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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Action brought on 19 January 2015 — European Commission v Kingdom of the Netherlands

(Case C-22/15)

(2015/C 228/02)

Language of the case: Dutch

Parties

Applicant: European Commission (represented by: L. Lozano Palacios and G. Wils acting as Agents)

Defendant: Kingdom of the Netherlands

Form of order sought

The Commission claims that the Court should:

— find that by granting the value-added-tax exemption for the hiring of quays and moorings to the members of water sports associations not employing one or more persons for the provision of their services, in respect of sailing or leisure activities which cannot be equated with the practice of sport or physical education, the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 2(1), 24(1) and 133 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('the VAT Directive') ([1]), in conjunction with Article 132(1)(m) thereof;

— find that in limiting the VAT exemption for hiring to water sports associations not employing one or more persons, when the quays and moorings are hired to members taking part in a sport and the hiring is closely linked to and essential for the practice of that sport, the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 2 (1), 24(1) and 133 of Directive 2006/112/EC in conjunction with Article 132(1)(m) thereof;

— order the Kingdom of the Netherlands to pay the costs.

Pleas in law and main arguments

1. Directive 2006/112/EC requires the Member States to exempt the supply of certain services closely linked to sport or physical education by non-profit-making organisations to persons taking part in sport or physical education.

2. Article 11(1)(e) of the 1968 Netherlands Law on Turnover Tax exempts from VAT the provision of services by sports associations to their members, with the exception of the services provided by water sports associations which, in order to provide their services, have recourse to one or more persons employed by them, in so far as those services consist in the carrying out, with the help of those persons, of activities in relation to vessels or in the provision of quays and moorings.

3. The Commission contends that the Netherlands exemption is both too broad and too narrow.

4. First of all, the Commission takes issue with the fact that the VAT exemption is not limited to the hiring of quays and moorings to members of non-profit-making organisations taking part in sport, but also extends to the hiring of quays and moorings to the members of associations which, whether on a purely recreational or perhaps even residential basis, use the vessel located in the hired quay or mooring, without leaving the location. The exemption is to that extent contrary to Articles 2(1), 24(1) and 133 of the VAT Directive.

5. In addition, the Commission takes issue with the fact that, in order to benefit from the exemption, the associations in question must not have any employees. The Netherlands thereby adds a condition that goes beyond what is permitted by Article 133 of the VAT Directive (in conjunction with Article 132(1)(m) thereof).

(1) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Juzgado de lo Mercantil No 1 de Granada (Spain) lodged on 1 April 2015 — Francisco Gutiérrez Naranjo v BBK Bank Cajasur, S.A.U.

(Case C-154/15)

(2015/C 228/03)

Language of the case: Spanish

Referring court

Juzgado de lo Mercantil No 1 de Granada

Parties to the main proceedings

Applicant: Francisco Gutiérrez Naranjo

Defendant: BBK Bank Cajasur, S.A.U.

Questions referred

1) In such cases, is an interpretation according to which an unfair term declared void nonetheless produces effects until that declaration is made compatible with the interpretation of 'non-binding' in Article 6(1) of Directive 93/13/EEC (1)? Therefore, even though the term has been declared void, will the effects produced by that term while it was in force be considered not to be invalidated or ineffective?

2) Is an injunction that may be issued to desist from using a particular term (in accordance with Articles 6(1) and 7(1)) in an individual action brought by a consumer when such a declaration is made compatible with a limitation of the effects of a declaration of nullity? May (the courts) alter the reimbursement of any sums paid by the consumer — which the seller or supplier is obliged to reimburse — under the term subsequently declared void *ex tunc*, for want of information and/or of transparency?

(1) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts. OJ 1993 L 95, p. 29.

Request for a preliminary ruling from the Benelux Gerechtshof lodged on 13 April 2015 — Montis Design BV v Goossens Meubelen BV

(Case C-169/15)

(2015/C 228/04)

Language of the case: Dutch

Referring court

Benelux Gerechtshof

Parties to the main proceedings

Applicant: Montis Design BV

Defendant: Goossens Meubelen BV

Questions referred

1) Is the term of protection referred to in Article 10, in conjunction with Article 13(1), of Directive 93/98/EEC (the Term of Protection Directive) ([1]) applicable to rights of copyright that were originally protected by national copyright law but which lapsed before 1 July 1995 on the ground that a formal condition had not been satisfied (in due time), more specifically because a maintenance declaration, as referred to in Article 21(3) of the Uniform Benelux Law on Designs and Models (old version), had not been filed (in due time)?

2) If the answer to Question 1 is in the affirmative:

   Must the Term of Protection Directive be construed as precluding a rule of national legislation under which the copyright in a work of applied art that lapsed before 1 July 1995 on the ground that a formal condition had not been satisfied is deemed to have lapsed permanently?

3) If the answer to Question 2 is in the affirmative:

   If, under national legislation, the copyright in question is to be considered to revive or to be revived at a certain time, from what date does such revival occur?

([1]) Council Directive 93/98/EEC of 29 October 1993 harmonising the term of protection of copyright and certain related rights (OJ 1993 L 290, p. 9), now Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the terms of protection of copyright and certain related rights (codified version) (OJ 2006 L 372, p. 12).

Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 21 April 2015 — Daimler AG v Együd Garage Gépjárműjavító és Értékesítő Kft.

(Case C-179/15)

(2015/C 228/05)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicant: Daimler AG

Defendant: Együd Garage Gépjárműjavító és Értékesítő Kft.

Question referred

Must Article 5(1)(b) of First Council Directive 89/104/EEC ([1]) of 21 December 1988 to approximate the laws of the Member States relating to trade marks be interpreted as meaning that the trade mark proprietor is entitled to take action against a third party named in an advertisement on the internet, which features a sign likely to be confused with the trade mark, referring to a service of that third party identical to the goods or services for which the trade mark is registered, in such a way that the public might be given the mistaken impression that there is an official commercial relationship between the undertaking of that third party and the trade mark proprietor, even though the advertisement was not placed on the internet by the person featuring in it or on his behalf, and it is possible to access that advertisement on the internet despite the fact that the person named in it took all reasonable steps to have it removed, but did not succeed in doing so?

([1]) First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 24 April 2015 — Istituto di Ricovero e Cura a Carattere Scientifico (IRCCS) — Fondazione Santa Lucia v Cassa conguaglio per il settore elettrico and Others

(Case C-189/15)

(2015/C 228/06)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Istituto di Ricovero e Cura a Carattere Scientifico (IRCCS) — Fondazione Santa Lucia

Defendants: Cassa conguaglio per il settore elettrico, Ministero dello Sviluppo economico, Ministero dell'Economia e delle Finanze, Autorità per l'energia elettrica e il gas

Questions referred

1) Do Italian rules (such as those at issue in the main proceedings) which, first, include a definition of 'energy-intensive businesses' in line with the Directive and, secondly, grant companies of this type payment incentives covering general electricity charges (and not incentives relating to taxation of energy products and electricity as such) fall within the scope of Directive 2003/96/EC ([1])?

If so:

2) Does EU law, and in particular Articles 11 and 17 of Directive 2003/96/EC, preclude a regulatory and administrative system (such as that in force in Italian law and described in the present order) which, first, opts to introduce a system of concessions on the consumption of energy products (electricity) by 'energy-intensive businesses' within the meaning of the above-mentioned Article 17 and, secondly, restricts the possibility of benefitting from those concessions to 'energy-intensive' businesses operating in the manufacturing sector only, thereby excluding businesses operating in other production sectors?

([1]) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51).

Reference for a preliminary ruling from First-tier Tribunal (Tax Chamber) (United Kingdom) made on 29 April 2015 — Invamed Group Ltd, Invacare UK Ltd, Days Healthcare Ltd, Electric Mobility Euro Ltd, Medicare Technology Ltd, Sunrise Medical Ltd v Commissioners for Her Majesty's Revenue & Customs

(Case C-198/15)

(2015/C 228/07)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicants: Invamed Group Ltd, Invacare UK Ltd, Days Healthcare Ltd, Electric Mobility Euro Ltd, Medicare Technology Ltd, Sunrise Medical Ltd

Defendant: Commissioners for Her Majesty's Revenue & Customs

Questions referred

The Questions referred relate to Annex I of Council Regulation (EEC) No 2658/87 ([1]) on the tariff and statistical nomenclature and on the Common Customs Tariff as amended by Commission Regulation (EC) No 1549/2006, and to heading 8713 therein.

1. Do the words 'for disabled persons' mean 'only' for disabled persons?

2. What is the meaning of the words 'disabled persons'; in particular:

   a) is their meaning confined to persons who have a disability in addition to a limitation on their ability to walk or to walk easily; or does it include persons whose only limitation is on their ability to walk or to walk easily?

   b) does 'disabled' connote more than a marginal limitation on some ability?

   c) is a temporary limitation such as results from a broken leg capable of being a disability?

3. Does the CNEN of 4 January 2005 (2005/C1/03) ([2]), in excluding scooters fitted with separate steering columns, alter the meaning of the heading 8713?

4. Does the possibility of use of a vehicle by a person without a disability affect the tariff classification if it can be said that the vehicle has special features which alleviate the effects of a disability?

5. If suitability for use by non-disabled persons is a relevant consideration, to what extent should the disadvantages of such use also be a relevant consideration in determining such suitability?

([1]) OJ L 301, p. 1.
([2]) Explanatory notes to the Combined Nomenclature of the European Union OJ C 137, p. 1.

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 4 May 2015 — Valsts ieņēmumu dienests v SIA Latspas

(Case C-204/15)

(2015/C 228/08)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Applicant: Valsts ieņēmumu dienests

The other party to the proceedings being: SIA Latspas

Questions referred

1. Should Article 29(1) of Council Regulation (EEC) No 2913/92 ([1]) of 12 October 1992 establishing the Community Customs Code be interpreted as meaning that the method laid down in that article is also applicable when the import of the goods and their release for free circulation in the customs territory of the Community took place as a consequence of the fact that during the process of transit the goods were removed from customs supervision, the goods concerned being goods liable to import duties, and the goods were not sold for export to the customs territory of the Community but for export outside the Community?

2. Should the expression 'sequentially' used in Article 30(1) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, in the light of the right to good administration enshrined in Article 41 of the Charter of Fundamental Rights of the European Union read together with the principle that reasons must be stated for administrative measures, be interpreted as meaning that, in order to be able to conclude that the applicable method is that set out in Article 31 of the regulation, the customs authorities are under an obligation to state in all administrative measures why in those specific circumstances the methods for determination of customs value of goods set out in Articles 29 and 30 cannot be used?

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

Action brought on 12 May 2015 — European Commission v Federal Republic of Germany

(Case C-220/15)

(2015/C 228/09)

Language of the case: German

Parties

Applicant: European Commission (represented by: D. Kukovec, A. C. Becker, Agents)

Defendant: Federal Republic of Germany

Form of order sought

— Declare that the Federal Republic of Germany acted in breach of its obligations under Article 6(1) of Directive 2007/23/EC ([1]) by stipulating, in the First ordinance to the Law on Explosives (Erste Verordnung zum Sprengstoffgesetz, 'the First SprengV'), beyond the requirements of the directive, that, notwithstanding a previous conformity assessment of pyrotechnic articles, the procedure laid down in Paragraph 6(4) of the First SprengV must be completed before their placing on the market, and that, pursuant to the fifth sentence of Paragraph 6(4) of the First SprengV, the *Bundesanstalt für Materialforschung und -prüfung* (Federal Institute for Materials Research and Testing) is entitled to examine and, if necessary, amend instructions of all pyrotechnic articles.

— Order Federal Republic of Germany to pay the costs.

Pleas in law and main arguments

The present action concerns the question to what extent the Member States can impose additional national requirements for the placing on the market of pyrotechnic articles on manufacturers and importers of pyrotechnic articles within the meaning of Directive 2007/23/EC also for such products which, as evidenced by a marking with the CE marking, comply with the essential requirements of the directive. In this connection, the legislation contested by the Commission does not set any content requirements for those products, but merely provides for an additional procedure which is preliminary to market access within the territory of the defendant.

Regardless of the evidence of conformity, the defendant requires that all pyrotechnic articles within the meaning of Directive 2007/23/EC be indicated to a federal institute provided for by law, which assigns an identification number in proof of the identification. Where the procedure takes a significant length of time, that procedure may inter alia also involve the payment of an administrative charge and the delivery of test samples. The Commission considers the requirement of such a procedure to be an infringement of the free movement, guaranteed in Article 6 of Directive 2007/23/EC, for all pyrotechnic articles which conform to the requirements of the directive.

The adoption of Directive 2013/29/EU ([2]), with which Directive 2007/23/EC is repealed with effect from 1 July 2015, has also not changed that situation. That is because, first, the time period which is relevant for assessing whether a Member State has failed to fulfil its obligations is the expiry of the time period stated in the reasoned opinion (in the present case 27 March 2014). Secondly, in Article 4(1) thereof, Directive 2013/29/EU contains a provision which is identical to Article 6 (1) of Directive 2007/23/EC, for the purpose of guaranteeing free movement for all pyrotechnic articles which conform to the requirements of EU law.

The infringement, alleged in the present case, by the defendant therefore consists, essentially, in a procedural condition for the placing on the market of pyrotechnic articles which, in the Commission's view, is inadmissible and beyond the harmonised requirements of EU law. As a procedural requirement, the contested legislation might at first sight give the impression of merely causing, in a very few cases, a reasonable delay in the marketing of those products. However, the actual effects of that legislation are not to be underestimated. In this regard account should first of all be taken of the fact that the defendant is one of the biggest, if not the biggest, sales markets for pyrotechnic articles in the internal market. In addition, it should be noted that certain pyrotechnic articles within the territory of the defendant may be sold to consumers only once a year, and only for a short period of time, by which the temporal dimension of that market access is all the more important. In this respect, lastly, the fact that, under national law, the legislation contested in the present case is implemented by the same authority which is also authorised to conduct the conformity assessment as the notified body within the meaning of Directive 2007/23/EC also merits consideration. The requirement of an additional procedure in the national law of the defendant therefore gives that authority a competitive advantage over the notified bodies of other Member States. In view of those practical effects of the contested legislation, the present case by no means involves merely the legal assessment, on grounds of principle, of a hindrance to economic operators from marketing products which have already been assessed by a notified body other than the German notified body as in compliance with the requirements of EU law.

([1]) Directive 2007/23/EC of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles, OJ 2007 L 154, p. 1.

([2]) Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast), OJ 2013 L 178, p. 27.

Appeal brought on 15 May 2015 by Rose Vision, S.L. against the judgment of the General Court (Fifth Chamber) delivered on 5 March 2015 in Case T-45/13 Rose Vision and Seseña v Commission

(Case C-224/15 P)

(2015/C 228/10)

Language of the case: Spanish

Parties

Appellant: Rose Vision, S.L. (represented by: J.J. Marín López, abogado)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court of Justice should:

— set aside the judgment of the General Court (Fifth Chamber) delivered on 5 March 2015 in Case T-45/13 *Rose Vision and Seseña* v *Commission*, EU:T:2015:138;

— annul the decisions to suspend payments adopted by the Commission and by other European Union bodies (in particular, the Research Executive Agency) in the context of audits 11-INFS-025 and 11-BA119-016, with the consequences indicated in paragraph 51 of the appeal;

— declare that the Commission breached the contractual terms of the FutureNEM project grant agreement relating to the confidentiality obligation, and must therefore compensate Rose Vision in the terms set out in paragraph 93 of the appeal;

— declare that the Commission incurred tortious liability as regards Rose Vision by including it in alert level W2 of the Early Warning System (EWS) established by Decision 2008/969/EC [1], Euratom, on the Early Warning System for the use of authorising officers of the Commission and the executive agencies, and suspending the payments, and must therefore compensate it for the property or pecuniary damage and the non-pecuniary damage indicated in paragraph 122 of the appeal.

Pleas in law and main arguments

1. Error of law consisting in finding that there was an extension of the time limit laid down in paragraph 5 of point II.22 of general conditions FP7 for the presentation of the final versions of audit reports 11-INFS-025 and 11-BA119-016 (paragraphs 93 and 95 of the judgment under appeal) and that the Commission did not breach the grant agreement (paragraph 97 of the judgment under appeal).

2. Error of law consisting in the failure to state reasons for the assertion that the draft report of audit 11-INFS-025 'already showed the existence of certain ineligible personnel costs as well as the infringement of certain contractual provisions, which was confirmed in the final version of the audit report' (paragraph 99 of the judgment under appeal).

3. Error of law consisting in stating, as regard audit report 11-INFS-025, that Rose Vision 'had not put forward any evidence capable of calling into question the findings in that audit report' (paragraph 101 of the judgment under appeal) and that the Commission had not breached the grant agreement (paragraph 102 of the judgment under appeal).

4. Error of law consisting in denying the existence of a breach of the contractual provisions of the FutureNEM project grant agreement relating to the confidentiality obligation (paragraph 104 of the judgment under appeal).

5. Error of law consisting in rejecting the European Union's liability for the damage arising from Rose Vision's inclusion in alert level W2 of the Early Warning System (EWS) established by Decision 2008/969/EC, and the suspensions of payment to Rose Vision (paragraph 120 of the judgment under appeal).

[1] OJ 2008 L 344, p. 125.

GENERAL COURT

Judgment of the General Court of 30 April 2015 — France v Commission

(Case T-259/13) ([1])

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Rural development support measures — Areas with natural handicaps — Flat rate financial correction — Expenditure incurred by France — Loading criterion — On-the-spot controls — Procedural safeguards)

(2015/C 228/11)

Language of the case: French

Parties

Applicant: French Republic (represented by: E. Belliard, D. Colas, C. Candat and G. de Bergues, acting as Agents)

Defendant: European Commission (represented by: D. Bianchi and G. von Rintelen, acting as Agents)

Intervener in support of the applicant: Kingdom of Spain (represented initially by N. Díaz Abad and subsequently by A. Sampol Pucurull, abogados del Estado)

Re:

Application for the partial annulment of Commission Implementing Decision 2013/123/EU of 26 February 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2013 L 67, p. 20).

Operative part of the judgment

The Court:

1. *Annuls Commission Implementing Decision 2013/123/EU of 26 February 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) in so far as it applies a financial correction to the French Republic in the context of rural development support measures for sheep not covered by an application for sheep premiums for the accounting years 2008 and 2009;*

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

3. *Orders the French Republic to bear three quarters of its own costs and three quarters of the costs incurred by the European Commission;*

4. *Orders the European Commission to bear one quarter of its own costs and one quarter of the costs incurred by the French Republic;*

5. *Orders the Kingdom of Spain to bear its own costs.*

([1]) OJ C 207, 20.7.2013.

Order of the General Court of 20 May 2015 — Vinci Energies Schweiz AG v OHIM — Accentro Real Estate (ESTAVIS 1993)

(Case T-327/11) ([1])

(Community trade mark — Opposition — Withdrawal of the opposition — No need to adjudicate)

(2015/C 228/12)

Language of the case: German

Parties

Applicant: Vinci Energies Schweiz AG (Zürich, Switzerland) (represented by: M. Graf, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented initially by G. Schneider and subsequently by G. Schneider and D. Botis, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Accentro Real Estate AG, previously Estavis AG (Berlin, Germany) (represented initially by T. Weiland and subsequently by T. Weiland and S. Müller, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 31 March 2011 (case R 231/2010-1), relating to opposition proceedings between Vinci Energies Schweiz AG and Estavis AG.

Operative part of the order

1. *There is no longer any need to adjudicate in the action.*

2. *The applicant shall pay its own costs and those incurred by the defendant.*

3. *The intervener shall pay its own costs.*

([1]) OJ C 269, 10.9.2011.

Order of the General Court of 7 May 2015 — Lidl Stiftung v OHIM — Adveo Group International (UNITED OFFICE)

(Case T-391/12) ([1])

(Community trade mark — Invalidity proceedings — Withdrawal of the application for a declaration of invalidity — No need to adjudicate)

(2015/C 228/13)

Language of the case: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: M. Wolter and S. Paul, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Poch and S. Hanne, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Adveo Group International, SA, formerly Unipapel Industria, Comercio y Servicios, SL (Tres Cantos, Spain) (represented by: A. Tarí Lázaro, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 21 June 2012 (Case R 745/2011-1), concerning invalidity proceedings between Lidl Stiftung & Co. KG and Adveo Group International, SA.

Operative part of the order

1. *There is no need to adjudicate on the action.*

2. *The applicant shall bear its own costs and those incurred by the defendant. The intervener shall bear its own costs.*

(1) OJ C 355, 17.11.2012.

Order of the General Court of 18 May 2015 — Out of the blue v OHIM — Mombauer (REFLEXX)

(Case T-48/13) (1)

(Community trade mark — Opposition — Withdrawal of the opposition — No need to adjudicate)

(2015/C 228/14)

Language of the case: German

Parties

Applicant: Out of the blue KG (Lilienthal, Germany) (represented by: G. Hasselblatt and I. George, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: initially A. Poch and subsequently S. Hanne, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Meinhard Mombauer (Cologne, Germany) (represented by: M. Vohwinkel, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 19 November 2012 (Case R 1656/2011-4), relating to opposition proceedings between Out of the blue KG and Meinhard Mombauer

Operative part of the order

1. *There is no longer any need to adjudicate on the action.*

2. *The applicant and the intervener shall bear their own costs and each of them shall pay half of the costs incurred by the defendant.*

(1) OJ C 86, 23.3.2013.

Order of the General Court of 21 May 2015 — APRAM v Commission

(Case T-403/13) ([1])

(Action for annulment — Cohesion Fund — Regulation (EU) No 1164/94 — Reduction of financial assistance — Lack of direct concern — Inadmissibility)

(2015/C 228/15)

Language of the case: Portuguese

Parties

Applicant: APRAM — Administração dos Portos da Região Autónoma da Madeira, SA (Funchal, Portugal) (represented by: M. Gorjão-Henriques, lawyer)

Defendant: European Commission (represented by: P. Guerra e Andrade and D. Recchia, acting as Agents)

Re:

Action for annulment of Commission Decision C(2013) 1870 final, of 27 March 2013, which reduces the contribution from the Cohesion Fund to the project 'Development of Port infrastructures of the Autonomous Region of Madeira — Port of Caniçal', Madeira, Portugal.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *APRAM — Administração dos Portos da Região Autónoma da Madeira, SA is to bear its own costs and to pay those incurred by the European Commission.*

([1]) OJ C 367, 14.12.2013.

Order of the General Court of 18 May 2015 — Ackermann Saatzucht and Others v Parliament and Council

(Case T-559/14) ([1])

('Action for annulment — Regulation (EU) No 511/2014 — Compliance measures for users from the Nagoya protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization in the Union — Lack of individual concern — Inadmissibility')

(2015/C 228/16)

Language of the case: English

Parties

Applicant: Ackermann Saatzucht (Irlbach, Germany) and the other applicants listed in the annex to the order (represented by: P. de Jong, P. Vlaemminck and B. Van Vooren, lawyers)

Defendants: European Parliament (represented by L. Visaggio, J. Rodrigues and R. Van de Westelaken, acting as Agents); and Council of the European Union (represented by: M. Moore and M. Simm, acting as Agents)

Re:

Action for annulment of Regulation (EU) No 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (OJ 2014 L 150, p. 59).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *There is no need to rule on the application of the European Seed Association (ESA) for leave to intervene.*

3. *Ackermann Saatzucht GmbH & Co. KG and the other applicants whose names appear in the annex are to bear their own costs and to pay those incurred by the European Parliament and the Council of the European Union.*

([1]) OJ C 388, 3.11.2014.

Order of the General Court of 18 May 2015 — ABZ Aardbeien Uit Zaad Holding and Others v Parliament and Council

(Case T-560/14) ([1])

(Action for annulment — Regulation (EU) No 511/2014 — Measures concerning compliance by users in the Union with the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation — Lack of individual concern — Inadmissibility)

(2015/C 228/17)

Language of the case: English

Parties

Applicants: ABZ Aardbeien Uit Zaad Holding BV (Hoorn NH, Netherlands) and the other applicants whose names are listed in the annex to the order (represented by: P. de Jong, P. Vlaemminck and B. Van Vooren, lawyers)

Defendants: European Parliament (represented by: L. Visaggio, J. Rodrigues and R. Van de Westelaken, acting as Agents) and Council of the European Union (represented by: M. Moore and M. Simm, acting as Agents)

Re:

Action for annulment of Regulation (EU) No 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union (OJ 2014 L 150, p. 59).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *There is no need to rule on the application for leave to intervene lodged by the European Seed Association (ESA) and the Association internationale des producteurs de l'horticulture (AIPH).*

3. *ABZ Aardbeien Uit Zaad Holding BV and the other applicants whose names are listed in the annex shall bear their own costs and pay those incurred by the European Parliament and the Council of the European Union.*

([1]) OJ C 388, 3.11.2014.

Action brought on 12 February 2015 — NK Rosneft a.o. v Council

(Case T-69/15)

(2015/C 228/18)

Language of the case: English

Parties

Applicants: NK Rosneft OAO (Moscow, Russia); RN-Shelf-Arctic OOO (Moscow); RN-Shelf-Dalniy Vostok ZAO (Yuzhniy Sakhalin, Russia); RN-Exploration OOO (Moscow); and Tagulskoe OOO (Krasnoyarsk, Russia) (represented by: T. Beazley, QC)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— annul article 1(1) of Council Decision 2014/872/CFSP of 4 December 2014 ('the second Amending Decision'), amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and Decision 2014/659/CFSP amending Decision 2014/512/CFSP ([1]);

— annul article 1(3)-(8) of Council Regulation (EU) No 1290/2014 of 4 December 2014 ('the second Amending Regulation') amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and amending Regulation (EU) No 960/2014 amending Regulation (EU) No 833/2014 ([2]);

— further or alternatively, annul Council Decision 2014/872/CFSP and Council Regulation (EU) No 1290/2014 in so far as they apply to the applicants; and

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

Pleas in law and main arguments

In support of the action, the applicants rely on nine principal pleas in law. By these pleas the applicants submit that the Council was not competent to adopt, or, if it had competence, could not lawfully adopt, the Second Amending Measures.

1. First plea in law, alleging that the Second Amending Measures fail to provide reasons sufficient to permit review of legality and infringe the applicants' defence rights and rights to effective judicial protection.

2. Second plea in law, alleging that the aim pursued by the Second Amending Measures is not a legitimate CFSP aim.

3. Third plea in law, alleging that the Second Amending Measures are in breach of the Union's international law obligations under the Partnership and Cooperation Agreement with Russia and/or the General Agreement on Tariffs and Trade.

4. Fourth plea in law, alleging that the Second Amending Regulation does not disclose a rational connection between the aims of the Decision and the means for giving effect thereto.

5. Fifth plea in law, alleging that the Second Amending Regulation does not give proper effect to the provisions of the Decision in material respects.

6. Sixth plea in law, alleging that the Second Amending Measures are contrary to the principle of equal treatment and non-arbitrariness.

7. Seventh plea in law, alleging that the Second Amending Measures are disproportionate to the aim of the Decision and, in consequence, unduly encroach upon Union legislative competences and entail a disproportionate interference with the Applicants' fundamental rights.

8. Eighth plea in law, alleging that the Second Amending Measures entail a misuse of powers.

9. Ninth plea in law, alleging that the Second Amending Measures offend against the principle of legal certainty owing to the lack of clarity of key terms.

(1) OJ L 349, 5/12/2014, p. 58.
(2) OJ L 349, 5/12/2014, p. 20.

Action brought on 25 February 2015 — Opko Ireland Global Holdings v OHIM — Teva Pharmaceutical Industries (ALPHAREN)

(Case T-106/15)

(2015/C 228/19)

Language in which the application was lodged: English

Parties

Applicant: Opko Ireland Global Holdings Ltd (Dublin, Ireland) (represented by: S. Malynicz, Barrister, and A. Smith, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Teva Pharmaceutical Industries Ltd (Jerusalem, Israel)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'ALPHAREN' — Application for registration No 4 320 297

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 26 November 2014 in Case R 2387/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay its own costs and those of the applicant.

Pleas in law

— Infringement of Article 1(d)(2) of Regulation No 216/96 in that a member of the Board who took the original 2009 Board of Appeal decision was also a member of the Board that took the contested decision;

— Infringement of Article 50 of the Implementing Regulation by relying upon new evidence not before OHIM at the first hearing of the opposition;

— Infringement of Article 8(1)(b) of Regulation No 207/2009 by failing to impose the burden of proof in the opposition to prove the similarity of the goods in issue upon the opponent;

— Infringement of Article 8(1)(b) of Regulation No 207/2009 in that the Board of Appeal erred in relation to the identification of the relevant public and overall in the assessment of the likelihood of confusion.

Action brought on 20 March 2015 — Evropaïki Dynamiki/Parliament

(Case T-136/15)

(2015/C 228/20)

Language of the case: English

Parties

Applicant: Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: I. Ampazis and M. Sfyri, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the decision of 13 February 2015 (302534) of the vice president of the European Parliament rejecting the confirmatory application of the applicant for access to European Parliament documents relating to all requests for quotation in all lots of Call for Tenders No ITS08 — External service provision for IT services 2008S/149-199622 (pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents) and confirming the decision of the Parliament's Secretary General dated 18 December 2014, and

— order the Parliament to pay the applicant's legal and other costs and expenses incurred in connection with this application, even if the application is rejected.

Pleas in law and main arguments

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

1. First, the applicant argues that the Parliament did not proceed to an individual assessment of the requested documents and refused even partial access to the requested documents, in breach of article 4(6) of Regulation No 1049/2001 ([1]).

2. Second, the applicant contends that the justifications provided for by the Parliament with regards to the protection of public security, privacy of the individual, commercial interests of a natural or legal person and decision making progress should be rejected as wholly unfounded.

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

Action brought on 31 March 2015 — European Dynamics Luxembourg and Evropaïki Dynamiki v Parliament

(Case T-164/15)

(2015/C 228/21)

Language of the case: Greek

Parties

Applicant: European Dynamics Luxembourg (Luxembourg, Luxembourg), Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: I. Ambazis and M. Sfiri, lawyers

Defendant: European Parliament

Form of order sought

The applicants claim that the General Court should:

— Annul the decision of the European Parliament which was made known to the applicants by letter D(2015)7680 of 13 February 2015 and which ranked in third place the applicants' tender for one of eight separate lots and in particular Lot 3, within the framework of the open procurement procedure 2014/S 066-111912 titled 'PE/ITEC-ITS14 — External provision of IT services';

— order the Parliament to pay compensation to the applicants for the loss of the opportunity to be ranked in first place for Lot 3 in the ITS14 framework agreement, which the applicants evaluate *ex aequo et bono* at one million, five hundred thousand euros (EUR 1 500 000), with interest from the date of that decision or such other amount as the Court deems appropriate, and

— order the Parliament to pay the applicants' entire costs.

Pleas in law and main arguments

In the opinion of the applicants, the contested decision should be annulled, under Article 263 TFEU, due to the fact that the Parliament infringed:

1. the obligation to state reasons, and provided an inadequate statement of reasons with regard to the assessment of the applicants' technical offer, with which they participated in the tendering procedure at issue, while it failed to give details of the economic offers of the successful consortiums;

2. the terms of the contractual documents (the tender specification and supplementary guidelines), which the Parliament had itself drawn up, and applied for the assessment of the economic offers of the tenderers a method of calculation which differed from that which was which was set by the said documents, and

3. the terms of the contractual documents and EU law, since it refrained from identification and examination of the issue of the excessively low offers which were submitted.

Action brought on 7 April 2015 — Ryanair and Airport Marketing Services/Commission

(Case T-165/15)

(2015/C 228/22)

Language of the case: English

Parties

Applicants: Ryanair Ltd (Dublin, Ireland); and Airport Marketing Services Ltd (Dublin) (represented by: G. Berrisch, E. Vahida, and G. Metaxas-Maranghidis, lawyers, and B. Byrne, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Articles 1(1), 1(2), and (insofar as these concern Articles 1(1) and 1(2)) Articles 3, 4 and 5 of the European Commission decision of 23 July 2014 in State aid case SA.22614 finding that Ryanair and Airport Marketing Services had received unlawful State aid from the Chambre de Commerce et d'Industrie de Pau-Béarn, incompatible with the internal Market; and

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the decision violates Article 41 of the EU Charter of Fundamental Rights, the principle of good administration, and the applicants' rights of defence, as the Commission failed to allow the applicants access to the file of the investigation and put them in a position where they could effectively make known their views.

2. Second plea in law, alleging a breach of Article 107(1) TFEU, in that the Commission wrongly imputed the measures at issue to the State.

3. Third plea in law, alleging a breach of Article 107(1) TFEU, in that the Commission erroneously refused to rely on a comparator analysis, which would have led to the finding of absence of aid to the applicants. In the alternative, the Commission failed to attribute appropriate value to marketing services, wrongly dismissed the rationale behind the airport's decision to purchase such services, erroneously dismissed the possibility that part of the marketing services may have been purchased for general interest purposes, failed to assess the marketing agreements from the separate market economy operator viewpoints of the owner and the operator of the airport, based its conclusions on incomplete and inappropriate data for its calculation of the airport's profitability, applied an excessively short time horizon, wrongly based its assessment on agreed routes only, and disregarded the network externalities that the airport could expect to gain from its relationship with Ryanair. In any event, even if there was an advantage to the applicants, the Commission failed to establish that the advantage was selective.

4. Fourth plea in law, alleging on a subsidiary basis a breach of Articles 107(1) and 108(2) TFEU, in that the Commission committed a manifest error of assessment and an error of law by finding that the aid to Ryanair and AMS was equal to the cumulated marginal losses of Pau airport instead of the actual benefit to Ryanair and AMS. The Commission should have examined the extent to which the alleged benefit had actually been passed on to Ryanair's passengers. Further, the Commission failed to quantify any competitive advantage that Ryanair enjoyed through Pau airport's (supposedly) below-cost payment flows. Finally, the Commission failed to explain properly why the recovery of the amount of aid specified in the decision was necessary to ensure the re-establishment of the situation prior to the grant of the aid.

Action brought on 4 May 2015 — Beele Engineering v OHIM (WE CARE)

(Case T-220/15)

(2015/C 228/23)

Language of the case: English

Parties

Applicant: Beele Engineering BV (Aalten, Netherlands) (represented by: M. Ring, 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 mark containing the word elements 'WE CARE' — Application for registration No 12 610 143

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 15 January 2015 in Case R 1424/2014-5

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision.

Plea in law

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

Action brought on 4 May 2015 — Beele Engineering v OHIM (WE CARE)

(Case T-222/15)

(2015/C 228/24)

Language of the case: English

Parties

Applicant: Beele Engineering BV (Aalten, Netherlands) (represented by: M. Ring, 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 mark containing the word elements 'WE CARE' — Application for registration No 12 610 275

Contested decision: Decision of the First Board of Appeal of OHIM of 11 February 2015 in Case R 1933/2014-1

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision.

Plea in law

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

Action brought on 27 April 2015 — Morton's of Chicago v OHIM — Mortons the Restaurant (MORTON'S)

(Case T-223/15)

(2015/C 228/25)

Language in which the application was lodged: English

Parties

Applicant: Morton's of Chicago, Inc. (Chicago, United States) (represented by: J. Moss, lawyer)

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

Other party to the proceedings before the Board of Appeal: Mortons the Restaurant Ltd (London, United Kingdom)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: The applicant

Trade mark at issue: Community figurative mark containing the word element 'MORTON'S' — Community trade mark registration No 3 951 291

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 12 February 2015 in Case R 46/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the Respondent to pay the Proprietor's costs.

Pleas in law

— Infringement of Article 8(4) of Regulation No 207/2009;

— Infringement of Article 52(1)(b) of Regulation No 207/2009.

Action brought on 4 May 2015 — QuaMa Quality Management v OHIM — Microchip Technology (medialbo)

(Case T-225/15)

(2015/C 228/26)

Language in which the application was lodged: German

Parties

Applicant: QuaMa Quality Management GmbH (Glashütten, Germany) (represented by: C. Russ, lawyer)

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

Other party to the proceedings before the Board of Appeal: Microchip Technology, Inc. (Chandler, United States of America)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'medialbo' — Application No 11 454 766

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 19 February 2015 in Joined Cases R 1809/2014-4 and R 1680/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision.

Pleas in law

— Infringement of Article 41(1) of Regulation No 207/2009;

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

Action brought on 15 May 2015 — Łabowicz v. OHIM — Pure Fishing (NANO)

(Case T-237/15)

(2015/C 228/27)

Language in which the application was lodged: English

Parties

Applicant: Edward Łabowicz (Kłodzko, Poland) (represented by: M. Żygadło, lawyer)

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

Other party to the proceedings before the Board of Appeal: Pure Fishing, Inc. (Spirit Lake, United States)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark containing the word element 'NANO'– Community trade mark No 6 649 818

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 5 March 2015 in Case R 2426/2013-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

— Misinterpretation and misapplication of Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Articles 76 and 83 of Regulation No 207/2009;

— Breach of Articles 6 and 14 of the European Convention on Human Rights concerning, respectively, the right to a fair trial and the prohibition of discrimination.

Action brought on 13 May 2015 — Novartis v OHIM — Meda (Zimara)

(Case T-238/15)

(2015/C 228/28)

Language in which the application was lodged: English

Parties

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

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

Other party to the proceedings before the Board of Appeal: Meda AB (Solna, Sweden)

Details of the proceedings before OHIM

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

Trade mark at issue: Community word mark 'Zimara' — Application for registration No 9 782 764

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 6 March 2015 in Case R 636/2014-5

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) CTMR.

Action brought on 15 May 2015 — Klyuyev/Council

(Case T-244/15)

(2015/C 228/29)

Language of the case: English

Parties

Applicant: Andriy Klyuyev (Donetsk, Ukraine) (represented by: R. Gherson, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 25) and Council Implementing Regulation (EU) 2015/357 of 5 March 2015 Implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 1) insofar as they apply to the applicant;

— alternatively, declare that article 1(1) of Council Decision 2014/119/CFSP of 5 March 2014 (as amended) and article 3 (1) of Council Regulation (EU) No 208/2014 of 5 March 2014 (as amended), are inapplicable insofar as they apply to the applicant by reason of illegality;

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

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council Decision 2014/119/CFSP of 5 March 2014, as amended (the 'Decision'), insofar as it imposes restrictive measures against the applicant, is inconsistent with the Decision's expressly invoked objectives (e.g. democracy; rule of law; respect for human rights), and does not fall within the principles and objectives of the Common Foreign and Security Policy ('CFSP') set out in article 21 TEU. The conditions for relying on Article 29 TEU are therefore not satisfied by the Decision. As the Decision was invalid, the Council could not rely on article 215(2) TFEU to enact the Council Regulation (EU) No 208/2014 of 5 March 2014, as amended (the 'Regulation'). Recent events have made clear that the applicant will not get fair, independent or unbiased treatment by Ukrainian investigating or judicial authorities.

2. Second plea in law, alleging that the applicant failed to fulfil the criteria for inclusion in the annex to the Decision and the Regulation (together, the 'Contested Measures'). The applicant was not at the date of listing subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets or abuse of office thereby causing a loss to Ukrainian public funds or assets.

3. Third plea in law, alleging that the Council violated the applicant's rights of defence and the right to effective judicial protection. The applicant has not been given serious or credible or concrete evidence in support of a case which would justify the imposition of restrictive measures on him. In particular, there is no evidence of any careful or impartial examination as to whether the alleged reasons said to justify redesignation are well founded in light of the representations made by the applicant.

4. Fourth plea in law, the Council failed to give the applicant sufficient reasons for his inclusion. The reasons contain no detail and consist merely of a general stereotypical formulation.

5. Fifth plea in law, the Council severely infringed the applicant's fundamental rights to property and reputation. The restrictive measures were not 'provided for by law'; they were imposed without proper safeguards enabling the Applicant to put his case effectively to the Council; they are not restricted to any specific property which is said to represent misappropriated state funds or even limited to the amount of funds alleged to have been misappropriated; they have been treated as an indication of guilt leading to adverse actions in other jurisdictions.

6. Sixth plea in law, the Council relied on materially inaccurate facts. The allegation that the applicant is subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets or abuse of office thereby causing a loss to Ukrainian public funds or assets or likely to be guilty of the same is demonstrably false.

7. Seventh plea in law, raised in support of the declaration of illegality, alleging that if Article 1(1) the Decision and Article 3(1) of the Regulation are to be interpreted so as to capture (a) any investigation by a Ukrainian authority irrespective of whether there is any judicial decision or proceedings underpinning, controlling or overseeing it; and/or (b) any 'abuse of office as a public-office holder in order to procure an unjustified advantage' irrespective of whether there is an allegation of misappropriation of State funds, the designation criterion would, given the arbitrary width and scope that would result from such a broad interpretation, lack a proper legal base; and/or be disproportionate to the objectives of the Decision and Regulation. The designation criterion would therefore be unlawful.

Order of the General Court of 21 May 2015 — Stichting Greenpeace Nederland and PAN Europe v Commission

(Case T-232/11) ([1])

(2015/C 228/30)

Language of the case: English

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

([1]) OJ C 194, 2.7.2011.

Order of the General Court of 8 May 2015 — United Kingdom v ECB

(Case T-45/12) ([1])

(2015/C 228/31)

Language of the case: French

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

([1]) OJ C 98, 31.3.2012.

Order of the General Court of 21 May 2015 — ClientEarth and Others v Commission

(Case T-8/13) ([1])

(2015/C 228/32)

Language of the case: English

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

([1]) OJ C 71, 9.3.2013.

Order of the General Court of 18 May 2015 — GRE v OHIM — Villiger Söhne (LIBERTE american blend)

(Case T-30/13) ([1])

(2015/C 228/33)

Language of the case: German

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

([1]) OJ C 79, 16.3.2013.

Order of the General Court of 8 May 2015 — United Kingdom v ECB

(Case T-93/13) ([1])

(2015/C 228/34)

Language of the case: English

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

([1]) OJ C 114, 20.4.2013.

Order of the General Court of 12 May 2015 — PAN Europe and Confédération paysanne v Commission

(Case T-671/13) ([1])

(2015/C 228/35)

Language of the case: English

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

([1]) OJ C 52, 22.2.2014.

Order of the General Court of 8 May 2015 — Hoteles Catalonia v OHIM — Fundació Catalunya-La Pedrera, fundació especial (HOTEL CATALONIA LA PEDRERA)

(Case T-358/14) ([1])

(2015/C 228/36)

Language of the case: Spanish

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

([1]) OJ C 253, 4.8.2014.

Order of the General Court of 12 May 2015 — EEB v Commission

(Case T-462/14) ([1])

(2015/C 228/37)

Language of the case: English

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

([1]) OJ C 315, 15.9.2014.

Order of the General Court of 8 May 2015 — Grupo Bimbo v OHIM (Form of round sandwich bread)

(Case T-542/14) ([1])

(2015/C 228/38)

Language of the case: Spanish

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

([1]) OJ C 339, 29.9.2014.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (Third Chamber) of 3 June 2015 — Gross v EEAS

(Case F-78/14) ([1])

(Civil Service — Staff of the EEAS — Officials — Promotion — Articles 43 and 45(1) of the Staff Regulations — Comparative examination of the merits of all officials eligible for promotion — Officials put forward by the services of the EEAS and those not put forward — Taking into account of the staff reports — Exclusively literal assessments)

(2015/C 228/39)

Language of the case: French

Parties

Applicant: Philipp Oliver Gross (Brussels, Belgium) (represented initially by: D. de Abreu Caldas, M. de Abreu Caldas and J.-N. Louis, lawyers, and subsequently by: J.-N. Louis, laywer)

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

Re:

Annulment of the decisions not to promote the applicant to the next grade in the 2013 promotion procedure of the European External Action Service (EEAS).

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of the Appointing Authority of the European External Action Service of 9 October 2013 establishing the list of officials promoted under promotion year 2013 in so far as the name of Mr Gross is not included;*

2. *Orders the European External Action Service to bear its own costs and to pay the costs incurred by Mr Gross.*

([1]) OJ C 388, 3.11.2014, p. 31.

Judgment of the Civil Service Tribunal (Single Judge) of 3 June 2015 — Bedin v Commission

(Case F-128/14) ([1])

(Civil Service — Officials — Disciplinary procedure — Disciplinary action — Respective roles and powers of the Disciplinary Board and the Appointing Authority — Assessment of whether the facts complained of are established)

(2015/C 228/40)

Language of the case: French

Parties

Applicant: Luc Bedin (Watermael-Bisfort, Belgium) (represented by: L. Vogel, lawyer)

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

Re:

Application for annulment of the Appointing Authority's decision to impose on the applicant the disciplinary penalty of deferment of advancement to a higher step for a 12-month period.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

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

(1) OJ C 34, 2.2.2015, p 51.

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