — Schmidt Spiele v OHIM (Representation of boards for parlour games)

(Joined Cases T-492/13 and T-493/13) ([1])

(Community trade mark — Applications for figurative Community trade marks representing boards for parlour games — Absolute grounds for refusal — Lack of distinctive character — Regulation (EC) No 207/2009, Article 7(1)(b) and Article 7(3))

(2015/C 127/32)

Language of the case: German

Parties

Applicant: Schmidt Spiele (Berlin, Germany) (represented by: T. Sommer, lawyer)

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

Re:

Action brought against the decisions of the First Board of Appeal of OHIM of 3 July 2013 (Cases R 1767/2012-1 and R 1768/2012-1), relating to applications for registration as Community trade marks of figurative marks representing boards for parlour games.

Operative part of the judgment

The Court:

1. *Annuls the decisions of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 3 July 2013 (Cases R 1767/2012-1 and R 1768/2012-1), in so far as they dismiss the applications of Schmidt Spiele GmbH for goods and services other than 'computers', '(programs for) computer games; programs for video games recorded on cartridges, disks, CD-ROM, cassettes, tapes and mini-disks', 'computer software [recorded programs]; computer programs (downloadable); computer software [recorded programs]', in Class 9, 'goods made from paper and cardboard (included in Class 16); matter printed in colour', in Class 16, 'games [including electronic games and video games] except as apparatus adapted for screens or external monitors', 'playing cards', 'parlour games; games of cards', 'portable apparatus for electronic games', 'parlour games' and 'video games being apparatus adapted for use with screens or external monitors', in Class 28, and 'entertainment', 'arranging and conducting of entertainment events' and 'services in the field of leisure activities', in Class 41.*

2. *Dismisses the remainder of the action.*

3. *Orders Schmidt Spiele to bear half the costs incurred by OHIM, and half its own costs. Orders OHIM to bear half the costs incurred by Schmidt Spiele, and half its own costs.*

([1]) OJ C 325, 9.11.2013.

Judgment of the General Court of 4 March 2015 — Three-N-Products v OHIM — Munindra (PRANAYUR)

(Case T-543/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark PRANAYUR — Earlier Community word mark AYUR and earlier Community figurative marks Ayur, Ayur Naturals Herbals and Aanb — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 127/33)

Language of the case: English

Parties

Applicant: Three-N-Products Private Ltd (New Delhi, India) (represented by: N. Colombo, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Munindra Holding BV (Lelystad, Netherlands)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 25 July 2013 (Case R 638/2012-4) relating to opposition proceedings between Three-N-Products Private Ltd and Munindra Holding BV.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Three-N-Products Private Ltd to pay the costs.*

([1]) OJ C 367, 14.12.2013.

Judgment of the General Court of 4 March 2015 — FSA v OHIM — Motokit Veículos e Acessórios (FSA K-FORCE)

(Case T-558/13) ([1])

(Community trade mark — Invalidity proceedings — Community word mark FSA K-FORCE — Earlier Community word mark FORCE-X — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Obligation to state reasons — Article 75 of Regulation No 207/2009)

(2015/C 127/34)

Language of the case: English

Parties

Applicant: FSA Srl (Busnago, Italy) (represented by: M. Locatelli and M. Cartella, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Motokit Veículos e Acessórios, SA (Vagos, Portugal)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 5 August 2013 (Case R 436/2012-2), relating to invalidity proceedings between Motokit Veículos e Acessórios, SA and FSA Srl.

Operative part of the judgment

The Court:

1) *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 5 August 2013 (Case R 436/2012-2);*

2) *Orders OHIM to pay the costs.*

([1]) OJ C 24, 25.1.2014.

Judgment of the General Court of 27 February 2015 — Universal Utility International v OHIM (Greenworld)

(Case T-106/14) ([1])

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

(2015/C 127/35)

Language of the case: German

Parties

Applicant: Universal Utility International GmbH & Co.KG (Kaarst, Germany) (represented by: J. Mietzel, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Greenworld) (represented by: M. Fischer, Agent)

Re:

Action against the decision of the Fourth Board of Appeal of OHIM of 13 December 2013 (Case R 1658/2013-4), concerning an application for registration of the word sign Greenworld as a Community trade mark.

Operative part of the judgment

The Court:

1. *The action is dismissed;*

2. *Universal Utility International GmbH & Co. KG is ordered to pay the costs.*

([1]) OJ C 142, 12.5.2014.

Order of the General Court of 23 February 2015 — Seven for all mankind v OHIM — Seven (SEVEN FOR ALL MANKIND)

(Case T-505/14) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark SEVEN FOR ALL MANKIND — Earlier Community and international figurative marks Seven — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009 — Action manifestly lacking any foundation in law)

(2015/C 127/36)

Language of the case: English

Parties

Applicant: Seven for all mankind LLC (Vernon, California, United States) (represented by: A. Gautier-Sauvagnac, lawyer)

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, intervener before the General Court: Seven SpA (Leinì, Italy) (represented by: L. Trevisan, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 9 April 2014 (Case R 1277/2013-1), relating to opposition proceedings between Seven SpA and Seven For All Mankind LLC.

Operative part of the order

The Court:

1. *Dismisses the action;*

2. *Orders Seven For All Mankind LLC to pay the costs.*

([1]) OJ C 292, 1.9.2014.

Order of the President of the General Court of 25 February 2015 — BPC Lux 2 and Others v Commission

(Case T-812/14 R)

(Interim measures — State aid — Financial sector — Aid granted in the context of the resolution of a bank — Decision not to raise objections — Application for suspension of operation of a measure — No urgency)

(2015/C 127/37)

Language of the case: English

Parties

Applicants: BPC Lux 2 Sàrl (Senningerberg, Luxembourg); BPC UKI LP (George Town, Cayman Islands, United Kingdom); Bennett Offshore Restructuring Fund, Inc. (George Town); Bennett Restructuring Fund LP (Wilmington, Delaware, United States); Queen Street Fund Ltd (George Town); BTG Pactual Global Emerging Markets and Macro Master Fund LP (George Town); BTG Pactual Absolute Return II Master Fund LP (George Town); CSS LLC (Chicago, Illinois, United States); Beltway Strategic Opportunities Fund LP (George Town); EJF Debt Opportunities Master Fund LP (George Town); EJF DO Fund (Cayman) LP (George Town); TP Lux HoldCo (Luxembourg, Luxembourg); VR Global Partners LP (George Town); Absalon II Ltd (Dublin, Ireland); CenturyLink, Inc. Defined Benefit Master Trust (Denver, Colorado, United States); City of New York Group Trust (New York, New York, United States); Dignity Health (San Francisco, California, United States); GoldenTree Asset Management Lux Sàrl (Luxembourg); GoldenTree High Yield Value Fund Offshore 110 Two Ltd (Dublin); and San Bernardino County Employees Retirement Association (San Bernardino, California, United States) (represented by: J. Webber, M. Steenson, Solicitors, and P. Fajardo, lawyer)

Defendant: European Commission (represented by: L. Flynn and P.J. Loewenthal, acting as Agents)

Re:

Application for the suspension of operation of Commission Decision C (2014) 5682 final of 3 August 2014 not to raise objections to State aid SA.39250 (2014/N), notified by Portugal, for the resolution of Banco Espírito Santo SA.

Operative part of the order

1) *The application for interim measures is dismissed.*

2) *The costs are reserved.*

Order of the President of the General Court of 27 February 2015 — Spain v Commission

(Case T-826/14 R)

(Interim measures — State aid — Regime of taxation on companies enabling undertakings that are tax resident in Spain to amortise the financial goodwill resulting from the acquisition of shareholdings in companies that are tax resident abroad — Decision declaring the aid incompatible with the internal market and ordering its recovery — Application for a stay of execution — Prima facie Case — Lack of urgency)

(2015/C 127/38)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: M. Sampol Pucurull, acting as Agent)

Defendant: European Commission (represented by: B. Stromsky, C. Urraca Caviedes and P. Němečková, acting as Agents)

Re:

Application for a stay of execution of Commission Decision C (2014) 7280 final of 15 October 2014 on State aid SA.35550 (2013/C) (ex 2013/NN) implemented by Spain and concerning the regime for the tax amortisation of financial goodwill for foreign shareholding acquisitions.

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *The order of 8 January 2015 delivered in Case T-826/14 R is cancelled.*

3. *The costs are reserved.*

Action brought on 18 August 2014 — Monster Energy v OHIM (Representation of a peace symbol)

(Case T-633/14)

(2015/C 127/39)

Language of the case: English

Parties

Applicant: Monster Energy Company (Corona, United States of America) (represented by: P. Brownlow, Solicitor)

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

Details of the proceedings before OHIM

Trade mark at issue: Community figurative mark (Representation of a peace symbol) — Application for registration No 11 363 611

Contested decision: Decision of the First Board of Appeal of OHIM of 11 December 2013 in Case R 1285/2013-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea(s) in law

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

Action brought on 16 September 2014 — Monster Energy v OHIM (GREEN BEANS)

(Case T-666/14)

(2015/C 127/40)

Language of the case: English

Parties

Applicant: Monster Energy Company (Corona, United States of America) (represented by: P. Brownlow, Solicitor)

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

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'GREEN BEANS' — Application for registration No 11 410 801

Contested decision: Decision of the First Board of Appeal of OHIM of 2 December 2013 in Case R 1530/2013-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea(s) in law

— Infringement of Articles 7(1)(b) and 7(1)(c) of Regulation No 207/2009.

Action brought on 28 November 2014 — Staatliche Porzellan-Manufaktur Meissen v OHIM — Meissen Keramik (MEISSEN)

(Case T-789/14)

(2015/C 127/41)

Language in which the application was lodged: German

Parties

Applicant: Staatliche Porzellan-Manufaktur Meissen GmbH (Meißen, Germany) (represented by: O. Spuhler and M. Geitz, lawyers)

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

Other party to the proceedings before the Board of Appeal: Meissen Keramik GmbH (Meißen, Germany)

Details of the proceedings before OHIM

Applicant for the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark containing the word element 'MEISSEN' — Application No 9 413 527

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 29 September 2014 in Cases R 1182/2013-4 and R 1245/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the defendant to pay the costs.

Pleas in law

— Infringement of Article 8(5) of Regulation No 207/2009;

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

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

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

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

— Infringement of Article 15(1) of Regulation No 207/2009.

Action brought on 26 December 2014 — Slovak Telekom v Commission

(Case T-851/14)

(2015/C 127/42)

Language of the case: English

Parties

Applicant: Slovak Telekom a.s. (Bratislava, Slovak Republic) (represented by: D. Geradin, lawyer, and R. O'Donoghue, Barrister)

Defendant: European Commission

Forms of order sought

The applicant claims that the Court should:

— declare the action admissible;

— annul articles 1 and 2 of the contested decision so far as it affects the applicant;

— in the alternative, reduce the fine imposed on the applicant by article 2 of the contested decision;

— order the Commission to bear the costs of the proceedings;

— in the event the Court rejects the action as inadmissible or dismisses it on substance, order each party to bear its own costs.

Pleas in law and main arguments

By its present action, the applicant seeks the annulment of the Commission's decision of 16 October 2014 (AT.39523 — Slovak Telekom) fining the applicant and its parent for abusive conduct in Slovak broadband market pursuant to Article 102 TFEU and Article 54 of the EEA Agreement.

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

1. First plea in law, alleging that the Commission made errors of law and a manifest error of assessment in finding that the applicant committed an abusive refusal to supply.

2. Second plea in law, alleging that the Commission violated the applicant's rights of defence in respect of its margin squeeze assessment. The applicant submits that:

   — the Commission failed to set out its reasoned objections to certain relevant cost principles, methodology and data put forward by the applicant until the contested decision; and

   — the Commission put forward for the first time in the contested decision a new 'multi-period' approach to overturn what was previously a positive margin for 2005 into a negative one.

3. Third plea in law, alleging that the Commission made errors of facts and/or law and/or a manifest error of assessment in finding that the applicant's conduct constituted a margin squeeze. The applicant contends that:

   — the Commission misapplied the long-run average incremental cost ('LRAIC') principles, methodology and data and ignored the applicant's efficient LRAIC costs; and

   — the Commission committed legal errors and/or made manifest errors of assessment under its 'multi-period' approach.

4. Fourth plea in law, alleging that the Commission made errors of law and a manifest error of assessment in that it concluded that the applicant and Deutsche Telekom are part of a single undertaking and that they are both liable for the applicant's alleged infringement.

5. Fifth plea in law, the Commission made errors of law and a manifest error of assessment and breached the principle of equal treatment in the determination of the amount of the fine.

Action brought on 2 February 2015 — Germany v Commission

(Case T-47/15)

(2015/C 127/43)

Language of the case: German

Parties

Applicant: Federal Republic of Germany (represented by: T. Henze, K. Petersen and T. Lübbig, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul, in accordance with Article 264 TFEU, the Commission Decision of 25 November 2014 in the procedure State aid SA.33995 (2013) (ex 2013/NN) — Germany — Support for renewable electricity and reduced EEG-surcharge for energy-intensive users, C(2014) 8786 final;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: Manifest errors of assessment in the evaluation of the facts

   The European Commission misunderstood the underlying facts, namely the functioning of the Law for the priority of renewable energy sources, in particular the financial flows system under that law. In addition, the Commission misunderstood the role 'of the State' as legislator and as body with responsibility for supervisory authorities and incorrectly deduced a situation of control therefrom.

2. Second plea in law: No 'favouring' through the special compensation scheme

   The European Commission erred in law in applying Article 107(1) TFEU by accepting, contrary to the case-law of the Court of Justice, that energy-intensive users had been favoured.

3. Third plea in law: No granting of the alleged favouring by the State or through State resources

   The European Commission also erred in law in applying Article 107(1) TFEU in this respect when it accepted that public authorities had control over the assets of the various private companies participating in the regime of the Law on the priority of renewable energy sources.

Action brought on 16 February 2015 — Mudhook Marketing v OHIM (IPVanish)

(Case T-78/15)

(2015/C 127/44)

Language of the case: English

Parties

Applicant: Mudhook Marketing, Inc. (Winter Park, United States) (represented by: A. Dellmeier and H. Eckermann, lawyers)

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

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'IPVanish' — Application for registration No 2 330 271

Contested decision: Decision of the Second Board of Appeal of OHIM of 4 December 2014 in Case R 1417/2014-2

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision;

— Order OHIM to pay the costs.

Plea in law

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

Appeal brought on 19 February 2015 by Luigi Macchia against the order of the Civil Service Tribunal of 12 December 2014 in Case F-63/11 RENV, Macchia v Commission

(Case T-80/15 P)

(2015/C 127/45)

Language of the case: French

Parties

Appellant: Luigi Macchia (Rome, Italy) (represented by S. Rodrigues and A. Blot, lawyers)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant claims that the Court should:

— annul the judgment of the CST of 12 December 2014 in case F-63/11 RENV;

— accordingly, grant the applicant the relief sought at first instance; and therefore:

  — declare the application admissible;

  — principally:

    — annul the implied decision adopted on 12 August 2010 by the Director General of OLAF, in his capacity as AECE, not to renew the appellant's contract, as is clear, in particular, from the lack of response to the request that the appellant had sent him on 12 April 2010;

    — in so far as necessary, annul the decision adopted on 22 February 2011 by the AECE, dismissing the complaint brought by the defendant on the basis of Article 90(2) of the Staff Regulations;

    — accordingly, reinstate the appellant in the functions which he performed within OLAF, in the context of a prolongation of his contract in accordance with the statutory requirements;

  — in the alternative, and if the request for reinstatement set out above is not granted, order the Commission to compensate for the material damage sustained by the defendant, assessed provisionally and *ex aequo et bono* as the difference between the salary the appellant would have received as a temporary agent at OLAF and that relating to the post he currently occupies (approximately EUR 3 000 per month) for at least a period similar to that of his initial contract (4 years), and longer if that contract had been renewed a third time, giving him the right to a permanent contract;

  — in any event, order the Commission to pay a sum provisionally fixed *and ex aequo et bono* of EUR 5 000 (five thousand euros) as compensation for non-material damage together with default interest at the statutory rate from the date of the judgment to be delivered;

— order the defendant to pay all the costs, including those of the present appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on a single plea in law alleging an infringement of Article 81 of the Rules of Procedure of the Civil Service Tribunal, alleging that the CST exceeded the scope of its powers of judicial review, breach of the duty to state reasons, distortion of the facts of the case and substantive inaccuracies in the findings in the documents in the file by the CST.

Action brought on 20 February 2015 — Swatch v OHIM — L'atelier Wysiwyg (wysiwatch WhatYouSeeIsTheWatchYouGet)

(Case T-83/15)

(2015/C 127/46)

Language in which the application was lodged: English

Parties

Applicant: Swatch AG (Biel, Switzerland) (represented by: P. González-Bueno Catalán de Ocón, lawyer)

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

Other party to the proceedings before the Board of Appeal: L'atelier Wysiwyg (Besançon, France)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark containing the word elements 'wysiwatch' and 'WhatYouSeeIsTheWatch-YouGet' — Application for registration No 11 041 597

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 4 December 2014 in Case R 1873/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM and L'atelier Wysiwyg to pay the costs.

Plea(s) in law

— Infringement of Article 8(5) of Regulation No 207/2009.

Action brought on 19 February 2015 — AEDEC v Commission

(Case T-91/15)

(2015/C 127/47)

Language of the case: Spanish

Parties

Applicant: Asociación Española para el Desarrollo de la Epidemiología Clínica AEDEC (Madrid, Spain) (represented by: R. López López, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the decision of the European Commission's Directorate-General for Research and Innovation, Directorate E (Health), received on 4 September 2014, refusing to grant the financial contribution sought by the applicants in the call for tenders procedure H2020-HCO-2014, and revaluate the merits of the project.

Pleas in law and main arguments

In support of its action, the applicant alleges infringement of the general principles of sound administration, transparency and equal treatment; on the basis of the following considerations:

The consortium LATIN PLAN, coordinated by AEDEC deserves to obtain the financial contribution offered in the call for tenders H2020-HCO-2014, with the result that the decision refusing to grant that financial contribution and the decision confirming that refusal are manifestly unfair, given that:

(a) The communications of the European Commission during the evaluation process of the project incorrectly identified the project coordinator, and were addressed to a person who was not the legal representative, contact person or coordinator of the project in question. That is particularly significant in the present case, since the person concerned had nothing to do with AEDEC and formed part of LATIN PLAN as a member of the Finnish team.

It is clear that the European Commission, believing that the person in question coordinated the LATIN PLAN project as part of AEDEC and at the same time formed part of the Finnish team, considered that he did not merit the financial contribution, on the basis of the 'principle of non-cumulative award', which applies to the grant of funding in EU law, and according to which no action may give rise to more than one grant from the EU budget to the same beneficiary. Each partner of the LATIN PLAN team requested a budget. If the financial contribution had finally been awarded to the team, according to the Commission's erroneous perception, the person in question would have received funding as a member of the AEDEC and as a member of the Finnish team.

(b) The report evaluating the projects states that the asymmetry between the budgets sought by each team member of the consortium LATIN PLAN was not explained and adequately justified, and for that reason lower scores were awarded. It is not denied that there is asymmetry between the budgets requested by the various teams/partners but it is not true that the asymmetry was not explained. Specifically, in the section setting out the justification for the budget it is explained perfectly and in detail why AEDEC is the partner seeking the most funds.

(c) In addition, it must be pointed out that the project is of a high standard from a scientific perspective. The team obtained 11 points out of the maximum possible of 15, and surpassed the quality threshold of 10 points established in the call for tenders. The project in question obtained a score higher than others to which funding was granted, with the result that the contested decision is unfair.

Action brought on 20 February 2015 — Navitar v OHIM — Elukuva (NaviTar)

(Case T-93/15)

(2015/C 127/48)

Language in which the application was lodged: English

Parties

Applicant: Navitar, Inc. (Rochester, United States) (represented by: J. Mattes, lawyer)

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

Other party to the proceedings before the Board of Appeal: MTÜ Elukuva (Tallinn, Estonia)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'NaviTar' — Application for registration No 11 147 246

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 5 December 2014 in Case R 401/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs, including those incurred by the applicant before the Board of Appeal;

— order MTÜ Elukuva to pay the costs, including those incurred by the applicant before the Board of Appeal, in case MTÜ Elukuva should become an intervening party in this case.

Plea(s) in law

— Infringement of Article 41(1) in conjunction with Article 8(1)(b) of Regulation No 207/2009.

Action brought on 20 February 2015 — Printeos and Others v Commission

(Case T-95/15)

(2015/C 127/49)

Language of the case: Spanish

Parties

Applicants: Printeos, SA (Alcalá de Henares, Spain), Tompla Sobre Exprés, SL (Alcalá de Henares, Spain), Tompla Scandinavia AB (Stockholm, Sweden), Tompla France SARL (Fleury Mérogis, France), Tompla Druckererzeugnisse Vertriebs GmbH (Leonberg, Germany) (represented by: H. Brokelmann, lawyer, P. Martínez-Lage Sobredo, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— pursuant to Article 263 TFEU, annul Article 2 of Commission Decision C(2014) 9295 final of 10 December 2014 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.39780 — Envelopes) in that the determination of the amount of the fines (in particular the adjustment applied on the basis of point 37 of the Guidelines on the method of setting fines) is not explained in the required statement of reasons; or

— in the alternative, in the exercise of its unlimited jurisdiction under Article 31 of Regulation (EC) No 1/2003 on the basis of Article 261 TFEU, amend Article 2 of Commission Decision C(2014) 9295 final of 10 December 2014 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.39780 — Envelopes), (i) setting the fine imposed on TOMPLA at least 55 % below the legal ceiling (Article 23(2) of Regulation (EC) No 1/2003) — or, failing that, a percentage which the Court deems appropriate — so as thereby to restore the balance between that fine and the fines imposed on Bong and Hamelin, and (ii) additionally reduce the fine imposed by at least 33 % — or, failing that, by a percentage which the Court deems appropriate — in order to take account of the fine imposed by the Comisión Nacional de la Competencia (CNC) in its Decision of 25 March 2013 in case 5/0316/10, Sobres de Papel; and

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

Pleas in law and main arguments

The decision contested in the present proceedings states that the applicants infringed Article 101 TFEU and Article 53 EEA by participating, from 8 October 2003 until 22 April 2008, in a single and continuous infringement covering Denmark, France, Germany, Norway, Sweden and the United Kingdom in the sector of stock/catalogue and special printed envelopes, consisting in price coordination, customer allocation and exchanges of commercially sensitive information.

In support of its action, the applicants put forward three pleas in law.

1. First plea in law, alleging that the Commission infringed the duty to state reasons, in that it failed to justify the need to apply an adjustment of the basic amount of the fines pursuant to point 37 of the Guidelines on the method of setting fines, or the specific percentage of the reduction applied to each undertaking.

2. Second plea in law, alleging that the Commission infringed the principle of equal treatment in the determination of the amount of the fine, by applying an adjustment of the basic amount of the fines pursuant to point 37 of the Guidelines on the method of setting fines.

3. Third plea in law, alleging that the Commission infringed the principles of proportionality and non-discrimination in the determination of the amount of the fine, by failing to take into account the fine previously imposed by the Spanish competition authority.

Action brought on 26 February 2015 — Mozzetti v OHIM — di Lelio (Alfredo alla Scrofa)

(Case T-96/15)

(2015/C 127/50)

Language in which the application was lodged: Italian

Parties

Applicant: Mario Mozzetti (Rome, Italy) (represented by: E. Montelione, lawyer)

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

Other party to the proceedings before the Board of Appeal: Ines di Lelio (Rome, Italy)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Figurative mark containing the word element 'Alfredo alla Scrofa' — Community trade mark No 6 779 151

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 2 December 2014 in Case R 655/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order Ines di Lelio to pay the costs of the proceedings before the General Court of the European Union.

Pleas in law

— Infringement of Rule 50(1) of Regulation No 2868/95 insofar as it relates to Rule 20(2) of that regulation;

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

Action brought on 26 February 2015 — Mozzetti v OHIM — di Lelio (ALFREDO'S GALLERY alla Scrofa Roma)

(Case T-97/15)

(2015/C 127/51)

Language in which the application was lodged: Italian

Parties

Applicant: Mario Mozzetti (Rome, Italy) (represented by: E. Montelione, lawyer)

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

Other party to the proceedings before the Board of Appeal: Ines di Lelio (Rome, Italy)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Figurative mark containing the word elements 'ALFREDO'S GALLERY alla Scrofa Roma' — Community trade mark No 3 108 289

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 2 December 2014 in Case R 656/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs of the proceedings before the General Court of the European Union.

Pleas in law

— Infringement of Rule 50(1) of Regulation No 2868/95 insofar as it relates to Rule 20(2) of that regulation;

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

Order of the General Court of 18 February 2015 — Acron and Dorogobuzh v Council

(Case T-582/10) ([1])

(2015/C 127/52)

Language of the case: English

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

([1]) OJ C 55, 19.2.2011.

Order of the General Court of 27 January 2015 — Aluwerk Hettstedt v ECHA

(Case T-207/14) ([1])

(2015/C 127/53)

Language of the case: English

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

([1]) OJ C 202, 30.6.2014.

Order of the General Court of 27 January 2015 — Richard Anton v ECHA

(Case T-208/14) ([1])

(2015/C 127/54)

Language of the case: English

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

([1]) OJ C 202, 30.6.2014.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 26 January 2015 — ZZ v European Commission

(Case F-15/15)

(2015/C 127/55)

Language of the case: German

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decisions of the defendant fixing the flat-rate payment corresponding to the cost of travel from the place of employment to the place of origin pursuant to Article 8 of Annex VII to the Staff Regulations, as amended by Regulation (EU, Euratom) No 1023/2013 of 22 October 2013.

Form of order sought

The applicant claims that the Tribunal should:

— annul salary statements 6/2014 and 7/2014 in the form of the decision of the defendant of 15 October 2014, notified on 17 October 2014, in so far as it fixes the flat-rate payment corresponding to the cost of travel from the place of employment to the place of origin;

— in the event of annulment, oblige the defendant to adjust the flat-rate payment with due regard to the grounds underlying the annulment;

— decide on the costs in accordance with the applicable provisions.

Action brought on 2 February 2015 — ZZ v Commission

(Case F-17/15)

(2015/C 127/56)

Language of the case: English

Parties

Applicant: ZZ (represented by: D. Fouquet, avocat)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the Appointing Authority's decision not to amend the applicant's 2013 appraisal report.

Form of order sought

— order the annulment of the decision of the Appointing Authority of 31.10.2014 (HR.D.2/AS/ac/Ares82014) in response to the complaint filed by ZZ (No. R/781/14);

— order the defendant to take a new decision on the case, respecting the Court's findings, and notably deleting the contested sentence from the claimant's report;

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

Action brought on 3 February 2015 — ZZ v Commission

(Case F-20/15)

(2015/C 127/57)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

The annulment of the decision not to include the applicant on the list of officials proposed for promotion to grade AD 13 in the context of the 2014 promotion exercise.

Form of order sought

— Declare the illegality of the Commission Decision of 16 December 2013 laying down general provisions giving effect to Article 45 and the subsequent Communication to the Commission of 18 December 2013 amending the rules on the composition of the cabinets of the Members of the Commission and spokespersons;

— Annul the subsequent decision of the appointing authority, notified on 24 June 2014, not to include the applicant on the list of officials proposed for promotion to grades AD 13 in the context of the 2014 annual promotion exercise provided for Article 45 of the Staff Regulations, to the extent that that decision does not consider the applicant as having special responsibilities resulting in his categorisation in a role of 'Head of Unit or equivalent' or 'Advisor or equivalent' by treatment in the same way as the categorisation made for officials being seconded to the cabinets in accordance with the Commission Communication of 18 December 2013;

— Order the Commission to pay the costs.

Action brought on 5 February 2015 — ZZ v Committee of the Regions

(Case F-21/15)

(2015/C 127/58)

Language of the case: French

Parties

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

Defendant: Committee of the Regions

Subject-matter and description of the proceedings

The annulment of the decision finding that the applicant could not, since his promotion to grade AST 5, claim the fixed-rate allowance for working overtime and application for material and non-material harm allegedly suffered.

Form of order sought

— Annul decision No 0112/2014 removing the applicant's fixed-rate allowance for working overtime with effect from 1 July 2014, adopted on 3 June 2014 by the Acting Director of Administration and Finance;

— Order the Committee of the Regions to pay the applicant that allowance again with effect from the same date, together with interest at the rate of the ECB's refinancing operations on the amount corresponding to allowances that are not granted to him, from the date on which they should have been paid until payment in full;

— Order the Committee of the Regions to pay the applicant compensation for the material harm which he may incur from the contested decision — a sum provisionally estimated at EUR 1 000 — and as compensation for non-material damage a sum to be assessed by the Tribunal;

— Order the Committee of the Regions to pay the costs.

Action brought on 6 February 2015 — ZZ v Parliament

(Case F-22/15)

(2015/C 127/59)

Language of the case: French

Parties

Applicant: ZZ (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Parliament

Subject-matter and description of the proceedings

Annulment of the decision fixing the rights of the applicant to reimbursement of annual travel expenses under 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 of Officials of the European Union and the CEOS.

Form of order sought

— Declare illegal and inapplicable Article 8 of Annex VII of the Staff Regulations;

— Annul the decision to cancel all reimbursement of the applicant's annual travel expenses from 2014;

— order the Parliament to pay the costs.

Action brought on 9 February 2015 — ZZ v Commission

(Case F-23/15)

(2015/C 127/60)

Language of the case: French

Parties

Applicant: ZZ (represented by: C. Mourato, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

The annulment of the decision imposing a disciplinary penalty on the applicant consisting of a reprimand.

Form of order sought

— Annul the decision of 15 April 2014 of the appointing authority applying the disciplinary penalty of a reprimand to the applicant;

— Order the defendant to pay the costs of the proceedings, pursuant to Article 87 of the Rules of Procedure of the Civil Service Tribunal.

Action brought on 11 February 2015 — ZZ v Council

(Case F-24/15)

(2015/C 127/61)

Language of the case: French

Parties

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

Defendant: Council of the European Union

Subject-matter and description of the proceedings

Annulment of the decision rejecting the applicant's request for reclassification of his contract as a member of the contract staff in function group I into a contract as a member of the temporary staff or, alternatively, into a contract as a member of the contract staff in function group III, and the claim for compensation for the non-material and material damage allegedly suffered.

Form of order sought

— Annul the decision of the authority empowered to conclude contracts of 11 April 2014, refusing the applicant's request for reclassification of his contract as a member of the contract staff in function group I into a contract as a member of the temporary staff or, alternatively, into a contract as a member of the contract staff in function group III and the implied decision confirming the rejection of the complaint brought under Article 91(2) of the Staff Regulations;

— order the defendant to pay damages, with default and compensatory interest at 6,75 % for the material and non-material damage suffered;

— in any event, order the defendant to pay the costs of the proceedings.

Action brought on 16 February 2015 — ZZ v Parliament

(Case F-26/15)

(2015/C 127/62)

Language of the case: French

Parties

Applicant: ZZ (represented by: M. Casado García-Hirschfeld, lawyer)

Defendant: European Parliament

Subject-matter and description of the proceedings

The annulment of the decision to reject the applicant's application to pay him the installation allowance, following his move from Yemen to Brussels, where his wife, from whom he is separated, lives and application to order the defendant to pay the applicant that installation allowance plus interest.

Form of order sought

— Annul the contested decision of 15 April 2014;

— As necessary, annul the decision of the Secretary-General of the European Parliament of 17 November 2014;

— Order the European Parliament to pay the applicant the installation allowance equal to one month's basic salary plus interest calculated from the dates on which those sums were due under Annex VII of the Staff Regulations;

— Order the defendant to pay all the costs.

Action brought on 16 February 2015 — ZZ and Others v Council

(Case F-27/15)

(2015/C 127/63)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: Council of the European Union

Subject-matter and description of the proceedings

Annulment of the decision fixing the rights of the applicants to reimbursement of annual travel expenses under 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 of Officials of the European Union and the CEOS.

Form of order sought

— Declare illegal and inapplicable Article 8 of Annex VII of the Staff Regulations;

— Annul the decision to cancel all reimbursement of the applicants' annual travel expenses from 2014;

— order the Council to pay the costs.

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