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(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2015/C 198/01)

Last publication

OJ C 190, 8.6.2015

Past publications

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OJ C 138, 27.4.2015

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V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fourth Chamber) of 16 April 2015 (request for a preliminary ruling from the Raad van State — Netherlands) — W.P. Willems v Burgemeester van Nuth, (C-446/12), H.J. Kooistra v Burgemeester van Skarsterlân (C-447/12), M. Roest v Burgemeester van Amsterdam(C-448/12), L.J. A. van Luijk v Burgemeester van Den Haag (C-449/12)

(Joined Cases C-446/12 to C-449/12) [1]

(Reference for a preliminary ruling — Area of freedom, security and justice — Biometric passport — Biometric data — Regulation (EC) No 2252/2004 — Article 1(3) — Article 4(3) — Use of data collected for purposes other than the issue of passports and travel documents — Establishment and use of databases containing biometric data — Legal guarantees — Charter of Fundamental Rights of the European Union — Articles 7 and 8 — Directive 95/46/EC — Articles 6 and 7 — Right to privacy — Right to the protection of personal data — Application to identity cards)

(2015/C 198/02)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicants: W.P. Willems (C-446/12), H.J. Kooistra (C-447/12), M. Roest (C-448/12), L.J.A. van Luijk (C-449/12)

Defendants: Burgemeester van Nuth (C-446/12), Burgemeester van Skarsterlân (C-447/12), Burgemeester van Amsterdam (C-448/12), Burgemeester van Den Haag (C-449/12)

Operative part of the judgment

1. *Article 1(3) of Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, as amended by Regulation (EC) No 444/2009 of the European Parliament and of the Council of 6 May 2009, must be interpreted as meaning that that regulation is not applicable to identity cards issued by a Member States to its nationals, such as Netherlands identity cards, regardless of the period of validity and the possibility of using them for the purposes of travel outside that State;*

2. *Article 4(3) of Regulation No 2252/2004, as amended by Regulation No 444/2009, must be interpreted as meaning that it does not require the Member States to guarantee, in their legislation, that biometric data collected and stored in accordance with that regulation will not be collected, processed and used for purposes other than the issue of the passport or travel document, since that is not a matter which falls within the scope of that regulation.*

[1] OJ C 26, 26.1.2013.

Judgment of the Court (Fourth Chamber) of 16 April 2015 — European Parliament v Council of the European Union

(Joined Cases C-317/13 and C-679/13) ([1])

(Action for annulment — Police and judicial cooperation in criminal matters — New psychoactive substance subjected to control measures — Determination of legal basis — Legal framework applicable following the entry into force of the Treaty of Lisbon — Transitional provisions — Secondary legal basis — Consultation of Parliament)

(2015/C 198/03)

Language of the case: French

Parties

Applicant: European Parliament (represented by: F. Drexler, A. Caiola and M. Pencheva, Agents)

Defendant: Council of the European Union (represented by: K. Pleśniak and A.F. Jensen, Agents)

Intervener in support of the defendant: Republic of Austria (represented by: C. Pesendorfer, Agent)

Operative part of the judgment

The Court:

1. *Annuls Council Decision 2013/129/EU of 7 March 2013 on subjecting 4-methylamphetamine to control measures and Council Implementing Decision 2013/496/EU of 7 October 2013 on subjecting 5-(2-aminopropyl)indole to control measures;*

2. *Declares that the effects of Decision 2013/129 and Implementing Decision 2013/496 are to be maintained until the entry into force of new acts intended to replace them;*

3. *Orders the Council of the European Union to pay the costs;*

4. *Orders the Republic of Austria to bear its own costs.*

([1]) OJ C 226, 3.8.2013.
OJ C 52, 22.2.2014.

Judgment of the Court (First Chamber) of 16 April 2015 (request for a preliminary ruling from the Kúria — Hungary) — Proceedings brought by Nemzeti Fogyasztóvédelmi Hatóság

(Case C-388/13) ([1])

(Reference for a preliminary ruling — Directive 2005/29/EC — Unfair commercial practices — Erroneous information provided by a telecommunications undertaking to one of its subscribers which resulted in additional costs for the latter — Classification as a 'misleading commercial practice')

(2015/C 198/04)

Language of the case: Hungarian

Referring court

Kúria

Parties to the main proceedings

Applicant: Nemzeti Fogyasztóvédelmi Hatóság

Defendant: UPC Magyarország Kft.

Operative part of the judgment

1. *Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') must be interpreted as meaning that the communication, by a professional to a consumer, of erroneous information, such as that at issue in the main proceedings, must be classified as a 'misleading commercial practice', within the meaning of that directive, even though that information concerned only one single consumer;*

2. *Directive 2005/29 must be interpreted as meaning that, if a commercial practice meets all of the criteria specified in Article 6(1) of that directive for classification as a misleading practice in relation to the consumer, it is not necessary further to determine whether such a practice is also contrary to the requirements of professional diligence, as referred to in Article 5(2)(a) of that directive, in order for it legitimately to be regarded as unfair and, consequently, prohibited in accordance with Article 5(1) of that directive.*

([1]) OJ C 304, 19.10.2013.

Judgment of the Court (Grand Chamber) of 14 April 2015 — Council of the European Union v European Commission

(Case C-409/13) ([1])

(Action for annulment — Macro-financial assistance to third countries — Decision of the Commission to withdraw a proposal for a framework regulation — Articles 13(2) TEU and 17 TEU — Article 293 TFEU — Principle of conferral of powers — Principle of institutional balance — Principle of sincere cooperation — Article 296 TFEU — Obligation to state reasons)

(2015/C 198/05)

Language of the case: French

Parties

Applicant: Council of the European Union (represented by: G. Maganza, A. de Gregorio Merino and I. Gurov, Agents)

Defendant: European Commission (represented by: B. Smulders, P. Van Nuffel and M. Clausen, Agents)

Interveners in support of the applicant: Czech Republic (represented by: M. Smolek, J. Vláčil and J. Škeřic, Agents), Federal Republic of Germany (represented by: T. Henze, Agent), Kingdom of Spain (represented by: M. Sampol Pucurull, Agent), French Republic (represented by: G. de Bergues, D. Colas and N. Rouam, Agents), Italian Republic (represented by: G. Palmieri, Agent, and P. Gentili, avvocato dello Stato), Kingdom of the Netherlands (represented by: M. Bulterman, B. Koopman and J. Langer, Agents), Slovak Republic (represented by: B. Ricziová, Agent), Republic of Finland (represented by: H. Leppo, Agent), Kingdom of Sweden (represented by: U. Persson and A. Falk, Agents), United Kingdom of Great Britain and Northern Ireland (represented by: V. Kaye, Agent, and R. Palmer, Barrister).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

3. *Orders the Czech Republic, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.*

([1]) OJ C 274, 21.9.2013.

Judgment of the Court (Fourth Chamber) of 16 April 2015 (request for a preliminary ruling from the Bundesverwaltungsgericht — Germany) — Eintragungsausschuss bei der Bayerischen Architektenkammer v Hans Angerer

(Case C-477/13) ([1])

(Reference for a preliminary ruling — Directive 2005/36/EC — Article 10 — Recognition of professional qualifications — Access to the profession of architect — Titles not listed in Annex V, point 5.7.1 — Concepts of 'specific and exceptional reasons' and 'architect')

(2015/C 198/06)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Eintragungsausschuss bei der Bayerischen Architektenkammer

Defendant: Hans Angerer

intervening parties: Vertreter des Bundesinteresses beim Bundesverwaltungsgericht, Landesanwaltschaft Bayern als Vertreter des öffentlichen Interesses

Operative part of the judgment

1. *Article 10(c) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as amended by Commission Regulation (EC) No 279/2009 of 6 April 2009, must be interpreted as meaning that an applicant wishing to benefit from the general system for recognition of evidence of training laid down in Chapter I of Title III of that directive must, in addition to holding formal qualifications not listed in Annex V, point 5.7.1 thereto, also establish the existence of 'specific and exceptional reasons'.*

2. *Article 10(c) of Directive 2005/36, as amended by Regulation No 279/2009, must be interpreted as meaning that the concept of 'specific and exceptional reasons', within the meaning of that provision, refers to the circumstances which gave rise to the fact that the applicant does not hold a formal qualification listed in Annex V, point 5.7.1, to that directive, it being understood that the applicant cannot rely on the fact that he holds professional qualifications which give him access, in his home Member State, to a profession other than that which he wishes to pursue in the host Member State.*

3. *Article 10(c) of Directive 2005/36, as amended by Regulation No 279/2009, must be interpreted as meaning that the concept of 'architect', referred to in that provision, must be defined in the light of the legislation of the host Member State and, therefore, that it does not necessarily require the applicant to have training and experience which extends not only to the technical activities of planning, supervision and implementation, but also to creative, urban planning, economic and possibly historic building conservation activities.*

(1) OJ C 344, 23.11.2013.

Judgment of the Court (Grand Chamber) of 14 April 2015 (request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia — Spain) — Lourdes Cachaldora Fernández v Instituto Nacional de la Seguridad Social (INSS), Tesorería General de la Seguridad Social (TGSS)

(Case C-527/13) (1)

(Reference for a preliminary ruling — Male and female workers — Equal treatment in matters of social security — Directive 79/7/EEC — Article 4 — Directive 97/81/EC — UNICE, CEEP and ETUC Framework Agreement on part-time work — Calculation of benefit — System for inclusion of contribution gaps — Part-time workers and full-time workers)

(2015/C 198/07)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Applicant: Lourdes Cachaldora Fernández

Defendants: Instituto Nacional de la Seguridad Social (INSS), Tesorería General de la Seguridad Social (TGSS)

Operative part of the judgment

1. *Article 4(1) of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security must be interpreted as not precluding a rule of national law which provides that the contribution gaps existing within the reference period for calculating a contributory invalidity pension, after a period of part-time employment, are taken into account by using the minimum contribution bases applicable at any time, reduced as a result of the reduction coefficient of that employment, whereas, if those gaps follow full-time employment, there is no provision for such a reduction;*

2. *The Framework Agreement on part-time work, concluded on 6 June 1997, set out in the Annex to Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC, as amended by Council Directive 98/23/EC of 7 April 1998, must be interpreted as not applying to legislation of a Member State which provides that the contribution gaps existing within the reference period for calculating a contributory invalidity pension, after a period of part-time employment, are taken into account by using the minimum contribution bases applicable at any time, reduced as a result of the reduction coefficient of that employment, whereas, if those gaps follow full-time employment, there is no provision for such a reduction.*

(1) OJ C 9, 11.1.2014.

Judgment of the Court (Fourth Chamber) of 16 April 2015 — European Parliament v Council of the European Union

(Case C-540/13) ([1])

(Action for annulment — Police and judicial cooperation in criminal matters — Setting of the date on which an earlier decision is to take effect — Determination of the legal basis — Legal framework applicable following the entry into force of the Treaty of Lisbon — Transitional provisions — Secondary legal basis — Consultation of Parliament)

(2015/C 198/08)

Language of the case: French

Parties

Applicant: European Parliament (represented by: F. Drexler, A. Caiola and M. Pencheva, acting as Agents)

Defendant: Council of the European Union (represented by: K. Pleśniak and A.F. Jensen, acting as Agents)

Operative part of the judgment

The Court:

1) *Annuls Council Decision 2013/392/EU of 22 July 2013 fixing the date of effect of Decision 2008/633/JHA concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences;*

2) *Declares that the effects of Decision 2013/392 are to be maintained until the entry into force of a new act intended to replace it;*

3) *Orders the Council of the European Union to pay the costs.*

([1]) OJ C 359, 7.12.2013.

Judgment of the Court (First Chamber) of 16 April 2015 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Hermann Lutz v Elke Bäuerle, acting as liquidator of ECZ Autohandel GmbH

(Case C-557/13) ([1])

(Reference for a preliminary ruling — Regulation (EC) No 1346/2000 — Articles 4 and 13 — Insolvency proceedings — Payment made after the date on which insolvency proceedings were opened on the basis of attachment carried out before that date — Action to set aside an act detrimental to the interests of the creditors — Limitation periods or other time-bars relating to actions to set transactions aside — Procedural requirements for the action — Applicable law)

(2015/C 198/09)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Hermann Lutz

Defendant: Elke Bäuerle, acting as liquidator of ECZ Autohandel GmbH

Operative part of the judgment

1) *Article 13 of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings must be interpreted as applying to a situation in which a payment, challenged by an insolvency administrator, of a sum of money attached before the opening of the insolvency proceedings was made only after the opening of those proceedings.*

2) *Article 13 of Regulation No 1346/2000 must be interpreted as meaning that the defence which it establishes also applies to limitation periods or other time-bars relating to actions to set aside transactions under the law governing the act challenged by the liquidator.*

3) *The relevant procedural requirements for the exercise of an action to set a transaction aside are to be determined, for the purposes of the application of Article 13 of Regulation No 1346/2000, according to the law governing the act challenged by the liquidator.*

([1]) OJ C 15, 18.1.2014.

Judgment of the Court (Fifth Chamber) of 16 April 2015 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Karoline Gruber v Unabhängiger Verwaltungssenat für Kärnten, EMA Beratungs- und Handels GmbH, Bundesminister für Wirtschaft, Familie und Jugend

(Case C-570/13) ([1])

(Reference for a preliminary ruling — Environment — Directive 2011/92/EU — Assessment of the effects of certain public and private projects on the environment — Construction of a retail park — Binding effect of an administrative decision not to carry out an environmental impact assessment — No public participation)

(2015/C 198/10)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Karoline Gruber

Defendants: Unabhängiger Verwaltungssenat für Kärnten, EMA Beratungs- und Handels GmbH, Bundesminister für Wirtschaft, Familie und Jugend

Operative part of the judgment

Article 11 of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment must be interpreted as precluding national legislation, such as that at issue in the main proceedings, pursuant to which an administrative decision declaring that a particular project does not require an environmental impact assessment, which is binding on neighbours who were precluded from bringing an action against that administrative decision, where those neighbours, who are part of the 'public concerned' within the meaning of Article 1(2) of that directive, satisfy the criteria laid down by national law concerning 'sufficient interest' or 'impairment of a right'. It is for the referring court to verify whether that condition is fulfilled in the case before it. Where it is so fulfilled, that court must hold that the administrative decision not to carry out such an assessment is not binding on those neighbours.

([1]) OJ C 24, 25.1.2014.

Judgment of the Court (Third Chamber) of 16 April 2015 — European Commission v Federal Republic of Germany

(Case C-591/13) ([1])

(Failure of a Member State to fulfil obligations — Tax legislation — Deferral of taxation of capital gains realised on the sale of certain capital assets — Recovery of the tax — Freedom of establishment — Article 49 TFEU — Article 31 of the EEA Agreement — Difference in treatment between permanent establishments located within the territory of a Member State and permanent establishments located within the territory of another Member State of the European Union or of the European Economic Area — Proportionality)

(2015/C 198/11)

Language of the case: German

Parties

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

Defendant: Federal Republic of Germany (represented by: T. Henze and K. Petersen, acting as Agents)

Operative part of the judgment

The Court:

1) *Declares that, by adopting and maintaining in force the tax scheme provided for in Paragraph 6b of the Law on Income Tax (Einkommensteuergesetz), which makes the benefit of the deferral of taxation of the capital gains realised on the sale of a capital asset forming part of the assets of a permanent establishment of the taxable person located within German territory subject to the condition that those capital gains are reinvested in the acquisition of replacement assets forming part of the assets of a permanent establishment of the taxable person located within that territory, the Federal Republic of Germany has failed to fulfil its obligations under Article 49 TFEU and Article 31 of the Agreement on the European Economic Area of 2 May 1992;*

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

([1]) OJ C 24, 25.1.2014.

Judgment of the Court (Ninth Chamber) of 16 April 2015 (request for a preliminary ruling from the Efeteio Thrakis (Greece) — Trapeza Eurobank Ergasias AE v Agrotiki Trapeza tis Ellados AE (ATE), Pavlos Sidiropoulos

(Case C-690/13) ([1])

(Reference for a preliminary ruling — State aid — Meaning — Article 87(1) EC — Privileges granted to a bank — Company exercising public service obligations — Existing aid and new aid — Article 88(3) EC — Powers of the national court)

(2015/C 198/12)

Language of the case: Greek

Referring court

Efeteio Thrakis

Parties to the main proceedings

Applicant: Trapeza Eurobank Ergasias AE

Defendants: Agrotiki Trapeza tis Ellados AE (ATE), Pavlos Sidiropoulos

Operative part of the judgment

1. *Article 87(1) EC must be interpreted as meaning that its scope of application may cover privileges, such as those at issue in the main proceedings, in accordance with which a bank has the right unilaterally to register a mortgage over immovable property belonging to farmers or other persons engaged in similar agricultural activities, the right to seek enforcement with an ordinary private document and the right to be exempted from the payment of fees and duties connected with that registration. It is, however, for the referring court to determine whether that is the case in the main proceedings.*

2. *The answer to question 1(a) is capable of being affected by the fact that privileges, such as those at issue in the main proceedings, conferred by national legislation upon an independent bank acting for the public benefit, at the time of its establishment, in consideration for entering into agricultural credit operations and specific tasks entrusted to that bank, are still in force, and that even after the functions of that bank were extended to cover all banking activities and that bank has become a public limited company. It is for the referring court to determine whether, in the light of all the relevant legal and factual circumstances, the four cumulative conditions justifying, in accordance with the Court's case-law, the finding that those privileges constitute compensation for services provided by that bank in order to discharge public service obligations, and that they thus escape being classified as State aid, are satisfied.*

3. *Article 87(1) EC must be interpreted as meaning that where privileges, such as those at issue in the main proceedings, fall within the scope of application of that provision, the Member State which established them is required to follow the preliminary examination procedure provided for in Article 88(3) EC provided that those privileges became new aid after the entry into force of the Treaty in the Member State concerned and that the limitation period laid down by Article 15(3) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article [88 EC] has not expired, which is a matter for the referring court to verify.*

4. *Articles 87(1) EC and 88(3) EC must be interpreted as meaning that where the referring court considers that the privileges at issue constitute, in view of the answer to question 2, new State aid, it is required to exclude the application of national provisions establishing such privileges on account of their incompatibility with those provisions of the Treaty.*

([1]) OJ C 78, 15.3.2014.

Judgment of the Court (Third Chamber) of 16 April 2015 (request for a preliminary ruling from the Sąd Najwyższy (Poland)) — Prezes Urzędu Komunikacji Elektronicznej, Telefonia Dialog sp. z o.o. v T-Mobile Polska SA, formerly Polska Telefonia Cyfrowa SA

(Case C-3/14) ([1])

(Reference for a preliminary ruling — Electronic communications networks and services — Directive 2002/21/EC — Articles 7 and 20 — Resolution of disputes between undertakings providing electronic communications networks or services — Obligation to implement the procedure laid down in Article 7 (3) — Measure which may have an effect on trade between Member States — Directive 2002/19/EC — Article 5 — Powers and responsibilities of the national regulatory authorities with regard to access and interconnection — Directive 2002/22/EC — Article 28 — Non-geographic numbers)

(2015/C 198/13)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Applicants: Prezes Urzędu Komunikacji Elektronicznej, Telefonia Dialog sp. z o.o.

Defendant: T-Mobile Polska SA, formerly Polska Telefonia Cyfrowa SA

Operative part of the judgment

1. *Articles 7(3) and 20 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) must be interpreted as meaning that a national regulatory authority is required to implement the procedure laid down in the former of those provisions if, in resolving a dispute between undertakings providing electronic communications networks or services in a Member State, it intends to impose obligations designed to ensure access to non-geographic numbers in accordance with Article 28 of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) and those obligations may affect trade between Member States.*

2. *Article 7(3) of Directive 2002/21 must be interpreted as meaning that a measure adopted by a national regulatory authority in order to ensure that end-users have access to non-geographic numbers in accordance with Article 28 of Directive 2002/22 affects trade between Member States, within the meaning of that provision, if it may have, other than in an insignificant manner, an influence, direct or indirect, actual or potential, on that trade, this being a matter for the referring court to determine.*

([1]) OJ C 102, 7.4.2014.

Judgment of the Court (Third Chamber) of 16 April 2015 (request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland)) — Minister Finansów v Wojskowa Agencja Mieszkaniowa w Warszawie

(Case C-42/14) ([1])

(Reference for a preliminary ruling — Taxation — Common system of value added tax — Letting of immovable property — Supply of electricity, heating, water and refuge collection — Agreements between the landlord and the suppliers of those goods and services — Supplies provided to the tenant considered to be provided by the landlord — Service charges — Determination of the taxable amount — Possibility of including service charges in the taxable amount of rental services — Transaction composed of a single supply or several independent supplies)

(2015/C 198/14)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Minister Finansów

Defendant: Wojskowa Agencja Mieszkaniowa w Warszawie

Operative part of the judgment

1. *Articles 14(1), 15(1) and 24(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2009/162/EU of 22 December 2009, must be interpreted as meaning that, in the context of the letting of immovable property, the provision of electricity, heating and water and refuse collection, provided by third-party suppliers for the tenant directly using those goods and services must be regarded as being supplied by the landlord where he has concluded agreements for the provision of those supplies and simply passes on the costs thereof to the tenant.*

2. *That directive must be interpreted as meaning that the letting of immovable property and the provision of water, electricity and heating as well as refuse collection accompanying that letting must, in principle, be regarded as constituting several distinct and independent supplies which need to be assessed separately for VAT purposes, unless the elements of the transaction, including those indicating the economic reason for concluding the contract, are so closely linked that they form, objectively, a single, indivisible economic supply which it would be artificial to split.*

3. *It is for the national court to make the necessary assessments taking into account all the circumstances of the letting and the accompanying supplies and, in particular, the content of the agreement itself.*

([1]) OJ C 135, 5.5.2014.

Judgment of the Court (Grand Chamber) of 14 April 2015 (request for a preliminary ruling from the Curtea de Apel Braşov (Romania)) — Mihai Manea v Instituția Prefectului județul Brașov — Serviciul Public Comunitar Regim de Permise de Conducere și Înmatriculare a Vehiculelor

(Case C-76/14) ([1])

(Reference for a preliminary ruling — Internal taxation — Article 110 TFEU — Tax levied by a Member State on motor vehicles at the time of their first registration or of the first transfer of the right of ownership — Neutrality as between second-hand motor vehicles imported from other Member States and similar motor vehicles available on the domestic market)

(2015/C 198/15)

Language of the case: Romanian

Referring court

Curtea de Apel Braşov

Parties to the main proceedings

Applicant: Mihai Manea

Defendant: Instituția Prefectului județul Brașov — Serviciul Public Comunitar Regim de Permise de Conducere și Înmatriculare a Vehiculelor

Operative part of the judgment

Article 110 TFEU must be interpreted as:

— *not precluding a Member State from introducing a tax on motor vehicles which is levied on imported second-hand vehicles at the time of their first registration in that Member State and on vehicles already registered in that Member State at the time of the first transfer, within that Member State, of the ownership of those vehicles;*

— *precluding that Member State from exempting from that tax vehicles already registered and in respect of which a tax previously in force but found to be incompatible with EU law has been paid.*

([1]) OJ C 151, 19.5.2014.

Judgment of the Court (Seventh Chamber) of 16 April 2015 (request for a preliminary ruling from the Finanzgericht Berlin-Brandenburg (Germany)) — TMK Europe GmbH v Hauptzollamt Frankfurt (Oder)

(Case C-143/14) ([1])

(Reference for a preliminary ruling — Dumping — Imports of certain pipes and tubes of iron or steel — Regulation (EC) No 384/96 — Article 3(7) — Damage to industry — Known factors — Causal link — Failure to take into account an investigation into anti-competitive practices by Community undertakings in the relevant sector — Regulation (EC) No 2320/97 — Validity)

(2015/C 198/16)

Language of the case: German

Referring court

Finanzgericht Berlin-Brandenburg

Parties to the main proceedings

Applicant: TMK Europe GmbH

Defendant: Hauptzollamt Frankfurt (Oder)

Operative part of the judgment

Consideration of the question raised has disclosed nothing to affect the validity of Council Regulation (EC) No 2320/97 of 17 November 1997, imposing definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Hungary, Poland, Russia, the Czech Republic, Romania and the Slovak Republic, repealing Regulation (EEC) No 1189/93 and terminating the proceeding in respect of such imports originating in the Republic of Croatia.

([1]) OJ C 235, 21.7.2014.

Judgment of the Court (Sixth Chamber) of 16 April 2015 — European Dynamics Belgium SA, European Dynamics Luxembourg SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE, European Dynamics UK Ltd v European Medicines Agency (EMA)

(Case C-173/14 P) ([1])

(Appeal — Public service contracts — Invitation to tender — Award criteria — Transparency — Objective assessment — Claim for damages)

(2015/C 198/17)

Language of the case: Greek

Parties

Appellants: European Dynamics Belgium SA, European Dynamics Luxembourg SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE, European Dynamics UK Ltd (represented by: V. Christianos, dikigoros)

Other party to the proceedings: European Medicines Agency (EMA) (represented by: T. Jabłoński, S. Marino, G. Gavriilidou and C. Maignen, agents, H.-G. Kamann, Rechtsanwalt)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders European Dynamics Belgium SA, European Dynamics Luxembourg SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE and European Dynamics UK Ltd to pay the costs.*

([1]) OJ C 184, 16.6.2014.

Judgment of the Court (Eighth Chamber) of 16 April 2015 (request for a preliminary ruling from the Conseil d'État (France)) — LFB Biomédicaments SA, Association des déficitaires en Alpha 1 Antitrypsine (Association ADAAT Alpha 1-France) (C-271/14), Pierre Fabre Médicament SA (C-273/14) v Ministre des Finances et des Comptes publics, Ministre des Affaires sociales et de la Santé

(Joined Cases C-271/14 and C-273/14) ([1])

(Reference for a preliminary ruling — Medicinal products for human use — Directive 89/105/EEC — Article 6(3) and (5) — Removal of medicinal products from a list of pharmaceutical proprietary products covered in addition to fixed payments in respect of hospital treatment — Obligation to state reasons)

(2015/C 198/18)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: LFB Biomédicaments SA, Association des déficitaires en Alpha 1 Antitrypsine (Association ADAAT Alpha 1-France) (C-271/14), Pierre Fabre Médicament SA (C-273/14)

Defendants: Ministre des Finances et des Comptes publics, Ministre des Affaires sociales et de la Santé

Operative part of the judgment

Article 6 of Council Directive 89/105/EEC of 21 December 1988 relating to the transparency of measures regulating the pricing of medicinal products for human use and their inclusion in the scope of national health insurance systems must be interpreted as meaning that the obligation to state reasons provided for in Article 6(3) and (5) is applicable to a decision which restricts the conditions of reimbursement or reduces the level of coverage of a medicinal product by excluding it from the list of proprietary medicinal products covered by compulsory health insurance schemes in addition to services relating to hospital treatment covered by fixed payments in respect of periods of hospitalisation and hospital care.

([1]) OJ C 282, 25.8.2014.

Judgment of the Court (Fifth Chamber) of 16 April 2015 (request for a preliminary ruling from the Curtea de Apel Alba Iulia (Romania)) — SC Enterprise Focused Solutions SRL v Spitalul Județean de Urgență Alba Iulia

(Case C-278/14) ([1])

(Reference for a preliminary ruling — Public procurement — Supply — Technical specifications — Principles of equal treatment and of non-discrimination — Obligation of transparency — Reference to a product of a particular brand — Assessment of the equivalence of the product offered by a tenderer — Reference product no longer in production)

(2015/C 198/19)

Language of the case: Romanian

Referring court

Curtea de Apel Alba Iulia

Parties to the main proceedings

Applicant: SC Enterprise Focused Solutions SRL

Defendant: Spitalul Județean de Urgență Alba Iulia

Operative part of the judgment

Article 23(8) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, as amended by Commission Regulation (EU) No 1251/2011 of 30 November 2011, is not applicable to a public contract with a value below the threshold for application laid down by that directive. In the context of a public contract not subject to that directive but which has certain cross-border interest, which it is for the referring court to ascertain, the fundamental rules and general principles of the FEU Treaty, in particular the principles of equal treatment and of non-discrimination and the consequent obligation of transparency, must be interpreted as meaning that the contracting authority cannot reject a tender which satisfies the requirements of the contract notice on grounds which are not set out in that notice.

([1]) OJ C 303, 8.9.2014.

Order of the Court (Ninth Chamber) of 24 February 2015 — Pesquerias Riveirenses, SL and Others v Council of the European Union

(Case C-164/14 P) ([1])

(Appeal — Fisheries policy — Conservation of fishery resources — Fish stocks which are subject to international negotiations or agreements — Amalgamation of the northern and southern components of the stock of blue whiting in the north-east Atlantic in order to establish the TAC — Admissibility of the action — Measure not directly concerning individuals — Appeal manifestly unfounded)

(2015/C 198/20)

Language of the case: Spanish

Parties

Appellants: Pesquerias Riveirenses, SL, Pesquerias Campo de Marte, SL, Pesquera Anpajo, SL, Arrastreros del Barbanza, SA, Martinez Pardavila e Hijos, SL, Lijo Pesca, SL, Frigorificos Hermanos Vidal, SA, Pesquera Boteira, SL, Francisco Mariño Mos y Otros, CB, Perez Vidal Juan Antonio y Hno, CB, Marina Nalda, SL, Portillo y Otros, SL, Vidiña Pesca, SL, Pesca Hermo, SL, Pescados Oubiña Perez, SL, Manuel Pena Graña, Campo Eder, SL, Pesquera Laga, SL, Pesquera Jalisco, SL, Pesquera Jopitos, SL, Pesca-Julimar, SL (represented by: J. Tojeiro Sierto, abogado)

Other party to the proceedings: Council of the European Union (represented by: A. Westerhof Löfflerová and A. de Gregorio Merino, agents)

Intervener in support of the defendant: European Commission (represented by: A. Szmytkowska and I. Galindo Martín, agents)

Operative part of the order

1) *The appeal is dismissed as manifestly unfounded.*

2) *Pesquerias Riveirenses SL and Others shall bear their own costs and pay those incurred by the Council of the European Union.*

3) *The European Commission shall bear its own costs.*

([1]) OJ C 159, 26.5.2014.

Appeal brought on 2 September 2014 by Fundação Calouste Gulbenkian against the judgment of the General Court (Sixth Chamber) delivered on 26 June 2014 in Case T-541/11: Fundação Calouste Gulbenkian v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-414/14 P)

(2015/C 198/21)

Language of the case: English

Parties

Appellant: Fundação Calouste Gulbenkian (represented by: G. Macias Bonilla, G. Marín Raigal, P. López Ronda, lawyers)

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

By order of 26 February 2015 the Court of Justice (Eighth Chamber) has dismissed the appeal and ordered Fundação Calouste Gulbenkian to bear its own costs.

Request for a preliminary ruling from the Bayerischer Verwaltungsgerichtshof (Germany) lodged on 6 March 2015 — Breitsamer und Ulrich GmbH & Co. KG v Landeshauptstadt München

(Case C-113/15)

(2015/C 198/22)

Language of the case: German

Referring court

Bayerischer Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Breitsamer und Ulrich GmbH & Co. KG

Defendant: Landeshauptstadt München

Questions referred

1. Are individual portions of honey which are packaged in bulk in a carton containing all the labelling elements, including the indication of the country of origin, and which are not sold as individual portions to final consumers nor supplied individually to mass caterers, 'prepackaged foodstuff' or 'prepacked food' within the meaning of Article 1(3)(b) of Directive 2000/13/EC ([1]) and Article 2(2)(e) of Regulation (EU) No 1169/2011 ([2]) respectively, for which there is a corresponding labelling requirement, or are such portions of honey not subject to the labelling requirements for prepackaged foodstuff/prepacked foods due to their not being offered for sale as a single item?

2. Is the answer different if those individual portions are supplied in mass catering establishments not only in meals that are paid for as a whole but are also sold individually?

([1]) Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, OJ 2000 L 109, p. 29.

([2]) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004, OJ 2011 L 304, p. 18.

Request for a preliminary ruling from the Landgericht Köln (Germany) lodged on 9 March 2015 — Reha Training Gesellschaft für Sport- und Unfallrehabilitation mbH v Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA)

(Case C-117/15)

(2015/C 198/23)

Language of the case: German

Referring court

Landgericht Köln

Parties to the main proceedings

Applicant: Reha Training Gesellschaft für Sport- und Unfallrehabilitation mbH

Defendant: Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA)

Questions referred

1. Is the question as to whether there is a 'communication to the public' within the meaning of Article 3(1) of Directive 2001/29 ([1]) and/or within the meaning of Article 8(2) of Directive 2006/115 ([2]) always to be determined in accordance with the same criteria, namely that:

   — a user acts, in full knowledge of the consequences of its action, to provide access to the protected work to third parties which the latter would not have without that user's intervention;,

   — the term 'public' refers to an indeterminate number of potential recipients of the service and, in addition, must consist of a fairly large number of persons, in which connection the indeterminate nature is established when 'persons in general' — and therefore not persons belonging to a private group — are concerned, and 'a fairly large number of persons' means that a certain *de minimis* threshold must be exceeded and that groups of persons concerned which are too small or insignificant therefore do not satisfy the criterion; in this connection not only is it relevant to know how many persons have access to the same work at the same time but it is also relevant to know how many of them have access to it in succession;

— the public to which the work is communicated is a new public, that is to say, a public which the author of the work did not contemplate when he authorised its use by communication to the public, unless the subsequent communication uses a specific technical means which differs from that of the original communication; and

— it is not irrelevant that the act of exploitation in question serves a profit-making purpose and also that the public is receptive to that communication and is not merely 'reached' by chance, although this is not an essential condition for the existence of a communication to the public?

2. In cases such as that in the main proceedings, in which the operator of a rehabilitation centre installs television sets on its premises, to which it transmits a broadcast signal and thus makes it possible for the television programmes to be viewed and heard, is the question whether there is a communication to the public to be assessed according to the concept of 'communication to the public' under Article 3(1) of Directive 2001/29 or under Article 8(2) of Directive 2006/115 if the copyright and related rights of a wide range of persons concerned — in particular composers, songwriters and music publishers, but also performing artists, phonogram producers and authors of literary works as well as their publishing houses — are affected by the television programmes which have been made accessible?

3. In cases such as that in the main proceedings, in which the operator of a rehabilitation centre installs television sets on its premises, to which it transmits a broadcast signal and thus makes television programmes accessible to its patients, is there a 'communication to the public' pursuant to Article 3(1) of Directive 2001/29 or pursuant to Article 8(2) of Directive 2006/115?

4. If the existence of a communication to the public within this meaning is confirmed for cases such as that in the main proceedings, does the Court of Justice thereby uphold its case-law according to which no communication to the public takes place in the event of the radio broadcasting of protected phonograms to patients in a dental practice (see the judgment of 15 March 2012 in *SCF*, C-135/10) ([3]) or similar establishments?

([1]) Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, OJ 2001 L 167, p. 10.
([2]) Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property, OJ 2006 L 376, p. 28.
([3]) EU:C:2012:140.

Request for a preliminary ruling from the Sąd Apelacyjny w Warszawie (Poland) lodged on 9 March 2015 — Biuro podróży 'Partner' Sp. z o.o., Sp. komandytowa w Dąbrowie Górniczej v Prezes Urzędu Ochrony Konkurencji i Konsumentów

(Case C-119/15)

(2015/C 198/24)

Language of the case: Polish

Referring court

Sąd Apelacyjny w Warszawie

Parties to the main proceedings

Applicant: Biuro podróży 'Partner' Sp. z o.o., Sp. komandytowa w Dąbrowie Górniczej

Defendant: Prezes Urzędu Ochrony Konkurencji i Konsumentów

Questions referred

1. In the light of Articles 6(1) and 7 of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts ([1]), in conjunction with Articles 1 and 2 of Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests ([2]), can the use of standard contract terms with content identical to that of terms which have been declared unlawful by a judicial decision having the force of law and which have been entered in the register of unlawful standard contract terms be regarded, in relation to another undertaking which was not a party to the proceedings culminating in the entry in the register of unlawful standard contract terms, as an unlawful act which, under national law, constitutes a practice which harms the collective interests of consumers and for that reason forms the basis for imposing a fine in national administrative proceedings?

2. In the light of the third paragraph of Article 267 of the Treaty on the Functioning of the European Union, is a court of second instance, against the judgment of which on appeal it is possible to bring an appeal on a point of law, as provided for in the Polish Code of Civil Procedure, a court or tribunal against whose decisions there is no judicial remedy under national law, or is the Sąd Najwyższy (Polish Supreme Court), which has jurisdiction to hear appeals on a point of law, such a court?

([1]) OJ 1993 L 95, p. 29.
([2]) OJ 2009 L 110, p. 30.

Appeal brought on 16 March 2015 by Club Hotel Loutraki AE, Vivere Entertainment AE, Theros International Gaming, Inc., Elliniko Casino Kerkyras, Casino Rodos, Porto Carras AE and Kazino Aigaiou AE against the judgment of the General Court (Seventh Chamber) delivered on 8 January 2015 in Case T-58/13: Club Hotel Loutraki AE, Vivere Entertainment AE, Theros International Gaming, Inc., Elliniko Casino Kerkyras, Casino Rodos, Porto Carras AE and Kazino Aigaiou AE v European Commission

(Case C-131/15 P)

(2015/C 198/25)

Language of the case: English

Parties

Appellants: Club Hotel Loutraki AE, Vivere Entertainment AE, Theros International Gaming, Inc., Elliniko Casino Kerkyras, Casino Rodos, Porto Carras AE and Kazino Aigaiou AE (represented by: S. Pappas, avocat)

Other parties to the proceedings: European Commission, Hellenic Republic and Organismos Prognostikon Agonon Podosfairou AE (OPAP)

Form of order sought

The appellants claim that the Court should:

— Set aside in whole the judgment of the General Court of the European Union of 8 January 2015 in Case T-58/13, Club Hotel Loutraki and Others v Commission;

— Annul 'Commission Decision C(2012) 6777 final of 3 October 2012 on State aid SA.33988 (2011/N) — Greece — Arrangements for the extension of OPAP's exclusive right to operate 13 games of chance and the granting of an exclusive license to operate 35 000 Video Lottery Terminals for a period of ten years';

— To order the respondents to pay the costs.

Pleas in law and main arguments

1. The appeal is directed against the Judgment of the General Court of the European Union of 8 January 2015 in Case T-58/13, Club Hotel Loutraki and Others v Commission, rejecting the appellants' pleas for the annulment of Commission Decision C(2012) 6777 final of 3 October 2012 on 'State aid SA.33988 (2011/N) — Greece — Arrangements for the extension of OPAP's exclusive right to operate 13 games of chance and the granting of an exclusive license to operate 35 000 Video Lottery Terminals for a period of ten years' .

2. In that decision the Commission raised no objections with regard to two notified measures in favour of OPAP: (a) the grant to OPAP of an exclusive license to operate 35 000 Video Lottery Terminals for a period of 10 years, ending in 2022; (b) the 10-year prolongation, from 2020 to 2030, of the exclusive rights already granted to OPAP for the operation of 13 games of chance.

3. In their appeal the appellants raise three pleas in law against the contested judgment:

   (a) Infringement of Article 108(3) TFEU and Articles 4(4), 7(2) and (3) and 13(1) of Regulation 659/1999 ([1]), because the General Court concluded in paras 33-64 of the contested judgment that the Commission was not obliged to initiate the formal investigation procedure and, that it lawfully completed its investigation during the preliminary procedure.

   (b) Infringement of Article 296 TFEU and Articles 41 and 47 of the Charter, because the General Court concluded in paras 65-78 of the challenged judgment that the Commission decision was sufficiently reasoned, despite a lack of economic data which did not permit the accuracy of the calculations made by the Commission to be determined.

   (c) Infringement of Article 107(1) TFEU, because the General Court concluded that the joint assessment of the notified measures by the Commission was lawful, despite the lack of a market definition, and in view of the erroneous application of the notions of 'similarity' and 'economic context'.

([1]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty OJ L 83, p. 1.

Request for a preliminary ruling from the Bundesarbeitsgericht (Germany) lodged on 20 March 2015 — Hellenic Republic v Grigorios Nikiforidis

(Case C-135/15)

(2015/C 198/26)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Appellant on a point of law: Hellenic Republic

Respondent in the appeal on a point of law: Grigorios Nikiforidis

Questions referred

1. Is the Rome I Regulation ([1]) applicable under Article 28 of that regulation to employment relationships exclusively in the case where the legal relationship was formed by a contract of employment entered into after 16 December 2009, or does every subsequent agreement by the contracting parties to continue their employment relationship, whether with or without variation, render that regulation applicable?

2. Does Article 9(3) of the Rome I Regulation exclude solely the direct application of overriding mandatory provisions of another country in which the obligations arising out of that contract are not to be performed, or have not been performed, or does that provision also exclude indirect regard for those mandatory provisions in the law of the Member State the law of which governs the contract?

3. Is the principle of sincere cooperation enshrined in Article 4(3) TEU relevant, for legal purposes, for the decision of national courts on whether overriding mandatory provisions of another Member State are directly or indirectly applicable?

([1]) Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), OJ 2008 L 177, p. 6.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 26 March 2015 — G.E. Security BV; other party: Staatssecretaris van Financiën

(Case C-143/15)

(2015/C 198/27)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: G.E. Security BV

Other party: Staatssecretaris van Financiën

Question referred

Should headings 8517, 8521, 8531 and 8543 of the Combined Nomenclature be interpreted as meaning that a product such as a video multiplexer — which was developed to form part of a system which is able to analyse images and sounds derived from cameras and alarm sensors connected to it, and which, if required, records, stores, processes and displays images and sounds on a monitor connected to it, and/or which, when the images or sounds so warrant, emits a warning signal in the form of an e-mail to one or more of the users connected to the system, and/or which can activate devices which emit sound or light signals — is to be classified under one of those headings?

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 26 March 2015 — Staatssecretaris van Financiën; other party: Customs Support Holland BV

(Case C-144/15)

(2015/C 198/28)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Staatssecretaris van Financiën

Other party: Customs Support Holland BV

Questions referred

1) Must heading 2304 of the Combined Nomenclature (CN) be interpreted as meaning that that tariff heading also covers a soya protein concentrate obtained following the removal of residual fats, carbohydrates (or food fibres) and harmful substances from solid residues (so-called soya meal) resulting from the extraction of oil from soya beans, which, by means of that removal, has been made suitable for use as an ingredient in compound feeds for very young calves?

2) If Question 1 is answered in the negative, is CN heading 2308 or CN heading 2309 then applicable to a soya protein concentrate obtained in the manner described in Question 1?

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 26 March 2015 — K. Ruijssenaars, A. Jansen, other parties: Staatssecretaris van Infrastructuur en Milieu, Royal Air Maroc

(Case C-145/15)

(2015/C 198/29)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicants: K. Ruijssenaars, A. Jansen

Other parties: Staatssecretaris van Infrastructuur en Milieu, Royal Air Maroc

Question referred

Given that Netherlands law provides access to the civil courts to protect the rights which passengers may derive under EU law from Article 5(1)(c) and Article 7 of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1), does Article 16 of that Regulation oblige the national authorities to take implementing measures which form the basis for administrative enforcement action through the bodies designated under Article 16 separately in each individual case in which Article 5(1)(c) and Article 7 of the Regulation are infringed, in order to be able to guarantee a passenger's right to compensation separately in each individual case?

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 26 March 2015 — J.H. Dees-Erf, other parties: Staatssecretaris van Infrastructuur en Milieu, Koninklijke Luchtvaart Maatschappij NV

(Case C-146/15)

(2015/C 198/30)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: J.H. Dees-Erf

Other parties: Staatssecretaris van Infrastructuur en Milieu, Koninklijke Luchtvaart Maatschappij NV

Question referred

Given that Netherlands law provides access to the civil courts to protect the rights which passengers may derive under EU law from Article 5(1)(c) and Article 7 of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1), does Article 16 of that Regulation oblige the national authorities to take implementing measures which form the basis for administrative enforcement action through the bodies designated under Article 16 separately in each individual case in which Article 5(1)(c) and Article 7 of the Regulation are infringed, in order to be able to guarantee a passenger's right to compensation separately in each individual case?

Request for a preliminary ruling from the Kammarrätten i Stockholm — Migrationsöverdomstolen (Sweden) lodged on 1 April 2015 — George Karim v Migrationsverket

(Case C-155/15)

(2015/C 198/31)

Language of the case: Swedish

Referring court

Kammarrätten i Stockholm — Migrationsöverdomstolen

Parties to the main proceedings

Applicant: George Karim

Defendant: Migrationsverket

Questions referred

1. Do the new provisions on effective legal remedies in Regulation No 604/2013 ([1]) (recital 19 in the preamble thereto and Article 27(1) and (5) thereof) mean that an applicant for asylum is also to be able to challenge the criteria in Chapter III of the regulation on the basis of which he or she is to be transferred to another Member State which has agreed to receive him or her, or can effective legal remedies be limited to mean only the right to an examination of whether there are systemic deficiencies in the asylum procedure and the reception conditions in the Member State to which the applicant is to be transferred (corresponding to the ruling of the Court of Justice in Case C-394/12)?

2. In the event that the Court should consider that it is possible to challenge the criteria in Chapter III of the regulation, an answer is also requested to the following question. Does Article 19(2) of Regulation No 604/2013 mean that the regulation may not be applied where the applicant for asylum shows that he or she has been outside the territory of the Member States for at least three months?

([1]) Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states by a third-country national or a stateless person (recast) (OJ L 180, p. 31).

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 1 April 2015 — SIA 'Private Equity Insurance Group' v AS 'Swedbank'

(Case C-156/15)

(2015/C 198/32)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Appellant: SIA 'Private Equity Insurance Group'

Respondent: AS 'Swedbank'

Questions referred

1. Must the provisions of Article 4 of Directive 2002/47/EC ([1]) on financial collateral arrangements, having regard to recitals 1 and 4 in the preamble thereto, be interpreted as meaning that those provisions apply only to accounts which are used for settlement in securities settlement systems, or as meaning that they apply equally to any account open in a bank, including a current account which is not used for securities settlement?

2. Must Article 8 and Article 3 of Directive 2002/47/EC, having regard to recitals 3 and 5 in the preamble thereto, be interpreted as meaning that the purpose of that directive is to ensure especially favourable priority treatment for credit institutions in the event of the insolvency of their customers, in particular, over other creditors of those customers, such as workers, in respect of wages owing to them, the State, in respect of its tax claims, and secured creditors, whose claims are secured by securities protected by the presumption of authenticity resulting from registration in a public register?

3. Must Article 1(2)(e) of Directive 2002/47/EC be understood as an instrument for minimum harmonisation or for full harmonisation, that is to say, must it be interpreted as meaning that it allows Member States to extend that provision to persons who are expressly excluded from the scope of the directive?

4. Is Article 1(2)(e) of Directive 2002/47/EC a directly applicable provision?

5. In the event that the purpose and scope of Directive 2002/47/EC are more limited than the actual purpose and scope of the national law, the adoption of which was formally justified on the basis of the obligation to transpose Directive 2002/47/EC, may the interpretation of that directive be used to invalidate a financial collateral clause based on national law, such as the clause at issue in the main proceedings?

([1]) Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ 2002 L 168, p. 43).

Appeal brought on 8 April 2015 by Evonik Degussa GmbH against the judgment of the General Court (Third Chamber) of 28 January 2015 in Case T-341/12 *Evonik Degussa GmbH* v *European Commission*

(Case C-162/15 P)

(2015/C 198/33)

Language of the case: German

Parties

Appellant: Evonik Degussa GmbH (represented by: C. Steinle, C. von Köckritz and A. Richter, Rechtsanwälte)

Other party: 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 28 January 2015 in Case T-341/12 *Evonik Degussa GmbH* v *European Commission*;

2. annul Commission Decision C(2012) 3534 final of 24 May 2012 in Case COMP/38.620 Hydrogen Peroxide and Perborate, concerning the refusal of a request by Evonik Degussa for confidential treatment of information in the decision in Case COMP/F/38.620 — Hydrogen Peroxide and Perborate, pursuant to the fourth paragraph of Article 263 TFEU; and

3. order the Commission to pay the appellant's costs of the proceedings before the General Court and the Court of Justice.

Grounds of appeal and main arguments

The appellant relies upon three grounds of appeal.

First ground of appeal, alleging that the General Court wrongly interpreted Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings ([1]) and erred in law in not finding that the Commission failed to state reasons and that the hearing officer failed to correctly exercise his discretion in the decision on the publication of the information at issue. The attempt of the General Court to read the reasoning contained in the correspondence of the responsible officer at the Directorate-General for Competition with the appellant 'into' the hearing officer's report contradicts not only the clear wording of the hearing officer's decision and is thereby based upon a manifest distortion of the decision of which annulment is sought, but also led to a restriction of the appellant's right to effective judicial protection.

Second ground of appeal, alleging that the General Court erred in interpreting Article 339 TFEU and Article 30 of Regulation No 1/2003 ([2]). The General Court proceeded on the erroneous assumption that the information at issue resulting from leniency applicants' statements did not fall under the protection of professional secrecy and that their publication under Article 30 of Regulation No 1/2003 lay in the discretion of the Commission. The publication of printed words such as extracts from leniency applicants' written statements in a Commission decision was a partial publication of those leniency applicants' statements, which was prohibited under points 32 et seq. of the 2002 Commission Notice on Immunity from fines and reduction of fines in cartel cases and paragraph 40 of the 2006 Commission Notice on Immunity from fines and reduction of fines in cartel cases. In addition, the General Court misinterpreted Article 4(2) of Regulation No 1049/2001 ([3]) and the Court of Justice's case-law in that respect concerning the publication of extracts from Commission decisions.

Third ground of appeal, alleging that the General Court erred in its application of the fundamental principles of legal certainty and of the protection of legitimate expectations. In its judgment, the General Court proceeded on the erroneous assumption that the appellant's legitimate expectations would not be harmed through the re-publication of the decision in an extended version. The administrative proceedings brought by the Commission against the appellant were brought to a close with the publication of the non-confidential version of the decision in 2007. The re-publication of the 2007 decision in an extended, non-confidential decision after those proceedings had been brought to a close was unlawful.

([1]) OJ 2011 L 275, p. 29.
([2]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).
([3]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 16 April 2015 — European Commission v Kingdom of Spain

(Case C-172/15)

(2015/C 198/34)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: L. Nicolae and J. Rius, acting as Agents)

Defendant: Kingdom of Spain

Forms of order sought

— To declare, pursuant to Article 258 of the Treaty on the Functioning of the European Union, that having not yet approved all of the assessments and port security plans for all Spanish ports included in the scope of European Parliament and Council Directive 2005/65/EC ([1]) of 26 October 2005 on enhancing port security, the Kingdom of Spain has failed to fulfil its obligations under Article 2(3) and Articles 6 and 7 of that directive, that provide respectively, that Member States are to define the boundaries of each port, and are to approve relevant port security assessments and plans;

— Order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

On 5 September 2014, the Kingdom of Spain acknowledged that, out of the 67 ports affected by the legislation in question, 3 port security assessments and 18 port security plans were still awaiting approval.

From that date until the present, the Spanish authorities have continued to send updates regularly on the progress of the practical implementation of Directive 2005/65/EC. The latest of such reports, received on 14 April 2015, shows that, out of the 67 ports affected by the legislation in question, one assessment and eight port security plans are still awaiting approval.

Consequently, the Commission notes that on the date of the latest report received, the Kingdom of Spain had failed to fulfil its obligations to define the relevant boundaries of each port affected by Directive 2005/65/EC, or its obligations to establish and approve a security assessment for all the ports to which Directive 2005/65/EC applies, and establish and approve port security plans for these ports.

([1]) OJ L 310, p. 28.

GENERAL COURT

Judgment of the General Court of 29 April 2015 — Staelen v Ombudsman

(Case T-217/11) ([1])

(Non-contractual liability — Treatment by the Ombudsman of a complaint concerning the improper management of the list of suitable candidates for a general competition — Investigatory powers — Due diligence — Loss of opportunity — Non-pecuniary damage)

(2015/C 198/35)

Language of the case: French

Parties

Applicant: Claire Staelen (Bridel, Luxembourg) (represented initially by L. Levi, M. Vandenbussche and A. Blot, subsequently by F. Wies and A. Hertzog and lastly by V. Olona, lawyers)

Defendant: European Ombudsman (represented by: G. Grill, acting as Agent, assisted by D. Waelbroeck and A. Duron, lawyers)

Re:

Action for damages seeking to obtain compensation for harm allegedly suffered by the applicant as a result of the approach taken by the European Ombudsman in the treatment of her complaint concerning the improper management of the list of suitable candidates for General Competition EUR/A/151/98, on which she appeared as a successful candidate.

Operative part of the judgment

The Court:

1. *Orders the European Ombudsman to pay compensation of EUR 7 000 to Ms Claire Staelen;*

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

3. *Orders the Ombudsman to bear half of his own costs and to pay half of those of Ms Staelen;*

4. *Orders Ms Staelen to bear half of her own costs and to pay half of those of the Ombudsman.*

([1]) OJ C 204, 9.7.2011.

Judgment of the General Court of 29 April 2015 — Total and Elf Aquitaine v Commission

(Case T-470/11) ([1])

(Competition — Market for methacrylates — Fines — Joint and several liability of parent companies and their subsidiary for the infringing conduct of the latter — Full and immediate payment of the fine by the subsidiary — Reduction of the fine imposed on the subsidiary following a judgment of the General Court — Letters from the Commission demanding payment from the parent companies of the amount reimbursed by it to the subsidiary, plus late-payment interest — Actions for annulment — Challengeable act — Admissibility — Interest on late payment)

(2015/C 198/36)

Language of the case: French

Parties

Applicants: Total SA (Courbevoie, France) and Elf Aquitaine SA (Courbevoie) (represented initially by A. Noël-Baron and É. Morgan de Rivery, and subsequently by É. Morgan de Rivery and E. Lagathu, lawyers)

Defendant: European Commission (represented by: B. Mongin and V. Bottka, Agents)

Re:

Application for annulment of the Commission's letters BUDG/DGA/C4/BM/s746396 of 24 June 2011 and BUDG/DGA/C4/BM/s812886 of 8 July 2011 or, in the alternative, reduction of the amounts claimed or, in the further alternative, annulment the late-payment interest imposed on Elf Aquitaine, in the amount of EUR 31 312 114,58, for which Total is jointly liable up to the amount of EUR 19 191 296,03.

Operative part of the judgment

The Court:

1. *Annuls the Commission's letters BUDG/DGA/C4/BM/s746396 of 24 June 2011 and BUDG/DGA/C4/BM/s812886 of 8 July 2011 in so far as, in those letters, the European Commission imposed on Elf Aquitaine SA late-payment interest in the amount of EUR 31 312 114,58, for which Total SA is jointly liable up to the amount of EUR 19 191 296,03;*

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

3. *Orders the Commission to pay two fifths of the costs of Total and Elf Aquitaine and to bear three fifths of its own costs. Total and Elf Aquitaine are ordered to bear three fifths of their own costs and to pay two fifths of the costs of the Commission.*

([1]) OJ C 319, 29.10.2011.

Judgment of the General Court of 30 April 2015 — Al-Chihabi v Council

(Case T-593/11) ([1])

(Common foreign and security policy — Restrictive measures against Syria — Freezing of funds — Rights of the defence — Obligation to state reasons — Error of assessment — Right to property — Right to respect for private life — Proportionality)

(2015/C 198/37)

Language of the case: English

Parties

Applicant: Fares Al-Chihabi (Aleppo, Syria) (represented initially by L. Ruessmann and W. Berg, lawyers, and subsequently by L. Ruessmann and J. Beck, Solicitor)

Defendant: Council of the European Union (represented by: M. Bishop and R. Liudvinaviciute-Cordeiro, acting as Agents)

Intervener in support of the defendant: European Commission (represented initially by S. Boelaert and T. Scharf, and subsequently by T. Scharf and M. Konstantinidis, acting as Agents)

Re:

Application for annulment of Council Decision 2011/522/CFSP of 2 September 2011 amending Decision 2011/273/CFSP concerning restrictive measures against Syria (OJ 2011 L 228, p. 16), Council Regulation (EU) No 878/2011 of 2 September 2011 amending Regulation (EU) No 442/2011 concerning restrictive measures in view of the situation in Syria (OJ 2011 L 228, p. 1), Council Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria and repealing Decision 2011/273 (OJ 2011 L 319, p. 56), Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation No 442/2011 (OJ 2012 L 16, p. 1), Council Decision 2012/739/CFSP of 29 November 2012 concerning restrictive measures against Syria and repealing Decision 2011/782 (OJ 2012 L 330, p. 21), Council Implementing Regulation (EU) No 1117/2012 of 29 November 2012 implementing Article 32(1) of Regulation No 36/2012 (OJ 2012 L 330, p. 9), Council Implementing Regulation (EU) No 363/2013 of 22 April 2013 implementing Regulation No 36/2012 (OJ 2013 L 111, p. 1), and Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14), and any subsequent legislation to the extent that it maintains or replaces those acts in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Fares Al-Chihabi to bear his own costs and to pay those incurred by the Council of the European Union;*

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

([1]) OJ C 25, 28.1.2012.

Judgment of the General Court of 28 April 2015 — CHEMK and KF v Council

(Case T-169/12) ([1])

(Dumping — Imports of ferro-silicon originating, inter alia, in Russia — Partial interim review — Calculation of the dumping margin — Change of circumstances — Lasting nature)

(2015/C 198/38)

Language of the case: English

Parties

Applicants: Chelyabinsk electrometallurgical integrated plant OAO (CHEMK) (Chelyabinsk, Russia); and Kuzneckie ferrosplavy OAO (KF) (Novokuznetsk, Russia) (represented by: B. Evtimov, lawyer)

Defendant: Council of the European Union (represented by: J.-P. Hix, acting as Agent, assisted initially by G. Berrisch and A. Polcyn, lawyers, and subsequently by G. Berrisch and N. Chesaites, Barrister, and lastly by D. Gerardin, lawyer)

Interveners in support of the defendant: European Commission (represented initially by H. van Vliet, M. França and A. Stobiecka-Kuik, and subsequently by M. França, A. Stobiecka-Kuik and J.-F. Brakeland, acting as Agents); and Euroalliages (Brussels, Belgium) (represented by: O. Prost and M.-S. Dibling, lawyers)

Re:

Application for the annulment in part of Council Implementing Regulation (EU) No 60/2012 of 16 January 2012 terminating the partial interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 of the anti-dumping measures applicable to imports of ferro-silicon originating, inter alia, in Russia (OJ 2012 L 22, p. 1), in so far as it concerns the applicants.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Chelyabinsk electrometallurgical integrated plant OAO (CHEMK) and Kuzneckie ferrosplavy OAO (KF) to bear their own costs and to pay those incurred by the Council of the European Union;*

3) *Orders the European Commission to bear its own costs;*

4) *Orders Euroalliages to bear its own costs.*

([1]) OJ C 165, 9.6.2012.

Judgment of the General Court of 30 April 2015 — VTZ and Others v Council

(Case T-432/12) ([1])

(Dumping — Imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine — Definitive anti-dumping duty — Expiry review — Likelihood of recurrence of injury — European Union interest — Manifest error of assessment — Obligation to state reasons)

(2015/C 198/39)

Language of the case: English

Parties

Applicants: Volžskij trubnyi zavod OAO (VTZ OAO) (Volzhksy, Russia); Taganrogskij metallurgičeskij zavod OAO (Tagmet OAO) (Taganrog, Russia); Sinarskij trubnyj zavod OAO (SinTZ OAO) (Kamensk-Uralsky, Russia); Severskij trubnyj zavod OAO (STZ OAO) (Polevskoy, Russia) (represented by: J.-F. Bellis, F. Di Gianni, G. Coppo and C. Van Hemelrijck, lawyers)

Defendant: Council of the European Union (represented by: S. Boelaert, acting as Agent, assisted initially by G. Berrisch and A. Polcyn, and subsequently by A. Polcyn and D. Geradin, lawyers)

Intervener in support of the defendant: European Commission (represented by: M. França and A. Stobiecka-Kuik, acting as Agents)

Re:

APPLICATION for annulment of Council Implementing Regulation (EU) No 585/2012 of 26 June 2012 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine, following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009, and terminating the expiry review proceeding concerning imports of certain seamless pipes and tubes, of iron or steel, originating in Croatia (OJ 2012 L 174, p. 5), in so far as it applies to the applicants.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Volžskij trubnyi zavod OAO (VTZ OAO), Taganrogskij metallurgičeskij zavod OAO (Tagmet OAO), Sinarskij trubnyj zavod OAO (SinTZ OAO) and Severskij trubnyj zavod OAO (STZ OAO) to bear their own costs and to pay those incurred by the Council of the European Union;*

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

([1]) OJ C 366, 24.11.2012.

Judgment of the General Court of 29 April 2015 — Changshu City Standard Parts Factory and Ningbo Jinding Fastener v Council

(Joined Cases T-558/12 and T-559/12) ([1])

(Dumping — Imports of certain iron or steel fasteners originating in China — Amendment of the regulation imposing a definitive anti-dumping duty — Article 2(10) and (11) of Regulation No 1225/2009 — Calculation of the dumping margin — Adjustments — Obligation to state reasons)

(2015/C 198/40)

Language of the case: English

Parties

Applicants: Changshu City Standard Parts Factory (Changshu City, China); and Ningbo Jinding Fastener Co. Ltd (Ningbo, China) (represented by: R. Antonini and E. Monard, lawyers)

Defendant: Council of the European Union (represented by: S. Boelaert, acting as Agent, assisted initially by G. Berrich and A. Polcyn, subsequently by A. Polcyn and finally by D. Geradin, lawyers)

Interveners in support of the defendant: European Commission (represented by: M. França and T. Maxian Rusche, acting as Agents); and European Industrial Fasteners Institute AISBL (EIFI) (represented by: J. Bourgeois and R. Grasso, lawyers)

Re:

Actions for annulment of Council Implementing Regulation (EU) No 924/2012 of 4 October 2012, amending Regulation (EC) No 91/2009 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China (OJ 2009 L 275, p. 1).

Operative part of the judgment

The Court:

1) *Dismisses the actions;*

2) *Orders Changshu City Standard Parts Factory and Ningbo Jinding Fastener Co. Ltd to bear their own costs and to pay those of the Council of the European Union and European Industrial Fasteners Institute AISBL (EIFI);*

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

([1]) OJ C 46, 16.2.2013.

Judgment of the General Court of 29 April 2015 — National Iranian Gas Company v Council

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

(Common Foreign and Security Policy — Restrictive measures taken against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Objection of illegality — Error of law — Proportionality — Right to property — Jurisdiction of the Council — Obligation to state reasons — Rights of the defence — Review of the restrictive measures adopted — Right to effective judicial protection — Error of assessment)

(2015/C 198/41)

Language of the case: French

Parties

Applicant: The National Iranian Gas Company (Teheran, Iran) (represented by: E. Glaser and S. Perrotet, lawyers)

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

Re:

First, application for partial annulment of Article 1, point 8, of Council Decision 2012/635/CFSP of 15 October 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 282, p. 58) and, secondly, application for annulment of Decision 2012/635, of Council Implementing Regulation (EU) No 945/2012 of 15 October 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 282, p. 16), and of the decision communicated by the Council's letter of 14 March 2014, in so far as the inclusion of the applicant's name in Annex II to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39), and in Annex IX to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1) is concerned.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the National Iranian Gas Company to pay the costs.*

(1) OJ C 79, 16.3.2013.

Judgment of the General Court of 29 April 2015 — Bank of Industry and Mine v Council

(Case T-10/13) (1)

(Common foreign and security policy — Restrictive measures adopted against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Action for annulment — Time limit for action — Admissibility — Plea of illegality — Error of law — Proportionality — Right to property — Competence of the Council — Obligation to state reasons — Rights of the defence — Review of the restrictive measures adopted — Right to effective judicial protection — Error of assessment)

(2015/C 198/42)

Language of the case: French

Parties

Applicant: Bank of Industry and Mine (Tehran, Iran) (represented by: E. Glaser and S. Perrotet, lawyers)

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

Re:

First, application for annulment in part of Article 1(8) of Council Decision 2012/635/CFSP of 15 October 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 282, p. 58) and, secondly, application for annulment of Council Decision 2012/635, of Council Implementing Regulation (EU) No 945/2012 of 15 October 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 282, p. 16), and of the decision communicated by the letter from the Council of 14 March 2014, in so far as it concerns the listing of the applicant's name in Annex II to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39), and in Annex IX to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Bank of Industry and Mine to pay the costs.*

(1) OJ C 79, 16.3.2013.

Judgment of the General Court of 30 April 2015 — Polynt and Sitre v ECHA

(Case T-134/13) ([1])

(REACH — Identification of certain respiratory sensitisers as substances of very high concern — Equivalent level of concern — Action for annulment — Whether directly concerned — Admissibility — Rights of the defence — Proportionality)

(2015/C 198/43)

Language of the case: English

Parties

Applicants: Polynt SpA (Scanzorosciate, Italy); and Sitre Srl (Milan, Italy) (represented by: C. Mereu and K. Van Maldegem, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented by: M. Heikkilä, W. Broere and T. Zbihlej, acting as Agents)

Interveners in support of the applicants: New Japan Chemical (Osaka, Japan); and REACh ChemAdvice GmbH (Kelkheim, Germany) (represented by: C. Mereu and K. Van Maldegem)

Interveners in support of the defendant: Kingdom of the Netherlands (represented by: B. Koopman, M. Bulterman and C. Schillemans, acting as Agents); and European Commission (represented by: K. Mifsud-Bonnici and K. Talabér-Ritz, acting as Agents)

Re:

Application for annulment in part of Decision ED/169/2012 of the ECHA of 18 December 2012 concerning the inclusion of substances of very high concern in the list of candidate substances, in accordance with Article 59 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1), in so far as it concerns cyclohexane-1,2-dicarboxylic anhydride (EC No 201-604-9), cis-cyclohexane-1,2-dicarboxylic anhydride (EC No 236-086-3) and trans-cyclohexane-1,2-dicarboxylic anhydride (EC No 238-009-9).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Polynt SpA and Sitre Srl to bear their own costs and to pay those incurred by the European Chemicals Agency (ECHA);*

3. *Orders the Kingdom of the Netherlands, the European Commission, New Japan Chemical and REACh ChemAdvice GmbH to bear their own costs.*

([1]) OJ C 129, 4.5.2013.

Judgment of the General Court of 30 April 2015 — Hitachi Chemical Europe and Others v ECHA

(Case T-135/13) ([1])

(REACH — Identification of certain respiratory sensitisers as substances of very high concern — Equivalent level of concern — Action for annulment — Whether directly concerned — Admissibility — Rights of the defence — Proportionality)

(2015/C 198/44)

Language of the case: English

Parties

Applicants: Hitachi Chemical Europe GmbH (Düsseldorf, Germany); Polynt SpA, (Scanzorosciate, Italy); Sitre Srl (Milan, Italy) (represented by: C. Mereu and K. Van Maldegem, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented by: M. Heikkilä, W. Broere and T. Zbihlej, acting as Agents)

Interveners in support of the applicants: REACh ChemAdvice GmbH (Kelkheim, Germany) (represented by: C. Mereu and K. Van Maldegem); and New Japan Chemical (Osaka, Japan) (represented by: C. Mereu and K. Van Maldegem)

Interveners in support of the defendant: Kingdom of the Netherlands (represented by: B. Koopman, M. Bulterman and C. Schillemans, acting as Agents); and European Commission (represented by: K. Mifsud-Bonnici and K. Talabér-Ritz, acting as Agents)

Re:

Application for annulment in part of Decision ED/169/2012 of the ECHA of 18 December 2012 concerning the inclusion of substances of very high concern in the list of candidate substances, in accordance with Article 59 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1), in so far as it concerns hexahydromethylphthalic anhydride (EC No 247-094-1), hexahydro-4-methylphthalic anhydride (EC No 243-072-0), hexahydro-1-methylphthalic anhydride (EC No 256-356-4) and hexahydro-3-methylphthalic anhydride (EC No 260-566-1).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Hitachi Chemical Europe GmbH, Polynt SpA and Sitre Srl to bear their own costs and to pay those incurred by the European Chemicals Agency (ECHA);*

3. *Orders the Kingdom of the Netherlands, the European Commission, REACh ChemAdvice GmbH and New Japan Chemical to bear their own costs.*

(1) OJ C 129, 4.5.2013.

Judgment of the General Court of 28 April 2015 — Saferoad RRS v OHIM (MEGARAIL)

(Case T-137/13) (1)

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

(2015/C 198/45)

Language of the case: German

Parties

Applicant: Saferoad RRS GmbH (Weroth, Germany) (represented by: C. Czychowski, lawyer)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 9 January 2013 (Case R 2536/2011-4) relating to the application for registration of the word sign MEGARAIL as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Saferoad RRS GmbH to pay the costs.*

(1) OJ C 129, 4.5.2013.

Judgment of the General Court of 29 April 2015 — CC v Parliament

(Case T-457/13 P) (1)

(Appeal — Cross-appeal — Civil service — Open competition — Errors in the management of the list of successful candidates — Non-contractual liability — Material harm — Legitimate expectations — Distortion of the facts — Loss of an opportunity — Non-material harm — Obligation to state reasons)

(2015/C 198/46)

Language of the case: French

Parties

Appellant: CC (Bridel, Luxembourg) (represented by: G. Maximini, lawyer)

Other party to the proceedings: European Parliament (represented by: M. Ecker and E. Despotopoulou, Agents)

Re:

Appeal brought against the judgment of the European Union Civil Service Tribunal (Third Chamber) of 11 July 2013 in *CC v Parliament* (F-9/12, ECR-SC, EU:F:2013:116), and seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the European Union Civil Service Tribunal (Third Chamber) of 11 July 2013 in CC v Parliament (F-9/12);*

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

3. *Reserves the costs.*

(1) OJ C 325, 9.11.2013.

Judgment of the General Court of 29 April 2015 — Hostel Tourist World v OHIM — WRI Nominees (HostelTouristWorld.com)

(Case T-566/13) (1)

(Community trade mark — Cancellation proceedings — Community figurative mark HostelTouristWorld.com — Earlier international word mark HOSTELWORLD.COM — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009 — Minimal inherent distinctiveness of the earlier mark — Likelihood of confusion)

(2015/C 198/47)

Language of the case: Spanish

Parties

Applicant: Hostel Tourist World, SL (Seville, Spain) (represented by: J. Bartrina Díaz, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: WRI Nominees Ltd (Luxembourg, Luxembourg) (represented initially by G. Kelly and A. Payne, solicitors, subsequently by A. Payne, J. Llevat Vallespinosa and J.-Y. Teindas Maillard, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 26 August 2013 (Case R 966/2012-4) concerning cancellation proceedings between the company WRI Nominees Ltd and Hostel Tourist World, SL.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Hostel Tourist World, SL to pay the costs.*

([1]) OJ C 31, 1.2.2014.

Judgment of the General Court of 30 April 2015 — Steinbeck v OHIM — Alfred Sternjakob (BE HAPPY)

(Joined Cases T-707/13 and T-709/13) ([1])

(Community trade mark — Invalidity proceedings — Community word marks BE HAPPY — Absolute ground for refusal — No distinctive character — Article 52(1)(a) and Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 198/48)

Language of the case: German

Parties

Applicant: Steinbeck GmbH (Fulda, Germany) (represented by: M. Heinrich and M. Fischer, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Alfred Sternjakob GmbH & Co. KG (Frankenthal, Germany) (represented by: S. Henn and S. Tepel, lawyers)

Re:

Two actions brought against the decisions of the First Board of Appeal of OHIM of 17 October 2013 (Cases R 31/2013-1 and R 32/2013-1), concerning invalidity proceedings between Alfred Sternjakob GmbH & Co. KG and Steinbeck GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the actions;*

2. *Orders Steinbeck GmbH to pay the costs.*

([1]) OJ C 61, 1.3.2014.

Judgment of the General Court of 29 April 2014 — Chair Entertainment Group v OHIM — Libelle (SHADOW COMPLEX)

(Case T-717/13) ([1])

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

(2015/C 198/49)

Language of the case: English

Parties

Applicant: Chair Entertainment Group LLC (Provo, Utah, United States) (represented by: E. Armijo Chávarri, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Libelle AG (Stuttgart, Germany) (represented by: E. Strauß, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 1 October 2013 (Case R 776/2011 2), relating to opposition proceedings between Libelle AG and Chair Entertainment Group LLC.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Declares that Chair Entertainment Group LLC is to pay, in addition to its own costs, those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);*

3. *Declares that Libelle AG is to pay its own costs.*

([1]) OJ C 71, 8.3.2014.

Judgment of the General Court of 30 April 2015 — Tecalan v OHIM — Ensinger (TECALAN)

(Case T-100/14) ([1])

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

(2015/C 198/50)

Language of the case: German

Parties

Applicant: Tecalan GmbH (Grünberg, Germany) (represented by: S. Holthaus, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Ensinger GmbH (Nufringen, Germany) (represented by: K. Gründig-Schnelle, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 11 December 2013 (Case R 2308/2012-1), relating to opposition proceedings between Ensinger GmbH and Tecalan GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Tecalan GmbH to pay the costs.*

([1]) OJ C 112, 14.4.2014.

Judgment of the General Court of 28 April 2015 — Volkswagen v OHIM (EXTRA)

(Case T-216/14) ([1])

(Community trade mark — Application for Community word mark EXTRA — Mark comprised of an advertising slogan — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 198/51)

Language of the case: German

Parties

Applicant: Volkswagen AG (Wolfsburg, Germany) (represented by: U. Sander and J. Eberhardt, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: initially M. Fischer, then A. Schifko, agents)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 6 February 2014 (Case R 1788/2013-1) relating to the application for registration of the word sign EXTRA as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Volkswagen AG to pay the costs.*

([1]) OJ C 194, 24.6.2014.

Order of the General Court of 21 April 2015 — Real Express v OHIM — MIP Metro (real)

(Case T-580/13) ([1])

(Community trade mark — Opposition proceedings — Application for the Community figurative mark real — Earlier national figurative marks Real and Real mark — Rejection of the opposition — Rule 19(1) of Regulation (EC) No 2868/95 — Rule 20(1) of Regulation No 2868/95)

(2015/C 198/52)

Language of the case: English

Parties

Applicant: Real Express Srl (Romania) (represented by: C. Anitoae, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany) (represented by: J.-C. Plate and R. Kaase, lawyers)

Re:

Action against the decision of the Fourth Board of Appeal of OHIM of 16 September 2013 (Case R 1519/2012-4) relating to opposition proceedings between Real Express SRL and MIP Metro Group Intellectual Property GmbH & Co. KG.

Operative part of the order

1. *The action is dismissed as being, in part, manifestly inadmissible and, in part, manifestly lacking any foundation in law.*

2. *Real Express SRL is ordered to pay the costs.*

([1]) OJ C 45, 15.2.2014.

Action brought on 25 March 2015 — Aanbestedingskalender a.o. v Commission

(Case T-138/15)

(2015/C 198/53)

Language of the case: English

Parties

Applicants: Aanbestedingskalender BV (Ede, Netherlands); Negometrix BV (Amsterdam, Netherlands); CTM Solution BV (Breukelen, Netherlands); Stillpoint Applications BV (Amsterdam, Netherlands); and Huisinga Beheer BV (Amsterdam) (represented by: C. Dekker and L. Fiorilli, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare, in accordance with Articles 263 and 264 TFEU, that the part of the European Commission's Decision of 18 December 2014 SA.34646 (2014/NN) (ex 2012/CP) — *The Netherlands E-procurement platform TenderNed* finding that the activities of TenderNed qualify as services of (non-economic) general interest and that therefore the implementation and financing of TenderNed does not constitute State aid, is void;

— order the defendant to bear its own costs and to pay those incurred by the applicant; and

— take such further actions as the Court may deem appropriate.

Pleas in law and main arguments

In support of the action, the applicants rely on one plea in law.

1. First plea in law, alleging that the European Commission has committed a manifest error of assessment and an error of law by finding that the services of TenderNed qualify as services of general (non-economic) interest.

— The applicants claim that TenderNed's activities are of an economic character and do not belong to the state prerogative because those services do not emanate from obligations provided by the EU procurement Directives, because TenderNed does not act in the capacity of a public authority, because the activities of TenderNed are not necessary to ensure compliance with the EU procurement Directives, because ensuring compliance with the obligations of the EU Procurement Directives can be achieved by other means and because the Dutch procurement law allows commercial initiatives on the market of e-procurement.

Action brought on 1 April 2015 — LG Developpement v OHIM — Bayerische Motoren Werke (MINICARGO)

(Case T-160/15)

(2015/C 198/54)

Language in which the application was lodged: English

Parties

Applicant: LG Developpement (Baud, France) (represented by: A. Sion, lawyer)

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

Other party to the proceedings before the Board of Appeal: Bayerische Motoren Werke AG (München, Germany)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community figurative mark containing the word element 'MINICARGO' — Application for registration No 11 278 751

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 23 January 2015 in Case R 596/2014-4

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 8(1)(b) of the Regulation No 207/2009.

Action brought on 2 April 2015 — Gramberg v OHIM — Mahdavi Sabet (Protective case for a mobile telephone)

(Case T-166/15)

(2015/C 198/55)

Language in which the application was lodged: German

Parties

Applicant: Claus Gramberg (Essen, Germany) (represented by: S. Kettler, lawyer)

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

Other party to the proceedings before the Board of Appeal: Sorouch Mahdavi Sabet (Paris, France)

Details of the proceedings before OHIM

Proprietor of the design at issue: The other party to the proceedings before the Board of Appeal

Design at issue: Community design No 1 968 496-0002

Contested decision: Decision of the Third Board of Appeal of OHIM of 13 January 2015 in Case R 460/2013-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and declare Community design No 1 968 496-0002 invalid;

in the alternative,

— annul the contested decision and remit the case to the Board of Appeal for a new decision on the invalidity of Community design No 1 968 496-0002;

— order OHIM to pay the costs.

Pleas in law

— Infringement of 5(1)(b) Regulation No 6/2002;

— Infringement of Article 7(1) of Regulation No 6/2002.

Action brought on 9 April 2015 — Grandel v OHIM — The Colomer Group Spain (Beautygen)

(Case T-177/15)

(2015/C 198/56)

Language in which the application was lodged: German

Parties

Applicant: Dr. Grandel GmbH (Augsburg, Germany) (represented by: U. Dollinger, lawyer)

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

Other party to the proceedings before the Board of Appeal: The Colomer Group Spain, SL (Cornellá de Llobregat (Barcelona), Spain)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'Beautygen' — Application No 11 623 105

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 9 February 2015 in Case R 1430/2014-4

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

Action brought on 17 April 2015 — Compagnia Trasporti Pubblici and Others v Commission

(Case T-188/15)

(2015/C 198/57)

Language of the case: Italian

Parties

Applicants: Compagnia Trasporti Pubblici SpA (Arzano, Italy); Atap — Azienda Trasporti Automobilistici Pubblici delle Province di Biella e Vercelli SpA (Biella, Italy); Actv SpA (Venice, Italy); Ferrovie Appulo Lucane Srl (Bari, Italy); Asstra Associazione Trasporti (Rome, Italy); and Associazione Nazionale Autotrasporto Viaggiatori (ANAV) (Rome) (represented by: M. Malena, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should annul those chapters and parts of the contested decision which are subject to appeal.

Pleas in law and main arguments

The pleas in law and main arguments are those relied on in Case T-187/15 *Compagnia Trasporti Pubblici and Others* v *Commission*.

Action brought on 16 April 2015 — Intervog/OHIM (meet me)

(Case T-190/15)

(2015/C 198/58)

Language of the case: French

Parties

Applicant: Intervog (Paris, France) (represented by: M.-R. Hirsch, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Figurative Community mark containing the word elements 'meet me' — Application for registration No 12 010 781

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 11 February 2015 in Case R 845/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

— Infringement of Article 75 of Regulation No 207/2009 (failure to state reasons);

— Infringement of Article 7(1)(b) of Regulation No 207/2009 (error of assessment in the analysis of the mark's distinctive character);

— Infringement of the principle of equality.

Action brought on 21 April 2015 — Bodegas Williams & Humbert v OHIM — Central Hisumer (Botanic Williams & Humbert)

(Case T-193/15)

(2015/C 198/59)

Language in which the application was lodged: Spanish

Parties

Applicant: Bodegas Williams & Humbert, SA (Cádiz, Spain) (represented by: A. Gómez López, lawyer)

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

Other party to the proceedings before the Board of Appeal: Central Hisumer, SL (Orihuela, Spain)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community figurative mark in blue, grey, white and black containing the word elements 'Botanic Williams & Humbert' — Application for registration No 11 184 819

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 23 February 2015 in Case R 594/2014-4

Form of order sought

The applicant claims that the Court should:

— declare as not being in accordance with Regulation EC No 207/2009 on the Community trade mark, the decision of 9 December 2010 of the Fourth Board of Appeal of OHIM, in Case R 594/2014-4, dismissing the administrative appeal brought against the decision of the Opposition Division of OHIM of 20 December 2013, made in opposition proceedings No B 2 128 026, and thereby refusing registration of Community Trademark No 11.184.819 BOTANIC WILLIAMS & HUMBERT LONDON DRY GIN, composite mark in Class 33;

— allow registration of the composite Community trade mark No 11.184.819 BOTANIC WILLIAMS & HUMBERT LONDON DRY GIN, in Class 33, as the prohibition on registration provided for in Article 8(1)(b) and Article 8(5) of Regulation No 207/2009 does not apply;

— order OHIM, and if appropriate, the intervener, to pay the costs.

Plea in law

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

Action brought on 20 April 2015 — Costa v Parliament

(Case T-197/15)

(2015/C 198/60)

Language of the case: Italian

Parties

Applicant: Paolo Costa (Venice, Italy) (represented by: G. Orsoni and M. Romeo, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— Declare the decision of the President of the European Parliament of 25 February 2015 and all prior, connected or consecutive measures, including the debit note notified on 27 February 2015, to be null and void, pursuant to Articles 263 and 264 of the Treaty on the Functioning of the European Union;

— Order the European Parliament to pay the costs in their entirety.

Pleas in law and main arguments

The pleas in law and main arguments are those relied on in Case T-15/15 *Costa* v *Parliament*.

Action brought on 22 April 2015 — Unicorn v OHIM — Mercilink Equipment Leasing (UNICORN)

(Case T-201/15)

(2015/C 198/61)

Language in which the application was lodged: English

Parties

Applicant: Unicorn a.s. (Prague, Czech Republic) (represented by: L. Lorenc, lawyer)

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

Other party to the proceedings before the Board of Appeal: Mercilink Equipment Leasing Ltd (Limassol, Cyprus)

Details of the proceedings before OHIM

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

Trade mark at issue: Community word mark 'UNICORN' — Community trade mark No 5 992 805

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 16 February 2015 in Case R 1699/2014-5

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision;

— Order OHIM to pay the costs.

Pleas in law

— OHIM did not properly take into consideration evidence submitted by the applicant;

— OHIM did not take into consideration evidence in Czech;

— OHIM incorrectly considered good reputation of the earlier trademarks.

Action brought on 23 April 2015 — Zitro IP v OHIM (WORLD OF BINGO)

(Case T-202/15)

(2015/C 198/62)

Language of the case: Spanish

Parties

Applicant: Zitro IP Sàrl (Luxembourg, Luxembourg) (represented by: A. Canela Giménez, lawyer)

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 containing the word elements 'WORLD OF BINGO' — Application for registration No 12 669 396

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 23 February 2015 in Case R 1899/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

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

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

Action brought on 23 April 2015 — Zitro IP v OHIM (WORLD OF BINGO)

(Case T-203/15)

(2015/C 198/63)

Language of the case: Spanish

Parties

Applicant: Zitro IP Sàrl (Luxembourg, Luxembourg) (represented by: A. Canela Giménez, lawyer)

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 'WORLD OF BINGO' — Application for registration No 12 552 162

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 23 February 2015 in Case R 1900/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

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

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

Action brought on 23 April 2015 — Aldi v OHIM — Miquel Alimentació Grup (Gourmet)

(Case T-212/15)

(2015/C 198/64)

Language in which the application was lodged: German

Parties

Applicant: Aldi GmbH & Co. KG (Mülheim an der Ruhr, Germany) (represented by: C. Fürsen, N. Lützenrath, U. Rademacher and N. Bertram, lawyers)

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

Other party to the proceedings before the Board of Appeal: Miquel Alimentació Grup, SA (Vilamalla, Spain)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark including the word element 'Gourmet' — Application No 9 310 269

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 24 February 2015 in Case R 314/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of OHIM;

— order OHIM to pay the costs.

Plea in law

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

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (Second Chamber) of 29 April 2015 — Todorova Androva v Council

(Case F-78/12) ([1])

(Civil Service — Promotion — 2011 promotion year — Not included in the list of officials eligible for promotion — Article 45 of the Staff Regulations — Two years' seniority in the grade — Failure to take account of the period of work carried out as a member of the temporary staff — Difference in treatment due to the legal nature of the employment of the workers concerned — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Clause 4 — Reliance — Exclusion)

(2015/C 198/65)

Language of the case: French

Parties

Applicant: Viara Todorova Androva (Rhode-Saint-Genese, Belgium) (represented by: M. Velardo, lawyer)

Defendant: Council of the European Union (represented by: J. Herrmann and M. Bauer, acting as Agents)

Intervener in support of the defendant: European Commission (represented by: J. Currall and G. Gattinara, acting as Agents)

Re:

Annulment of the Council's decision not to include the applicant in the list of officials eligible for promotion in respect of 2011.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders Ms Todorova Androva to bear her own costs and to pay the costs incurred by the Council of the European Union;*

3. *Orders the European Commission and the European Court of Auditors to bear their own costs.*

([1]) OJ C 295, 29.9.2012, p. 34.

Judgment of the Civil Service Tribunal (Second Chamber) of 29 April 2015 — CJ v ECDC

(Joined Cases F-159/12 and F-161/12) ([1])

(Civil service — Contract staff — Fixed term contract — Termination — Breakdown in the relationship of trust — Right to be heard — Infringement)

(2015/C 198/66)

Language of the case: English

Parties

Applicant: CJ (represented by: V. Kolias, lawyer)

Defendant: European Centre for Disease Prevention and Control (represented: initially by R. Trott, acting as Agent, and by A. Duron and D. Waelbroeck, lawyers, and subsequently by J. Mannheim and A. Daume, acting as Agents, and by A. Duron and D. Waelbroeck, lawyers)

Re in Case F-159/12:

Application for the annulment of the decision to terminate the applicant's contract, his re-instatement in the service and payment to him of the difference between the emoluments he might have continued to receive and the allowance he receives, with the addition of interest.

Re in Case F-161/12:

Application for payment of damages for the non-material damage suffered by the applicant due to his dismissal.

Operative part of the judgment

The Tribunal:

1) *Annuls the decision of 24 February 2012 of the Director of the European Centre for Disease Prevention and Control terminating CJ's contract as a member of the contract staff;*

2) *Dismisses the action in Case F-159/12 as to the remainder;*

3) *Dismisses the action in Case F-161/12;*

4) *Declares that, in Case F-159/12, the parties shall bear their own costs;*

5) *Declares that, in Case F-161/12, CJ shall bear his own costs and orders him to pay the costs incurred by the European Centre for Disease Prevention and Control in that case;*

6) *Orders CJ, in Case F-159/12, to pay the Tribunal a sum of EUR 2 000 in order to refund part of the avoidable expenditure which the Tribunal was forced to incur.*

([1]) OJ C 63, 2.3.2013, p. 26 and OJ C 55, 23.2.2013, p. 27.

Judgment of the Civil Service Tribunal (Single Judge) of 29 April 2015 — Ibánez Martínez v Parliament

(Case F-17/14) ([1])

(Civil Service — Officials — Award of merit points — Opinion of the Reports Committee — Wide discretion of the administration — Equal treatment)

(2015/C 198/67)

Language of the case: French

Parties

Applicant: Carlos Ibánez Martínez (Leeuw-Saint-Pierre, Belgium) (represented by: M. Casado García-Hirschfeld, lawyer)

Defendant: European Parliament (represented by: V. Montebello-Demogeot and N. Chemaï, acting as Agents)

Re:

Application for the annulment of the decision not to award the applicant three merit points in the 2012 promotion year

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

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

(1) OJ C 184, 16.6.2014, p. 41.

Order of the Civil Service Tribunal (Third Chamber) of 30 April 2015 — Maraoud v EEAS

(Case F-71/14) (1)

(Civil Service — Staff of the EEAS — Member of the contractual staff — Mission in a third country — Workplace accident — Allowance for living conditions — Days of leave not taken — Reimbursement of healthcare — Failure to follow the pre-litigation procedure — Manifestly inadmissible)

(2015/C 198/68)

Language of the case: French

Parties

Applicant: Hayet Maraoud (Brussels, Belgium) (represented by: L.F. de Castro Fernandez and J.-L. Gillain, lawyers)

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

Re:

Application for annulment of the decision no longer to pay the allowance for living conditions (ALC), the additional payment (AP) based on the living conditions in the applicant's place of employment and a daily allowance (DA) and to pay for 49 days' leave not taken in respect of 2012 and a claim for compensation for the harm caused by a failure to offer aid or assistance and abandonment following the workplace accident suffered by the applicant.

Operative part of the order

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

2. *Ms Maraoud shall bear her own costs and pay the costs incurred by the European External Action Service.*

(1) OJ C 388, 3.11.2014, p. 29.

Order of the Civil Service Tribunal (Third Chamber) of 27 April 2015 — Meyer v Commission

(Case F-90/14) (1)

(Civil Service — Temporary staff — Remuneration — Family allowances — Refusal to grant the dependent child allowance — Article 2(3)(b) of Annex VII to the Staff Regulations — Child aged between 18 and 26 years receiving educational or vocational training — Education allowance — Article 3(1) of Annex VII to the Staff Regulations — Child attending regularly and full-time an educational establishment — Break in the studies — Action manifestly unfounded)

(2015/C 198/69)

Language of the case: German

Parties

Applicant: Ronald Meyer (Tallinn, Estonia) (represented by: H.-R. Ilting, lawyer)

Defendant: European Commission (represented by: J. Currall and T.S. Bohr, acting as Agents)

Re:

Application, firstly, to annul the decision not to grant the applicant the dependent child allowance from 1 September 2013 because his child no longer receives 'educational or vocational training' within the meaning of Article 2 of Annex VII of the Staff Regulations of Officials and, secondly, to order his employer to continue to grant him that allowance and to reimburse him for all medical expenses for his child retroactively from 1 September 2013.

Operative part of the order

1. *The action is dismissed.*

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

(1) OJ C 448, 15.12.2014, p. 39.

Order of the Civil Service Tribunal of 29 April 2015 — Dimitriou v ENISA

(Case F-112/13) (1)

(2015/C 198/70)

Language of the case: Greek

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

(1) OJ C 85, 22.3.2014, p. 26.

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