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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (First Chamber) of 24 June 2015 — Federal Republic of Germany v European Commission, Kingdom of Spain, French Republic, Kingdom of the Netherlands

(Joined Cases C-549/12 P and C-54/13 P) ([1])

(Appeals — European Regional Development Fund (ERDF) — Reduction of financial assistance — Method of calculation by extrapolation — European Commission's procedure for the adoption of the decision — Failure to comply with the time-limit — Consequences)

(2015/C 279/02)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: T. Henze, acting as Agent, and by U. Karpenstein, C. Johann, C. von Donat and J. Lipinsky, Rechtsanwälte)

Other parties to the proceedings: European Commission (represented by: B. Conte and A. Steiblytė, Agents), Kingdom of Spain (represented by: A. Rubio González, Agent), French Republic (represented by: G. de Bergues, D. Colas and N. Rouam, Agents), Kingdom of the Netherlands (represented by: M. Bulterman and B. Koopman, Agents) (C-54/13 P)

Operative part of the judgment

The Court:

1) *Sets aside the judgments of the General Court of the European Union in Germany v Commission (T-265/08, EU:T:2012:434) and Germany v Commission (T-270/08, EU:T:2012:612);*

2) *Annuls Commission Decision C(2008) 1690 final of 30 April 2008 reducing the financial assistance granted from the European Regional Development Fund (ERDF) to the Operational Programme in the Objective 1 area of the Land Thüringen (Germany) (1994-1999), in accordance with Commission Decision C(94) 1939/5 of 5 August 1994, and of Commission Decision C(2008) 1615 final of 29 April 2008 reducing the financial assistance granted from the European Regional Development Fund (ERDF) by Commission Decision C(94) 1973 of 5 August 1994 to the Operational Programme for Berlin (East) (Germany) relating to Objective No 1 (1994-1999);*

3) *Orders the European Commission to bear, in addition to its own costs, the costs incurred by the Federal Republic of Germany both in the context of the procedure at first instance and in relation to these appeals;*

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

(1) OJ C 46, 16.2.2013.
OJ C 86 23.3.2013.

Judgment of the Court (First Chamber) of 24 June 2015 — Kingdom of Spain v European Commission

(Case C-263/13 P) (1)

(Appeals — European Regional Development Fund (ERDF) — Reduction of financial assistance — Method of calculation by extrapolation — Procedure of adoption of the decision by the European Commission — Failure to comply with the time-limit laid down — Consequences)

(2015/C 279/03)

Language of the case: Spanish

Parties

Appellant: Kingdom of Spain (represented by: A. Rubio González, acting as Agent)

Other party to the proceedings: European Commission (represented by: J. Baquero Cruz and A. Steiblytė, Agents)

Operative part of the judgment

The Court:

1) *Sets aside the judgment of the General Court of the European Union in Spain v Commission (T-65/10, T-113/10 and T-138/10, EU:T:2013:93);*

2) *Annuls Commission Decisions C(2009) 9270 of 30 November 2009, C(2009) 10678 of 23 December 2009 and C(2010) 337 of 28 January 2010 reducing the assistance from the European Regional Development Fund (ERDF) granted respectively under the operational programme 'Andalusia' falling within Objective 1 (1994-1999) pursuant to Commission Decision C(94) 3456 of 9 December 1994, the operational programme 'Basque Country' falling within Objective 2 (1997-1999) pursuant to Commission Decision C(1998) 121 of 5 February 1998, and the operational programme 'Comunidad Valenciana' falling within Objective 1 (1994-1999) pursuant to Commission Decision C(1994) 3043/6 of 25 November 1994;*

3) *Orders the European Commission to pay the costs incurred by the Kingdom of Spain and to bear its own costs, both in the proceedings at first instance and on appeal.*

(1) OJ C 207, 20.7.2013.

Judgment of the Court (Second Chamber) of 24 June 2015 — Fresh Del Monte Produce Inc. v European Commission, Internationale Fruchtimport Gesellschaft Weichert GmbH & Co. KG (C-293/13 P), European Commission v Fresh Del Monte Produce Inc., Internationale Fruchtimport Gesellschaft Weichert GmbH & Co. KG (C-294/13 P)

(Joined Cases C-293/13 P and C-294/13 P) ([1])

(Appeals — Competition — Agreements, decisions and concerted practices — European banana market — Coordination in the setting of quotation prices — Concept of 'economic unit' between two companies — Concept of 'decisive influence' — Whether the conduct of one company may be imputed to another — Distortion of evidence — Burden of proof — Principle of in dubio pro reo — Concept of 'single and continuous infringement' — Concept of 'concerted practice' — Concept of 'infringement by object' — Undertakings that are members of the same cartel — Communication of information to the Commission — Legal obligation — Scope — Protection against self-incrimination — Intervener at first instance — Cross-appeal — Admissibility)

(2015/C 279/04)

Language of the case: English

Parties

(Case C-293/13 P)

Appellant: Fresh Del Monte Produce Inc. (represented by: B. Meyring, Rechtsanwalt, and L. Suhr, Advocate)

Other parties to the proceedings: European Commission (represented by: A. Biolan, M. Kellerbauer and P. Van Nuffel, Agents), Internationale Fruchtimport Gesellschaft Weichert GmbH & Co. KG (represented by: K. Smith, QC, C. Humpe and S. Kon, Solicitors)

(Case C-293/13 P)

Appellant: European Commission: (represented by: A. Biolan, M. Kellerbauer and P. Van Nuffel, Agents)

Other parties to the proceedings: Fresh Del Monte Produce Inc. (represented by: B. Meyring, Rechtsanwalt and L. Suhr, Advocate), Internationale Fruchtimport Gesellschaft Weichert GmbH & Co. KG, (represented by: K. Smith, QC, C. Humpe and S. Kon, Solicitors)

Operative part of the judgment

The Court:

1. *Dismisses the appeal in Case C-293/13 P and the cross-appeals in Cases C-293/13 P and C-294/13 P;*

2. *Sets aside point 1 of the operative part of the judgment in Fresh Del Monte Produce v Commission (T-587/08, EU:T:2013:129);*

3. *Sets the amount of the fine imposed in Article 2(c) of Commission Decision C(2008) 5955 final of 15 October 2008 relating to a proceeding under Article 81 [EC] (Case COMP/39 188 — Bananas) at EUR 9 800 000;*

4. *Orders Fresh Del Monte Produce Inc. to pay the costs relating to (i) the main appeals in Cases C-293/13 P and C-294/13 P and (ii) its cross-appeal in Case C-294/13 P, with the exception of the costs incurred by Internationale Fruchtimport Gesellschaft Weichert GmbH & Co. KG, which is to bear its own costs relating to all those proceedings;*

5. *Orders Internationale Fruchtimport Gesellschaft Weichert GmbH & Co. KG to pay the costs relating its cross-appeals in Cases C-293/13 P and C-294/13 P.*

([1]) OJ C 252, 31.8.2013.

Judgment of the Court (First Chamber) of 24 June 2015 (request for a preliminary ruling from the Verwaltungsgerichtshof Baden-Württemberg — Germany) — H.T. v Land Baden-Württemberg

(Case C-373/13) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Borders, asylum and immigration — Directive 2004/83/EC — Article 24(1) — Minimum standards for granting refugee or subsidiary protection status — Revocation of residence permit — Conditions for revocation of residence permit — Concept of 'compelling reasons of national security or public order' — Participation of a person with refugee status in the activities of an organisation entered in the list of terrorist organisations drawn up by the European Union)

(2015/C 279/05)

Language of the case: German

Referring court

Verwaltungsgerichtshof Baden-Württemberg

Parties to the main proceedings

Applicant: H.T.

Defendant: Land Baden-Württemberg

Operative part of the judgment

1. *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted must be interpreted as meaning that a residence permit, once granted to a refugee, may be revoked, either pursuant to Article 24(1) of that directive, where there are compelling reasons of national security or public order within the meaning of that provision, or pursuant to Article 21(3) of that directive, where there are reasons to apply the derogation from the principle of non-refoulement laid down in Article 21(2) of the same directive;*

2. *Support for a terrorist organisation included on the list annexed to Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism, in the version in force at the material date, may constitute one of the 'compelling reasons of national security or public order' within the meaning of Article 24(1) of Directive 2004/83, even if the conditions set out in Article 21(2) of that directive are not met. In order to be able to revoke, on the basis of Article 24(1) of that directive, a residence permit granted to a refugee on the ground that that refugee supports such a terrorist organisation, the competent authorities are nevertheless obliged to carry out, under the supervision of the national courts, an individual assessment of the specific facts concerning the actions of both the organisation and the refugee in question. Where a Member State decides to expel a refugee whose residence permit has been revoked, but suspends the implementation of that decision, it is incompatible with that directive to deny access to the benefits guaranteed by Chapter VII of the same directive, unless an exception expressly laid down in the directive applies.*

([1]) OJ C 325, 9.11.2013.

Judgment of the Court (Second Chamber) of 18 June 2015 — Republic of Estonia v European Parliament, Council of the European Union

(Case C-508/13) ([1])

(Action for annulment — Directive 2013/34/EU — Obligations on some forms of undertakings in relation to financial statements — Principles of subsidiarity and proportionality — Obligation to state reasons)

(2015/C 279/06)

Language of the case: Estonian

Parties

Applicant: Republic of Estonia (represented by: K. Kraavi-Käerdi, Agent)

Defendants: European Parliament (represented by: U. Rösslein and M. Allik, Agents), Council of the European Union (represented by: P. Mahnič Bruni and A. Stolfot, Agents)

Intervener in support of the defendants: European Commission (represented by: H. Støvlbæk and L. Naaber-Kivisoo, Agents)

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Republic of Estonia to pay the costs;*

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

([1]) OJ C 344, 23.11.2013.

Judgment of the Court (Second Chamber) of 18 June 2015 — Deutsche Bahn AG, DB Mobility Logistics AG, DB Energie GmbH, DB Netz AG, Deutsche Umschlaggesellschaft Schiene-Straße (DUSS) mbH, DB Schenker Rail GmbH, DB Schenker Rail Deutschland AG v European Commission, Kingdom of Spain, EFTA Surveillance Authority, Council of the European Union

(Case C-583/13 P) ([1])

(Appeals — Competition — Rail transport and ancillary services sector — Abuse of dominant position — Regulation (EC) No 1/2003 — Articles 20 and 28(1) — Administrative procedure — Decision ordering an inspection — Commission's powers of inspection — Fundamental right to the inviolability of the home — No prior judicial authorisation — Effective judicial review — Fortuitous discovery)

(2015/C 279/07)

Language of the case: German

Parties

Appellants: Deutsche Bahn AG, DB Mobility Logistics AG, DB Energie GmbH, DB Netz AG, Deutsche Umschlaggesellschaft Schiene-Straße (DUSS) mbH, DB Schenker Rail GmbH, DB Schenker Rail Deutschland AG (represented by: W. Deselaers, E. Venot and J. Brückner, Rechtsanwälte)

Other parties to the proceedings: European Commission (represented by: L. Malferrari and R. Sauer, Agents), Kingdom of Spain (represented by: A. Rubio González and L. Banciella Rodríguez-Miñón, Agents), EFTA Surveillance Authority (represented by: M. Schneider, X. Lewis and M. Moustakali, Agents), Council of the European Union

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the General Court of the European Union in Deutsche Bahn and Others v Commission (T-289/11, T-290/11 and T-521/11, EU:T:2013:404) in so far as it dismissed the actions brought against the second and third inspection decisions C(2011) 2365 of 30 March 2011 and C(2011) 5230 of 14 July 2011;*

2. *Annuls the decisions of the European Commission C(2011) 2365 of 30 March 2011 and C(2011) 5230 of 14 July 2011;*

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

4. *Orders Deutsche Bahn AG, DB Mobility Logistics AG, DB Energie GmbH, DB Netz AG, Deutsche Umschlaggesellschaft Schiene-Straße (DUSS) mbH, DB Schenker Rail GmbH and DB Schenker Rail Deutschland AG to bear half of their own costs relating to the present appeal and to pay half of those incurred by the European Commission in the present proceedings;*

5. *Orders the European Commission to bear half of its costs relating to the present appeal and to pay half of those incurred by Deutsche Bahn AG, DB Mobility Logistics AG, DB Energie GmbH, DB Netz AG, Deutsche Umschlaggesellschaft Schiene-Straße (DUSS) mbH, DB Schenker Rail GmbH and DB Schenker Rail Deutschland AG in the present proceedings;*

6. *Orders Deutsche Bahn AG, DB Mobility Logistics AG, DB Energie GmbH, DB Netz AG, Deutsche Umschlaggesellschaft Schiene-Straße (DUSS) mbH, DB Schenker Rail GmbH and DB Schenker Rail Deutschland AG to pay the costs relating to Case T-289/11;*

7. *Orders the European Commission to pay the costs relating to Cases T-290/11 and T-521/11;*

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

9. *Orders the EFTA Surveillance Authority to bear its own costs.*

([1]) OJ C 24, 25.1.2014.

Judgment of the Court (Fourth Chamber) of 18 June 2015 (request for a preliminary ruling from the Pesti központi kerületi bíróság (Hungary)) — Martin Meat kft v Géza Simonfay, Ulrich Salburg

(Case C-586/13) ([1])

(Reference for a preliminary ruling — Freedom to provide services — Directive 96/71/EC — Article 1(3) (a) and (c) — Posting of workers — Hiring out of workers — Act of Accession of 2003 — Chapter 1, paragraphs 2 and 13 of Annexe X — Transitional measures — Access of Hungarian nationals to the labour market of States already members of the European Union at the date of accession to the European Union of the Republic of Hungary — Requirement of a work permit for the hiring out of workers — Non-sensitive sectors)

(2015/C 279/08)

Language of the case: Hungarian

Referring court

Pesti központi kerületi bíróság

Parties to the main proceedings

Applicant: Martin Meat kft

Defendants: Géza Simonfay, Ulrich Salburg

Operative part of the judgment

1. *Chapter 1, paragraph 2, and paragraph 13, of Annex X to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, must be interpreted as meaning that the Republic of Austria is entitled to restrict the hiring-out of workers on its territory, in accordance with Chapter 1, paragraph 2 of that annex, even though that provision does not concern a sensitive sector, within the meaning of Chapter 1, paragraph 13, thereof.*

2. *In order to determine whether a contractual relationship, such as that at issue in the main proceedings, must be classified as a hiring-out of workers, within the meaning of Article 1(3)(c) of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, it is necessary to take into consideration each element indicating whether the movement of workers in the host Member State is the very purpose of the supply of services on which the contractual relationship is based. In principle, evidence that such a movement is not the very purpose of the supply of services at issue are, inter alia, the fact that the service provider is liable for the failure to perform the service in accordance with the contract and the fact that that service provider is free to determine the number of workers he deems necessary to send to the host Member State. By contrast, the fact that the undertaking which receives those services checks the performance of the service for compliance with the contract or that it may give general instructions to the workers employed by the service provider does not, as such, lead to the finding that there is a hiring-out of workers.*

([1]) OJ C 71, 8.3.2014.

Judgment of the Court (Grand Chamber) of 16 June 2015 (request for a preliminary ruling from the Consiglio di Stato (Italy)) — Presidenza del Consiglio dei Ministri and Others v Rina Services SpA, Rina SpA, SOA Rina Organismo di Attestazione SpA

(Case C-593/13) ([1])

(Reference for a preliminary ruling — Articles 49 TFEU, 51 TFEU and 56 TFEU — Freedom of establishment — Connection with the exercise of official authority — Directive 2006/123/EC — Article 14 — Bodies responsible for verifying and certifying that undertakings carrying out public works comply with the conditions laid down by law — National legislation providing that the registered office of such bodies must be situated in Italy)

(2015/C 279/09)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Presidenza del Consiglio dei Ministri, Consiglio di Stato, Consiglio Superiore dei Lavori Pubblici, Autorità per la Vigilanza sui Contratti Pubblici di lavori, servizi e forniture, Conferenza Unificata Stato Regioni, Ministero dello Sviluppo Economico delle Infrastrutture e dei Trasporti, Ministero per le Politiche europee, Ministero dell'Ambiente e della Tutela del Territorio e del Mare, Ministero per i beni e le attività culturali, Ministero dell'Economia e delle Finanze, Ministero degli Affari esteri

Defendants: Rina Services SpA, Rina SpA, SOA Rina Organismo di Attestazione SpA

Operative part of the judgment

1. *The first paragraph of Article 51 TFEU must be interpreted as meaning that the exception to the right of establishment laid down in that provision does not apply to the certification activities carried out by companies classified as certification bodies.*

2. *Article 14 of Directive 2006/123 of the European Parliament and of the Council of 12 December 2006 on services in the internal market must be interpreted as precluding legislation of a Member State which provides that companies classified as certification bodies must have their registered office in national territory.*

([1]) OJ C 61, 1.3.2014.

Judgment of the Court (Fifth Chamber) of 25 June 2015 (request for a preliminary ruling from the Administratīvā apgabaltiesa (Latvia)) — VAS 'Ceļu satiksmes drošības direkcija', Latvijas Republikas Satiksmes ministrija v Kaspars Nīmanis

(Case C-664/13) ([1])

(Reference for a preliminary ruling — Transport — Driving licence — Renewal by the issuing Member State — Condition of residence in the territory of that Member State — Declaration of residence)

(2015/C 279/10)

Language of the case: Latvian

Referring court

Administratīvā apgabaltiesa

Parties to the main proceedings

Applicants: VAS 'Ceļu satiksmes drošības direkcija', Latvijas Republikas Satiksmes ministrija

Defendant: Kaspars Nīmanis

Operative part of the judgment

Article 12 of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences must be interpreted as precluding legislation of a Member State under which the only way in which a person who applies for the issue or renewal of a driving licence in that Member State can prove that he satisfies the condition of 'normal residence', within the meaning of that article, in the territory of that Member State, set out in Article 7(1)(e) and 7(3)(b) of that directive, is to establish that he has a declared place of residence in the territory of the Member State concerned.

([1]) OJ C 71, 8.3.2014.

Judgment of the Court (Second Chamber) of 25 June 2015 (request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Lithuania)) — in the proceedings brought by 'Indėlių ir investicijų draudimas' VĮ, Virgilijus Vidutis Nemaniūnas

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

(Reference for a preliminary ruling — Directives 94/19/EC and 97/9/EC — Deposit-guarantee schemes and investor-compensation schemes — Savings and investment instruments — Financial instrument within the meaning of Directive 2004/39/EC — Exclusion of the guarantee — Direct effect — Conditions to be met in order to benefit from Directive 97/9/EC)

(2015/C 279/11)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

'Indėlių ir investicijų draudimas' VĮ, Virgilijus Vidutis Nemaniūnas

Other interested parties: Vitoldas Guliavičius, bankas 'Snoras' AB, in liquidation

Operative part of the judgment

1. *Article 7(2) of Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes, as amended by Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009, and point 12 of Annex I to that directive, must be interpreted as meaning that the Member States may exclude from the guarantee provided for by that directive certificates of deposit issued by a credit institution if those certificates are negotiable, a matter which it falls to the referring court to determine, there being no need for it to satisfy itself that those certificates have all the characteristics of a financial instrument within the meaning of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC.*

2. *Directive 94/19, as amended by Directive 2009/14, and Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes must be interpreted as meaning that when claims against a credit institution are such as to be encompassed by both the concept of 'deposit' within the meaning of Directive 94/19 and that of 'instrument' within the meaning of Directive 97/9, and the national legislature has made use of the option provided for in point 12 of Annex I to Directive 94/19 to exclude those claims from the protection scheme provided for by Directive 94/19, such an exclusion cannot result in those claims also being excluded from the protection scheme provided for by Directive 97/9, other than under the conditions mentioned in Article 4(2) of that directive.*

3. *Articles 2(2) and 4(2) of Directive 97/9 must be interpreted as meaning that they preclude national legislation such as that at issue in the main proceedings, which makes entitlement to compensation under the scheme provided for by that directive conditional upon the credit institution concerned having transferred or used the funds or securities in question without the investor's consent.*

4. *Directive 97/9 must be interpreted as meaning that the referring court, provided that it considers that in the disputes before it Directive 97/9 is invoked against a body that meets the conditions for the provisions of that directive to be relied on, is required to refrain from applying a provision of national law such as that at issue in the main proceedings, which makes entitlement to compensation under the scheme provided for by that directive conditional upon the credit institution concerned having transferred or used the funds or securities in question without the investor's consent.*

([1]) OJ C 71, 8.3.2014.

Judgment of the Court (Second Chamber) of 18 June 2015 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Staatssecretaris van Financiën v D.G. Kieback

(Case C-9/14) ([1])

(Reference for a preliminary ruling — Freedom of movement for workers — Tax legislation — Income tax — Income received in a Member State — Non-resident worker — Tax in the State of employment — Conditions)

(2015/C 279/12)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Defendant: D.G. Kieback

Operative part of the judgment

Article 39(2) EC must be interpreted as not precluding a Member State, for the purposes of charging income tax on a non-resident worker who has pursued his occupational activity in that Member State during part of the year, from refusing to grant that worker a tax advantage which takes account of his personal and family circumstances, on the basis that, although he received, in that Member State, all or almost all his income from that period, that income does not form the major part of his taxable income for the entire year in question. The fact that that worker left to pursue his occupational activity in a non-member State and not in another EU Member State does not affect that interpretation.

([1]) OJ C 102, 7.4.2014.

Judgment of the Court (Fourth Chamber) of 25 June 2015 (request for a preliminary ruling from the College van Beroep voor het Bedrijfsleven — Netherlands) — CO Sociedad de Gestion y Participación SA and Others v De Nederlandsche Bank NV and De Nederlandsche Bank NV v CO Sociedad de Gestion y Participación SA and Others

(Case C-18/14) ([1])

(Reference for a preliminary ruling — Approximation of laws — Direct insurance other than life assurance — Directive 92/49/EEC — Articles 15, 15a and 15b — Prudential assessment of acquisitions and increases in a qualifying holding — Possibility to attach a restriction or requirement to the approval of a proposed acquisition)

(2015/C 279/13)

Language of the case: Dutch

Referring court

College van Beroep voor het Bedrijfsleven

Parties to the main proceedings

Applicants: CO Sociedad de Gestion y Participación SA, Depsa 96 SA, INOC SA, Corporación Catalana Occidente SA, La Previsión 96 SA, Grupo Catalana Occidente SA, Grupo Compañía Española de Crédito y Caución SL, Atradius NV, Atradius Insurance Holding NV, J.M. Serra Farré, M.A Serra Farré, J. Serra Farré, De Nederlandsche Bank NV

Defendants: De Nederlandsche Bank NV, CO Sociedad de Gestión y Participación SA, Depsa 96 SA, INOC SA, Corporación Catalana Occidente SA, La Previsión 96 SA, Grupo Catalana Occidente SA, Grupo Compañía Española de Crédito y Caución SL, Atradius NV, Atradius Insurance Holding NV, J.M. Serra Farré, M.A Serra Farré, J. Serra Farré

Operative part of the judgment

1. *Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive), as amended by Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007, must be interpreted as meaning that it does not preclude a Member State, in a situation in which the competent national authority could validly oppose a proposed acquisition pursuant to Article 15b(2) thereof, from authorising that authority, pursuant to its national legislation, to attach restrictions or requirements to the approval of the proposed acquisition, either on its own initiative or by formalising commitments given by the proposed acquirer, provided that the rights of the proposed acquirer under that directive are not adversely affected.*

2. *Directive 92/49, as amended by Directive 2007/44, must be interpreted as meaning that the competent national authority is not required to impose restrictions or requirements on the proposed acquirer before it can oppose the proposed acquisition. If that authority decides to attach restrictions or requirements to the approval of a proposed acquisition, those requirements cannot be based on a criterion which is not among those set out in Article 15b(1) of that directive, nor can they go beyond what is necessary in order for the acquisition to satisfy those criteria.*

3. *Article 15b(1) of Directive 92/49, as amended by Directive 2007/44, must be interpreted as meaning that, in principle, it does not preclude the competent national authority from imposing a requirement relating to corporate governance concerning, as in the case in the main proceedings, the composition of the supervisory boards of the insurance companies concerned by the proposed acquisition.*

   It is for the national court to determine, by taking account of all the circumstances in the main proceedings, whether that requirement is necessary to enable the acquisitions at issue in the main proceedings to satisfy the criteria laid down in that provision.

([1]) OJ C 112, 14.4.2014.

Judgment of the Court (Grand Chamber) of 16 June 2015 (request for a preliminary ruling from the Bundesverfassungsgericht — Germany) — Peter Gauweiler and Others v Deutscher Bundestag

(Case C-62/14) ([1])

(Reference for a preliminary ruling — Economic and monetary policy — Decisions of the Governing Council of the European Central Bank (ECB) on a number of technical features regarding the Eurosystem's outright monetary transactions in secondary sovereign bond markets — Articles 119 TFEU and 127 TFEU — Powers conferred on the ECB and the European System of Central Banks — Monetary policy transmission mechanism — Maintenance of price stability — Proportionality — Article 123 TFEU — Prohibition of monetary financing of Member States in the euro area)

(2015/C 279/14)

Language of the case: German

Referring court

Bundesverfassungsgericht

Parties to the main proceedings

Complainants/applicant: Peter Gauweiler, Bruno Bandulet, Wilhelm Hankel, Wilhelm Nölling, Albrecht Schachtschneider, Joachim Starbatty, Roman Huber and Others, Johann Heinrich von Stein and Others, Fraktion DIE LINKE im Deutschen Bundestag

Respondent: Deutscher Bundestag

Joined party: Bundesregierung

Operative part of the judgment

Articles 119 TFEU, 123(1) TFEU and 127(1) and (2) TFEU and Articles 17 to 24 of Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank must be interpreted as permitting the European System of Central Banks (ESCB) to adopt a programme for the purchase of government bonds on secondary markets, such as the programme announced in the press release to which reference is made in the minutes of the 340th meeting of the Governing Council of the European Central Bank (ECB) on 5 and 6 September 2012.

([1]) OJ C 129, 28.4.2014.

Judgment of the Court (Tenth Chamber) of 25 June 2015 (request for a preliminary ruling from the Hof van beroep te Brussel — Belgium) — Loutfi Management Propriété Intellectuelle SARL v AMJ Meatproducts NV, Halalsupply NV

(Case C-147/14) ([1])

(Reference for a preliminary ruling — Community trade mark — Regulation (EC) No 207/2009 — Article 9(1)(b) — Effects — Rights conferred by a Community trade mark — Identical or similar signs — Prohibition of use — Likelihood of confusion — Assessment — Taking into consideration the use of a language other than an official language of the European Union)

(2015/C 279/15)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Applicant: Loutfi Management Propriété Intellectuelle SARL

Defendants: AMJ Meatproducts NV, Halalsupply NV

Operative part of the judgment

Article 9(1)(b) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark must be interpreted as meaning that, in order to assess the likelihood of confusion that may exist between a Community trade mark and a sign which cover identical or similar goods and which both contain a dominant Arabic word in Latin and Arabic script, those words being visually similar, in circumstances where the relevant public for the Community trade mark and for the sign at issue has a basic knowledge of written Arabic, the meaning and pronunciation of those words must be taken into account.

([1]) OJ C 194, 24.6.2014.

Judgment of the Court (Fifth Chamber) of 25 June 2015 (request for a preliminary ruling from the Østre Landsret — Denmark) — Skatteministeriet v DSV Road A/S

(Case C-187/14) ([1])

(Reference for a preliminary ruling — Community Customs Code — Regulation (EEC) No 2913/92 — Articles 203 and 204 — Regulation (EEC) No 2454/93 — Article 859 — External transit procedure — Incurrence of a customs debt — Removal or not from customs supervision — Failure to perform an obligation — Late submission of the goods at the office of destination — Goods refused by the consignee and returned without having been submitted to the customs office — Goods again placed under the external transit procedure via a fresh declaration — Directive 2006/112/EC — Article 168(e) — Deduction of VAT on import by the carrier)

(2015/C 279/16)

Language of the case: Danish

Referring court

Østre Landsret

Parties to the main proceedings

Applicant: Skatteministeriet

Defendant: DSV Road A/S

Intervening party: Danske Speditører

Operative part of the judgment

1. *Article 203 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Council Regulation (EC) No 1791/2006 of 20 November 2006 must be interpreted as meaning that a customs debt is not incurred on the basis of the sole fact that the goods placed under an External Community transit procedure are, after an unsuccessful delivery attempt, brought back to the free port of departure without having been presented to either the customs office of destination or the customs of the free port if it is established that the same goods were subsequently transported again to their destination under a second correctly discharged External Community transit procedure. However, if it is not possible to establish that the goods covered by the first and second External Community transit procedures are the same goods, a customs debt is incurred under that provision;*

2. *Article 204 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Council Regulation (EC) No 1791/2006 of 20 November 2006, read in conjunction with Article 859 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92, as amended by Commission Regulation (EC) No 214/2007 of 28 February 2007, must be interpreted as meaning that the late presentation at the customs office of destination under a second External Community transit procedure of goods placed under a first External Community transit procedure constitutes an omission which leads to a customs debt being incurred, unless the conditions laid down in Article 356(3) or the second indent of Article 859 and point 2(c) thereof of that regulation are satisfied, which it is for the referring court to ascertain;*

3. *Article 168(e) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not precluding national legislation which excludes the deduction of VAT on import which the carrier, who is neither the importer nor the owner of the goods in question and has merely carried out the transport and customs formalities as part of its activity as a transporter of freight subject to VAT, is required to pay.*

([1]) OJ C 202, 30.6.2014.

Judgment of the Court (Third Chamber) of 24 June 2015 (request for a preliminary ruling from the Vrhovno sodišče (Slovenia)) — Hotel Sava Rogaška, Gostinstvo, turizem in storitve, d.o.o. v Republika Slovenija

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

(Reference for a preliminary ruling — Approximation of laws — Natural mineral water — Directive 2009/54/EC — Article 8(2) — Annex I — Prohibition on marketing 'natural mineral water from one and the same spring' under more than one trade description — Meaning)

(2015/C 279/17)

Language of the case: Slovenian

Referring court

Vrhovno sodišče

Parties to the main proceedings

Applicant: Hotel Sava Rogaška, gostinstvo, turizem in storitve, d.o.o.

Defendant: Republika Slovenija

Operative part of the judgment

The notion of 'natural mineral water from one and the same spring' contained in Article 8(2) of Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters must be interpreted as referring to a natural mineral water that is drawn from one or more natural or bore exits, and which originates in one and the same underground water table or in one and the same underground deposit, where, at all those natural or bore exits, that water has identical characteristics, pursuant to the criteria specified in Annex I to Directive 2009/54, which remain stable within the limits of natural fluctuation.

([1]) OJ C 202, 30.6.2014.

Judgment of the Court (Second Chamber) of 25 June 2015 (request for a preliminary ruling from the Landgericht Mannheim — Germany) — Saatgut-Treuhandverwaltungs GmbH v Gerhard und Jürgen Vogel GbR, Jürgen Vogel, Gerhard Vogel

(Case C-242/14) ([1])

(Reference for a preliminary ruling — Community plant variety rights — Regulation (EC) No 2100/94 — Derogation provided for in Article 14 — Use by farmers of the product of the harvest for propagating purposes without the holder's authorisation — Farmers under an obligation to pay equitable remuneration for such use — Period within which that remuneration must be paid in order to be able to benefit from the derogation — Whether it is possible for the holder to have recourse to Article 94 — Infringement)

(2015/C 279/18)

Language of the case: German

Referring court

Landgericht Mannheim

Parties to the main proceedings

Applicant: Saatgut-Treuhandverwaltungs GmbH

Defendants: Gerhard und Jürgen Vogel GbR, Jürgen Vogel, Gerhard Vogel

Operative part of the judgment

In order to be able to benefit from the derogation provided for in Article 14 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights from the obligation to obtain the authorisation of the holder of the plant variety right concerned, a farmer who has planted propagating material obtained from a protected plant variety (farm-saved seed) without having concluded a contract for so doing with the holder is required to pay the equitable remuneration due under the fourth indent of Article 14(3) of that regulation within the period that expires at the end of the marketing year during which that planting took place, that is, no later than 30 June following the date of reseeding.

([1]) OJ C 303, 8.9.2014.

Judgment of the Court (Sixth Chamber) of 25 June 2015 — European Commission v Republic of Poland

(Case C-303/14) ([1])

(Failure of a Member State to fulfil obligations — Regulation (EC) No 842/2006 — Training and certification — Obligation to provide notification — Penalties — Regulations (EC) No 303/2008, (EC) No 304/2008, (EC) No 305/2008, (EC) No 306/2008, (EC) No 307/2008 and (EC) No 308/2008)

(2015/C 279/19)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: K. Mifsud-Bonnici and K. Herrmann, acting as Agents)

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

Operative part of the judgment

The Court:

1. *Declares that by failing to notify the European Commission of the required information concerning the certification bodies for personnel and companies and of the titles of certificates for personnel and companies involved in activities relating to specific fluorinated greenhouse gases, or of the national measures on penalties for breaches of the provisions of Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases, the Republic of Poland has failed to fulfil its obligations under Articles 5(2) and 13(2) of that regulation, Article 12(3) of Commission Regulation (EC) No 303/2008 of 2 April 2008 establishing, pursuant to Regulation (EC) No 842/2006, minimum requirements and the conditions for mutual recognition for the certification of companies and personnel as regards stationary refrigeration, air conditioning and heat pump equipment containing certain fluorinated greenhouse gases, Article 12(3) of Commission Regulation (EC) No 304/2008 of 2 April 2008 establishing, pursuant to Regulation (EC) No 842/2006, minimum requirements and the conditions for mutual recognition for the certification of companies and personnel as regards stationary fire protection systems and fire extinguishers containing certain fluorinated greenhouse gases, Article 7(1) of Commission Regulation (EC) No 305/2008 of 2 April 2008 establishing, pursuant to Regulation (EC) No 842/2006, minimum requirements and the conditions for mutual recognition for the certification of personnel recovering certain fluorinated greenhouse gases from high-voltage switchgear, Article 6 (1) of Commission Regulation (EC) No 306/2008 of 2 April 2008 establishing, pursuant to Regulation (EC) No 842/2006, minimum requirements and the conditions for mutual recognition for the certification of personnel recovering certain fluorinated greenhouse gas-based solvents from equipment, Article 4(2) of Commission Regulation (EC) No 307/2008 of 2 April 2008 establishing, pursuant to Regulation (EC) No 842/2006, minimum requirements for training programmes and the conditions for mutual recognition of training attestations for personnel as regards air-conditioning systems in certain motor vehicles containing certain fluorinated greenhouse gases and Article 1 of Commission Regulation (EC) No 308/2008 of 2 April 2008 establishing, pursuant to Regulation (EC) No 842/2006, the format for notification of the training and certification programmes of the Member States.*

2. *Orders the Republic of Poland to pay the costs.*

([1]) OJ C 409, 17.11.2014.

Judgment of the Court (Fifth Chamber) of 18 June 2015 — Vadzim Ipatau v Council of the European Union

(Case C-535/14 P) ([1])

(Appeal — Common foreign and security policy — Restrictive measures taken against the Republic of Belarus — Admissibility — Time-limit for bringing proceedings — Legal aid — Suspensory effect — Effective judicial protection — Rights of the defence — Principle of proportionality)

(2015/C 279/20)

Language of the case: French

Parties

Appellant: Vadzim Ipatau (represented by: M. Michalauskas, lawyer)

Other party to the proceedings: Council of the European Union (represented by: F. Naert and B. Driessen, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Mr Vadzim Ipatau to bear his own costs and to pay those incurred by the Council of the European Union.*

([1]) OJ C 26, 26.1.2015.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 13 May 2015 — Elisabeth Schmitt v TÜV Rheinland LGA Products GmbH

(Case C-219/15)

(2015/C 279/21)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Elisabeth Schmitt

Defendant: TÜV Rheinland LGA Products GmbH

Questions referred

Is it the purpose and intention of the Directive ([1]) that, in the case of Class III medical devices, the notified body responsible for auditing the quality system, examining the design of the product and surveillance acts in order to protect all potential patients and may therefore, in the event of a culpable infringement of an obligation, have direct and unlimited liability towards the patients concerned?

Does it follow from the aforementioned points of Annex II to Directive 93/42/EEC that, in the case of Class III medical devices, the notified body responsible for auditing the quality system, examining the design of the product and surveillance is subject to a general obligation to examine devices, or at least to examine them where there is due cause?

Does it follow from the aforementioned points of Annex II to Directive 93/42/EEC that, in the case of Class III medical devices, the notified body responsible for auditing the quality system, examining the design of the product and surveillance is subject to a general obligation to examine the manufacturer's business records and/or to carry out unannounced inspections, or at least to do so where there is due cause?

(1) Council Directive 93/42/EEC of 14 June 1993 concerning medical devices (OJ 1993 L 169, p. 1), Directive 2007/47/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices, Council Directive 93/42/EEC concerning medical devices and Directive 98/8/EC concerning the placing of biocidal products on the market (OJ 2007 L 247, p. 21).

Request for a preliminary ruling from the Najvyšší súd Slovenskej republiky (Slovakia) lodged on 27 May 2015 — Lesoochranárske zoskupenie VLK v Obvodný úrad Trenčín

(Case C-243/15)

(2015/C 279/22)

Language of the case: Slovak

Referring court

Najvyšší súd Slovenskej republiky

Parties to the main proceedings

Appellant: Lesoochranárske zoskupenie VLK

Respondent: Obvodný úrad Trenčín

In the presence of: Biely potok, a.s.

Question referred

Is it possible to guarantee the right to an effective remedy and to a fair trial, affirmed in Article 47 of the Charter of Fundamental Rights of the European Union, in the event of a purported breach of the right to a high level of environmental protection established under the conditions laid down by the European Union, mainly by Council Directive 92/43/EEC (1) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, particularly [the right] to help to obtain the public's opinion on a project which could have a significant impact on special areas of conservation falling within the European ecological 'Natura 2000' network, and the rights invoked by the appellant (as a not-for-profit association active in the protection of the environment at national level) under Article 9 of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, within the limits indicated by the Court of Justice of the European Union in its judgment of 8 March 2011 in Case C-240/09 [*Lesoochranárske zoskupenie*], where the national court terminates the judicial review proceedings in a case concerning the review of a decision refusing to grant [that association] the status of party in administrative proceedings regarding the issuing of a permit, as has happened in the present case, and invites [that association] to lodge an appeal against its having been excluded from those administrative proceedings?

(1) OJ 1992 L 206, p. 7.

Request for a preliminary ruling from the Amtsgericht Hannover (Germany) lodged on 1 June 2015 — Michael Ihden, Gisela Brinkmann v TUIfly GmbH

(Case C-257/15)

(2015/C 279/23)

Language of the case: German

Referring court

Amtsgericht Hannover

Parties to the main proceedings

Applicants: Michael Ihden, Gisela Brinkmann

Defendant: TUIfly GmbH

Questions referred

1. Must Article 5(3) of Regulation (EC) No 261/2004 ([1]) be interpreted as meaning that extraordinary circumstances which arise during a preceding flight continue to constitute extraordinary circumstances in relation to the flight at issue in the case where the airline operator has the possibility to avoid delay in the remaining flights of the flight sequence by not carrying out certain flights within that flight sequence?

2. If the Court's answer to Question 1 is in the affirmative: Must the extraordinary circumstances have arisen on the same day, the previous day or, more generally, only within the scheduled flight sequence?

([1]) 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 (Text with EEA relevance) — Commission Statement (OJ 2004 L 46, p. 1).

Request for a preliminary ruling from the Cour d'appel de Bruxelles (Belgium) lodged on 8 June 2015 — Fernand Ullens de Schooten v Ministre des Affaires Sociales et de la Santé Publique and Ministre de la Justice

(Case C-268/15)

(2015/C 279/24)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Applicant: Mr Fernand Ullens de Schooten

Defendants: Ministre des Affaires Sociales et de la Santé Publique and Ministre de la Justice

Questions referred

1. Does Community law, and in particular the principle of effectiveness, in certain circumstances and, in particular, those described in paragraph 38 of the present judgment, require the national limitation period, as [that prescribed by] Article 100 of the Coordinated Laws on State Accounting applicable to a claim for compensation made by an individual against the Belgian State for infringement of Article 43 of the EC Treaty (now Article 49 TFEU) by the legislature, not to start to run until that infringement has been ascertained or, on the contrary, is the principle of effectiveness sufficiently well upheld in those circumstances by the opportunity open to that individual to interrupt the limitation period by having process served by a *huissier de justice*?

2. Must Articles 43 EC, 49 EC and 56 EC and the concept of a 'purely internal situation', which is liable to limit reliance on those provisions by a litigant in proceedings before a national court, be interpreted as precluding the application of [EU] law in proceedings between a Belgian citizen and the Belgian State in which redress is sought for damage caused by an alleged infringement of Community law resulting from the adoption and maintaining in force of Belgian legislation of the same kind as Article 3 of Royal Decree No 143 of 30 December 1982 which applies without distinction to Belgian nationals and nationals of other Member States?

3. Must the principle of the primacy of Community law and Article 4(3) TEU be interpreted as not allowing the rule of the authority of *res judicata* to be disapplied in connection with the re-examination or setting aside of a judicial decision which has become *res judicata* and which proves to be contrary to [EU] law but, on the contrary, as allowing a national rule establishing the authority of *res judicata* to be disapplied when the latter requires the adoption, on the basis of that judicial decision which has become *res judicata* but is contrary to [EU] law, of another judicial decision which would perpetuate the infringement of [EU] law by the first judicial decision?

4. Could the Court confirm that the question whether the rule of the authority of *res judicata* must be set aside in the event of a judicial decision which has become *res judicata* but is contrary to [EU] law in the context of an application for review or setting aside of that decision is not a question materially identical, within the meaning of the judgments [*DaCosta and Others* (28/62 to 30/62, EU:C:1963:6) and *Cilfit and Others* (283/81, EU:C:1982:335)], to the question whether the rule of the authority of *res judicata* is contrary to [EU] law in the context of an application for a (new) decision which would repeat the infringement of [EU] law, so that the court giving judgment at last instance cannot escape its obligation to make a reference for a preliminary ruling?

Reference for a preliminary ruling from Court of Appeal (England & Wales) (Civil Division) made on 8 June 2015 — Swiss International Air Lines AG v The Secretary of State for Energy and Climate Change, Environment Agency

(Case C-272/15)

(2015/C 279/25)

Language of the case: English

Referring court

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

Parties to the main proceedings

Applicant: Swiss International Air Lines AG

Defendants: The Secretary of State for Energy and Climate Change, Environment Agency

Questions referred

1. Does Decision 377/2013/EU ([1]) of the European Parliament and of the Council of 24 April 2013 ('the Decision') infringe the general EU principle of equal treatment insofar as it establishes a moratorium on the requirements to surrender emissions allowances imposed by Directive 2003/87/EC ([2]) of the European Parliament and of the Council of 13 October 2003 (as amended by various instruments, including Directive 2008/101/EC ([3]) of the European Parliament and of the Council of 19 November 2008) in respect of flights between EEA states and almost all non-EEA states, but does not extend that moratorium to flights between EEA states and Switzerland?

2. If so, what remedy must be provided to a claimant in the position of Swiss International Airlines AG, which has surrendered emissions allowances in respect of flights that took place during 2012 between EEA states and Switzerland, to restore that claimant to the position it would have been in, but for the exclusion from the moratorium of flights between EEA states and Switzerland? In particular:

a) Must the register be rectified to reflect the lesser number of allowances that such a claimant would have been required to surrender if flights to or from Switzerland had been included in the moratorium?

b) If so, what (if any) action must the national competent authority and/or the national court take to procure that the additional allowances surrendered are returned to such a claimant?

c) Does such a claimant has the right to claim damages under Article 340 of the TFEU against the European Parliament and the Council for any loss that it has suffered by reason of having surrendered additional allowances as a result of the Decision?

d) Must the claimant be granted some other form of relief, and if so what relief?

([1]) Decision No 377/2013/EU of the European Parliament and of the Council of 24 April 2013 derogating temporarily from Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community OJ L 113, p. 1.

([2]) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (Text with EEA relevance) OJ L 275, p. 32.

([3]) Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (Text with EEA relevance) OJ L 8, p. 3.

Reference for a preliminary ruling from Court of Appeal (England & Wales) (Civil Division) made on 8 June 2015 — ITV Broadcasting Limited, ITV2 Limited, ITV Digital Channels Limited, Channel Four Television Corp., 4 Ventures Limited, Channel 5 Broadcasting Limited, ITV Studios Limited v TVCatchup Limited, Media Resources Limited, TVCatchup (UK) Limited

(Case C-275/15)

(2015/C 279/26)

Language of the case: English

Referring court

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

Parties to the main proceedings

Applicants: ITV Broadcasting Limited, ITV2 Limited, ITV Digital Channels Limited, Channel Four Television Corp., 4 Ventures Limited, Channel 5 Broadcasting Limited, ITV Studios Limited

Defendants: TVCatchup Limited, Media Resources Limited, TVCatchup (UK) Limited

Interveners: The Secretary of State for Business, Innovation and Skills, Virgin Media Limited

Questions referred

On the interpretation of Article 9 of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society ([1]) ('the Directive'), specifically of the phrase 'This Directive shall be without prejudice in particular to … access to cable of broadcasting services':

1. Does the quoted phrase permit the continued application of a provision of national law with the scope of 'cable' as defined by national law, or is the scope of this part of Article 9 determined by a meaning of 'cable' that is defined by EU law?

2. If 'cable' in Article 9 is defined by EU law, what is that meaning? In particular:

a) Does it have a technologically specific meaning, restricted to traditional cable networks operated by conventional cable service providers?

b) Alternatively, does it have a technologically neutral meaning which includes functionally similar services transmitted via the internet?

c) In either case, does it include transmission of microwave energy between fixed terrestrial points?

3. Does the quoted phrase apply (1) to provisions which require cable networks to retransmit certain broadcasts or (2) to provisions which permit the retransmission by — cable of broadcasts (a) where the retransmissions are simultaneous and limited to areas in which the broadcasts were made for reception and/or (b) where the retransmissions are of broadcasts on channels which are subject to certain public service obligations?

4. If the scope of 'cable' within Article 9 is defined by national law, is the provision of national law subject to the EU principles of proportionality and fair balance between the rights of copyright owners, cable owners and the public interest?

5. Is Article 9 limited to the provisions of national law in force at the date on which the Directive was agreed, the date it entered into force or its last date for implementation, or does it also apply to subsequent provisions of national law which concern access to cable of broadcasting services?

([1]) OJ L 167, p. 10.

Request for a preliminary ruling from the Cour du travail de Bruxelles (Belgium) lodged on 10 June 2015 — Office national de l'emploi (ONEm), M v M, Office national de l'emploi (ONEm), Caisse Auxiliaire de Paiement des Allocations de Chômage (CAPAC)

(Case C-284/15)

(2015/C 279/27)

Language of the case: French

Referring court

Cour du travail de Bruxelles

Parties to the main proceedings

Applicants: Office national de l'emploi (ONEm), M

Defendants: M, Office national de l'emploi (ONEm), Caisse Auxiliaire de Paiement des Allocations de Chômage (CAPAC)

Questions referred

1. Is Article 67(3) of [Council Regulation (EC) No 1408/71 ([1]) of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community] ... to be interpreted as precluding a Member State from refusing to aggregate periods of employment necessary to qualify for unemployment benefit to supplement income from part-time employment where that employment was not preceded by any period of insurance or of employment in that Member State?

2. If the first question is to be answered in the negative, is Article 67(3) of Regulation No 1408/71 compatible with, in particular:

— Article 48 TFEU, in so far as the condition to which Article 67(3) makes the aggregation of periods of employment subject is likely to restrict the freedom of movement of workers and their access to certain part-time employment,

— Article 45 TFEU, which entails 'the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment' and provides for the right for workers 'to accept offers of employment actually made' (including part-time employment) in other Member States, 'to move freely within the territory of Member States for this purpose' and to stay there 'for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action',

— Article 15(2) of the Charter of Fundamental Rights of the European Union, which states that 'every citizen of the Union has the freedom to seek employment, to work, (...) in any Member State'?

(1) Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996 (OJ 1997 L 28, p. 1), as amended by Council Regulation (EC) No 1606/98 of 29 June 1998 (OJ 1998 L 209, p. 1) and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 with a view to extending them to cover special schemes for civil servants.

Request for a preliminary ruling from the Conseil d'État (Belgium) lodged on 15 June 2015 — Patrice d'Oultremont, Henri Tumelaire, François Boitte, Éoliennes à tout prix? ASBL v Walloon Region

(Case C-290/15)

(2015/C 279/28)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Patrice d'Oultremont, Henri Tumelaire, François Boitte, Éoliennes à tout prix? ASBL

Defendant: Walloon Region

Question referred

Are Articles 2(a) and 3(2)(a) of Directive 2001/42/EC (1) on the assessment of the effects of certain plans and programmes on the environment to be interpreted to the effect that a regulatory order containing various provisions on the installation of wind turbines, including measures on safety, inspection, site restoration and financial collateral and permitted noise levels set having regard to town and country planning zones, such provisions setting a framework for the grant of administrative consent allowing a developer to install and operate installations which are automatically subject under national law to an assessment of their effects on the environment, must be considered to be a 'plan or programme' within the meaning of those articles?

(1) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ 2001 L 197, p. 30).

Request for a preliminary ruling from the Audiencia Provincial de Alicante (Spain) lodged on 25 June 2015 — Ana María Palacios Martínez v Banco Bilbao Vizcaya Argentaria, S.A.

(Case C-307/15)

(2015/C 279/29)

Language of the case: Spanish

Referring court

Audiencia Provincial de Alicante

Parties to the main proceedings

Applicant: Ana María Palacios Martínez

Defendant: Banco Bilbao Vizcaya Argentaria, S.A.

Questions referred

1. Is it compatible with the principle that unfair terms are not binding, laid down in Article 6(1) of Council Directive 93/13/EEC of 5 April 1993 ([1]) on unfair terms in consumer contracts, for the restitutory effects derived from a declaration on grounds of unfairness of the nullity of a 'floor clause' included in a loan agreement not to be applied retroactively from the date of conclusion of the agreement but rather from a later date?

2. Is the criterion that those concerned must act in good faith, which operates as a basis for limiting the retroactive effect derived from an unfair term, an autonomous concept of EU law that must be interpreted uniformly throughout the Member States?

3. If so, what circumstances must be taken into account in order for it to be determined whether those concerned acted in good faith?

4. At all events, is it compatible with the criterion of good faith for the actions of a seller or supplier, in creating the agreement, to have been the cause of a lack of transparency making the term unfair?

5. Is the risk of serious difficulties, which operates as a basis for limitation of the retroactive effect derived from an unfair term, an autonomous concept of EU law that must be interpreted uniformly throughout the Member States?

6. If so, what criteria ought to be taken into account?

7. Must the risk of serious difficulties be assessed by taking account solely of the risk which may arise for the seller or supplier or must account also be taken of the loss caused to a consumer by the failure to reimburse in full the sums paid under that 'floor clause'?

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

Request for a preliminary ruling from the Audiencia Provincial de Alicante (España) lodged on 25 June 2015 — Banco Popular Español, S.A. v Emilio Irles López, Teresa Torres Andreu

(Case C-308/15)

(2015/C 279/30)

Language of the case: Spanish

Referring court

Audiencia Provincial de Alicante

Parties to the main proceedings

Applicant: Banco Popular Español, S.A.

Defendants: Emilio Irles López, Teresa Torres Andreu

Questions referred

1. Is it compatible with the principle that unfair terms are not binding, laid down in Article 6(1) of Council Directive 93/13/EEC ([1]) of 5 April 1993 on unfair terms in consumer contracts, for the restitutory effects derived from a declaration on grounds of unfairness of the nullity of a 'floor clause' included in a loan agreement not to be applied retroactively from the date of conclusion of the agreement but rather from a later date?

2. Is the criterion that those concerned must act in good faith, which operates as a basis for limiting the retroactive effect derived from an unfair term, an autonomous concept of EU law that must be interpreted uniformly throughout the Member States?

3. If so, what circumstances must be taken into account in order for it to be determined whether those concerned acted in good faith?

4. At all events, is it compatible with the criterion of good faith for the actions of a seller or supplier, in creating the agreement, to have been the cause of a lack of transparency making the term unfair?

5. Is the risk of serious difficulties, which operates as a basis for limiting the retroactive effect derived from an unfair term, an autonomous concept of EU law that must be interpreted uniformly throughout the Member States?

6. If so, what criteria ought to be taken into account?

7. Must the risk of serious difficulties be assessed by taking account solely of the risk which may arise for the seller or supplier or must account also be taken of the loss caused to a consumer by the failure to reimburse in full the sums paid under that 'floor clause'?

8. Is it compatible with the principle that consumers are not bound by unfair terms, laid down in Article 6(1) of Council Directive 93/13/EEC, and with the right to effective judicial protection affirmed in Article 47 of the Charter of Fundamental Rights of the European Union, ([2]) for the same limitation of the restitutory effects deriving from the nullity of a 'floor clause', declared in proceedings brought by a consumers' association against financial bodies, to be automatically extended to individual actions for a declaration that a 'floor clause' is void because unfair brought by consumer customers who have concluded a mortgage loan with other financial bodies?

([1]) OJ 1993 L 95, p. 29.
([2]) OJ 2000 C 364, p. 1.

Request for a preliminary ruling from the Cour administrative d'appel de Paris (France) lodged on 29 June 2015 — Overseas Financial Limited, Oaktree Finance Limited v Ministre de l'économie, de l'industrie et du numérique

(Case C-319/15)

(2015/C 279/31)

Language of the case: French

Referring court

Cour administrative d'appel de Paris

Parties to the main proceedings

Applicants: Overseas Financial Limited, Oaktree Finance Limited

Defendant: Ministre de l'économie, de l'industrie et du numérique

Question referred

Do the provisions of Article 17 of Council Regulation (EU) No 961/2010 of 25 October 2010 ([1]) infringe Article 17 of the Charter of Fundamental Rights of the European Union and the first article of the first additional protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which protect the right to property, read together with Article 47 of that Charter and the first paragraph of Article 6 of the Convention, which guarantee the implementation of a judicial decision within a reasonable period of time, particularly to the extent that those provisions do not provide for the release of frozen funds where a third person relies on a right to payment of debt acquired by virtue of a judicial decision ordering a person designated in a freezing measure to pay an indemnity to him, given at the end of proceedings commenced before that designation, and that those two persons have no relationship, even indirect, connected to the activities covered by the regulation?

([1]) Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1).

Action brought on 9 July 2015 — European Commission v Republic of Austria

(Case C-347/15)

(2015/C 279/32)

Language of the case: German

Parties

Applicant: European Commission (represented by: W. Mölls, J. Hottiaux and T. Maxian Rusche, acting as Agents)

Defendant: Republic of Austria

Form of order sought

The applicant claims that the Court should:

— declare that, in so far as it did not oblige ÖBB Personenverkehr (Austrian Federal Railways) to publish the public service compensation and the costs and revenues for each public service contract, the Republic of Austria has failed to comply with its obligations under Article 6(3) of Directive 2012/34/EU ([1]) and under Article 6(1) read in conjunction with Rule 5 of the Annex to Regulation (EC) No 1370/2007 ([2]);

— order the Republic of Austria to pay the costs.

Pleas in law and main arguments

The defendant failed to comply with its obligations under Directive 2012/34/EU and Regulation (EC) No 1370/2007.

The defendant has failed to ensure that the invoices corresponding to public funds for the provision of public transport services are separately broken down according to each contract and that their costs and revenues are evidenced and published separately. The defendant has thereby infringed the corresponding rules of EU law in the area of rail transport.

(1) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ 2012 L 343, p. 32).

(2) Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ 2007 L 315, p. 1).

GENERAL COURT

Judgment of the General Court of 6 July 2015 — France v Commission

(Case T-516/10) ([1])

(EAGGF — 'Guidance' Section — Reduction of financial aid — Community initiative programme Leader + — Failure to comply with the time-limit for adoption of a decision — Infringement of an essential procedural requirement)

(2015/C 279/33)

Language of the case: French

Parties

Applicant: French Republic (represented initially by: E Belliard, B. Cabouat, G. de Bergues, D. Colas and C. Candat, and subsequently by: D. Colas, C. Candat and J.-S. Pilczer, acting as Agents)

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

Re:

Annulment of Commission Decision C(2010) 5724 Final of 23 August 2010 on the application of financial corrections to assistance from the EAGGF, 'guidance' section, allocated to the Community initiative programme CCI 2000.FR.060.PC.001 (France — Leader+)

Operative part of the judgment

The Court:

1. *Annuls Commission Decision C(2010) 5724 Final of 23 August 2010 on the application of financial corrections to assistance from the EAGGF, 'guidance' section, allocated to the Community initiative programme CCI 2000.FR.060.PC.001 (France — Leader+);*

2. *Orders the European Commission to bear its own costs and to pay those incurred by the French Republic.*

([1]) OJ C 13, 15.1.2011.

Judgment of the General Court of 6 July 2015 — Italian Republic v Commission

(Case T-44/11) ([1])

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Aid for the production of skimmed-milk powder — Irregularities or negligence attributable to administrative authorities or bodies of the Member States — Proportionality — Obligation to state reasons — Principle of ne bis in idem — Reasonable period)

(2015/C 279/34)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, assisted by L. Ventrella and G. Fiengo, avvocati dello Stato)

Defendant: European Commission (represented by: P. Rossi and D. Nardi, acting as Agents)

Re:

Application for partial annulment of Commission Decision 2010/668/EU of 4 November 2010 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 L 288, p. 24), to the extent that it excludes certain expenditure incurred by the Italian Republic.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Italian Republic to bear its own costs and to pay those incurred by the European Commission.*

([1]) OJ C 80, 12.3.2011.

Judgment of the General Court of 9 July 2015 — Nanu-Nana Joachim Hoepp v OHIM — Vincci Hoteles (NANU)

(Case T-89/11) ([1])

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

(2015/C 279/35)

Language of the case: English

Parties

Applicant: Nanu-Nana Joachim Hoepp GmbH & Co. KG (Bremen, Germany) (represented by: A. Nordemann and T. Boddien, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Vincci Hoteles, SA (Alcobendas, Spain)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 25 November 2010 (Case R 641/2010-1), relating to opposition proceedings between Vincci Hoteles, SA and Nanu-Nana Joachim Hoepp GmbH & Co. KG.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Nanu-Nana Joachim Hoepp GmbH & Co. KG to pay the costs.*

([1]) OJ C 113, 9.4.2011.

Judgment of the General Court of 8 July 2015 — European Dynamics Luxembourg and Others v Commission

(Case T-536/11) ([1])

(Public service contracts — Tender procedure — Provision of computing services for the development and maintenance of software, consultancy and assistance for different types of IT applications — Ranking of a tenderer's bid in the cascade for different lots and ranking of the bids of other tenderers — Obligation to state reasons — Award criterion — Manifest error of assessment — Non-contractual liability)

(2015/C 279/36)

Language of the case: English

Parties

Applicants: European Dynamics Luxembourg SA (Ettelbrück, Luxembourg); European Dynamics Belgium SA (Brussels, Belgium); and Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: N. Korogiannakis, M. Dermitzakis and N. Theologou, lawyers)

Defendant: European Commission (represented by: initially by S. Delaude and V. Savov, and subsequently by S. Delaude, acting as Agents, and by O. Graber-Soudry, Solicitor)

Re:

Action for annulment of the decision of the Publications Office of the European Union of 22 July 2011 to rank the applicants, in respect of the bids they submitted in response to the call for tenders AO 10340, concerning the provision of computing services for the development and maintenance of software, consultancy and assistance for different types of IT applications (OJ 2011/S 66-106099), in the third place in the cascade for lot 1, in the third place in the cascade for lot 4 and in the second place in the cascade for lot 3, as well as the decisions awarding the contracts at issue to other tenderers in as much as they refer to their ranking, and, second, for damages.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

([1]) OJ C 355, 3.12.2011.

Judgment of the General Court of 8 July 2015 — Deutsche Rockwool Mineralwoll v OHIM — Ceramicas del Foix (Rock & Rock)

(Case T-436/12) ([1])

(Community trade mark — Invalidity proceedings — Community figurative mark Rock & Rock — Earlier national word marks MASTERROCK, FIXROCK, FLEXIROCK, COVERROCK and CEILROCK — Relative ground for refusal — Article 8(1)(b) and Article 53(1)(a) of Regulation (EC) No 207/2009)

(2015/C 279/37)

Language of the case: English

Parties

Applicant: Deutsche Rockwool Mineralwoll GmbH & Co. OHG (Gladbeck, Germany) (represented by: J. Krenzel, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Ceramicas del Foix, SA (Barcelona, Spain) (represented by: M. Pérez Serres and R. Guerras Mazón, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 10 July 2012 (Case R 495/2011-2) concerning invalidity proceedings between Deutsche Rockwool Mineralwoll GmbH & Co. OHG and Ceramicas del Foix, SA.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Deutsche Rockwool Mineralwoll GmbH & Co. OHG to pay the costs.*

([1]) OJ C 379, 8.12.2012.

Judgment of the General Court of 8 July 2015 — Deutsche Rockwool Mineralwoll v OHIM — Redrock Construction (REDROCK)

(Case T-548/12) ([1])

(Community trade mark — Invalidity proceedings — Community figurative mark REDROCK — Earlier national word marks ROCK, KEPROCK, FLEXIROCK, FORMROCK, FLOOR-ROCK, TERMAROCK, KLIMAROCK, SPEEDROCK, DUROCK, SPLITROCK, PLANAROCK, TOPROCK, KLEMMROCK, FIXROCK, SONOROCK PLUS, VARIROCK, SONOROCK and MASTERROCK — Relative ground for refusal — Article 8(1)(b) and Article 53(1)(a) of Regulation (EC) No 207/2009)

(2015/C 279/38)

Language of the case: Czech

Parties

Applicant: Deutsche Rockwool Mineralwoll GmbH & Co. OHG (Gladbeck, Germany) (represented by: J. Krenzel, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: V. Mahelka, P. Geroulakos and M. Rajh, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Redrock Construction s.r.o. (Prague, Czech Republic) (represented by: D. Krofta, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 16 October 2012 (Case R 1596/2011-4), concerning invalidity proceedings between Deutsche Rockwool Mineralwoll GmbH & Co. OHG and Redrock Construction s.r.o.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Deutsche Rockwool Mineralwoll GmbH & Co. OHG to pay the costs.*

(1) OJ C 63, 2.3.2013.

Judgment of the General Court of 9 July 2015 — CMT v OHIM — Camomilla (Camomilla)

(Joined Cases T-98/13 and T-99/13) (1)

(Community trade mark — Invalidity proceedings — Community figurative mark Camomilla — Earlier national figurative mark CAMOMILLA — Absolute ground for refusal — Article 52(1)(b) of Regulation (EC) No 207/2009 — No bad faith on the part of the proprietor of the Community trade mark — Relative ground for refusal — No similarity between the goods — No damage to reputation — Article 8(1)(b) and 8(5) of Regulation (EC) No 207/2009 — Article 53(1)(a) of Regulation (EC) No 207/2009)

(2015/C 279/39)

Language of the case: Italian

Parties

Applicant: CMT Compagnia manifatture tessili Srl (CMT Srl) (Naples, Italy) (represented by: G. Floridia, R. Floridia, M. Franzoni and G. Rubino, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Camomilla SpA (Buccinasco, Italy) (represented by: A. Tornato and M. Mussi, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 29 November 2012 (cases R 1615/2011-1 and R 1617/2011-1), concerning invalidity proceedings between CMT — Compagnia manifatture tessili Srl (CMT Srl) and Camomilla SpA.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Compagnia manifatture tessili Srl (CMT Srl) to pay the costs.*

(1) OJ C 141, 18.5.2013.

Judgment of the General Court of 9 July 2015 — CMT v OHIM — Camomilla (CAMOMILLA)

(Case T-100/13) ([1])

(Community trade mark — Invalidity proceedings — Community word mark CAMOMILLA — Earlier national figurative mark Camomilla — Absolute ground for refusal — Article 52(1)(b) of Regulation (EC) No 207/2009 — No bad faith on the part of the proprietor of the Community trade mark — Relative ground for refusal — Genuine use of the earlier mark — Additional evidence brought before the Board of Appeal)

(2015/C 279/40)

Language of the case: Italian

Parties

Applicant: CMT Compagnia manifatture tessili Srl (CMT Srl) (Naples, Italy) (represented by: G. Floridia, R. Floridia, M. Franzoni and G. Rubino, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Camomilla SpA (Buccinasco, Italy) (represented by: A. Tornato and M. Mussi, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 29 November 2012 (case R 1616/2011-1), concerning invalidity proceedings between CMT — Compagnia manifatture tessili Srl (CMT Srl) and Camomilla SpA.

Operative part of the judgment

The Court:

1. *Annuls the decision of the First Board of Appeal of Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 29 November 2012 (case R 1616/2011-1);*

2. *Orders OHIM to pay its own costs and those incurred by CMT Compagnia manifatture tessili Srl (CMT Srl).*

3. *Orders CAMOMILLA SpA to pay its own cost.*

([1]) OJ C 141, 18.5.2013.

Judgment of the General Court of 7 July 2015 — Alpinestars Research v OHIM — Tung Cho and Wang Yu (A ASTER)

(Case T-521/13) ([1])

(Community trade mark — Opposition proceedings — Application for the Community figurative mark A ASTER — Earlier Community word mark A-STARS — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 279/41)

Language of the case: English

Parties

Applicant: Alpinestars Research Srl (Coste di Maser, Italy) (represented by: G. Dragotti, R. Valenti and S. Balice, lawyers)

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

Other parties to the proceedings before the Board of Appeal of OHIM: Kean Tung Cho (Taichung City, Taiwan) and Ling-Yuan Wang Yu (Wuci Township, Taiwan)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 15 July 2013 (Case R 2309/2012-4), relating to opposition proceedings between Alpinestars Research Srl, on the one hand, and Kean Tung Cho and Ling-Yuan Wang Yu, on the other hand.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 15 July 2013 (Case R 2309/2012-4);*

2. *Orders OHIM to pay the costs.*

([1]) OJ C 352, 30.11.2013.

Judgment of the General Court of 7 July 2015 — Axa Versicherung v Commission

(Case T-677/13) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to a procedure pursuant to the competition rules — Request relating to a collection of documents — Refusal to grant access — Request relating to a single document — Table of contents — Obligation to undertake a concrete, individual examination — Exception relating to the protection of the commercial interests of a third party — Exception relating to the protection of the purpose of inspections, investigations and audits — Overriding public interest — Claim for damages — Obligation to state reasons)

(2015/C 279/42)

Language of the case: German

Parties

Applicant: Axa Versicherung AG (Cologne, Germany) (represented by: C. Bahr, S. Dethof and A. Malec, lawyers)

Defendant: European Commission (represented by: F. Clotuche-Duvieusart and H. Krämer, acting as Agents, and by R. Van der Hout and A. Köhler, lawyers)

Intervener in support of the defendant: Saint-Gobain Sekurit Deutschland GmbH & Co. KG (Aix-la-Chapelle, Germany) (represented by: B. Meyring and E. Venot, lawyers)

Re:

Application for annulment of Commission Decision 2012/817 and 2012/3021 Gestdem of 29 October 2013, rejecting two requests for access to documents in the file of Case COMP/39.125 (Car glass).

Operative part of the judgment

The Court:

1. *Annuls Commission Decision 2012/817 and 2012/3021 Gestdem of 29 October 2013, rejecting two requests for access to documents in the file of Case COMP/39.125 (Car glass) in so far as it refuses to grant Axa Versicherung AG access to the 'leniency documents' included in the table of contents of that file;*

2. *Dismisses the remainder of the action;*

3. *Orders Axa Versicherung and the European Commission to each bear their own costs;*

4. *Orders Saint-Gobain Sekurit Deutschland GmbH & Co. KG to bear its own costs.*

([1]) OJ C 71, 8.3.2014.

Judgment of the General Court of 7 July 2015 — Federcoopesca and Others v Commission

(Case T-312/14) ([1])

(Application for annulment — Fisheries — Community control system for ensuring compliance with the rules of the common fisheries policy — Commission Decision implementing an action plan aiming at filling gaps in the Italian fisheries control system — Measure not itself modifying the legal situation of the applicant — Not individually affected — Inadmissibility)

(2015/C 279/43)

Language of the case: Italian

Parties

Applicants: Federazione nazionale delle cooperative della pesca (Federcoopesca) (Rome, Italy); Associazione Lega Pesca (Rome); Associazione generale cooperative italiane settore agro ittico alimentare (AGCI AGR IT AL) (Rome) (represented by: L. Caroli, S. Ventura and V. Cannizzaro, lawyers)

Defendant: European Commission (represented by: A. Bouquet and D. Nardi, acting as Agents)

Re:

Application for annulment of Commission Decision C (2013) 8635 final of 6 December 2013 concerning an action plan implementing aiming at filling gaps in the Italian fisheries control system.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Federazione nazionale delle cooperative della pesca (Federcoopesca), Associazione Lega Pesca and Associazione generale cooperative italiane settore agro ittico alimentare (AGCI AGR IT AL) to pay the costs.*

([1]) OJ C 194, 24.6.2014.

Action brought on 5 May 2015 — Arbuzov v Council

(Case T-221/15)

(2015/C 279/44)

Language of the case: Czech

Parties

Applicant: Sergej Arbuzov (Kyiv, Ukraine) (represented by: M. Machytková, lawyer)

Defendant: Council of the European Union

Form of order sought

— 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, 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, in so far as those instruments concern the applicant;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of the right to good administration

   — The applicant submits in this connection that there was a breach of the right to good administration guaranteed by Article 41(1) and (2)(a) and (c) of the Charter of Fundamental Rights of the European Union ('the Charter'), since the defendant did not proceed, in his view, with the proper care requiring it rigorously and impartially to examine all the relevant facts of the applicant's case.

2. Second plea in law, alleging breach of the right to property

   — The applicant submits on this point that there was a breach of the right to property guaranteed him by Article 17(1) of the Charter and Article 1 of Protocol No 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, consisting in the fact that, as a result of the breach of the right to good administration, the contested acts limiting the applicant's right to property were adopted with no legal grounds and contrary to the conditions set out in Article 52(1) of the Charter.

Action brought on 28 May 2015 — Novartis Europharm v Commission

(Case T-269/15)

(2015/C 279/45)

Language of the case: English

Parties

Applicant: Novartis Europharm Ltd (Camberley, United Kingdom) (represented by: C. Schoonderbeek, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested decision; and

— order the European Commission to pay its own costs and those of Novartis.

Pleas in law and main arguments

By its present action, the applicant seeks the annulment of Commission Decision C(2015) 1977 final of 18 March 2015 granting a marketing authorisation to Pari Pharma for the medicinal product for human use 'Vantobra — tobramycine'.

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

1. First plea in law, alleging that the decision of the European Commission is unlawful in that it constitutes an infringement of the orphan market exclusivity rights of Novartis Europharm Ltd. for its product TOBI Podhaler pursuant to Article 8 (1) of Regulation (EC) No. 141/2000 ([1]) because the period of orphan market exclusivity has not yet expired while the conditions for granting a derogation of market exclusivity pursuant to Article 8(3) of the same Regulation are not fulfilled.

2. Second plea in law, alleging that the decision of the European Commission is also unlawful because it does not contain a statement of reasons as required by Article 296 of the Treaty on the Functioning of the European Union and Article 81 (1) of Regulation (EC) No. 726/2004 ([2]).

([1]) Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products (OJ L 18, 22.1.2000, p. 1).

([2]) Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ L 136, 30.4.2004, p. 1).

Action brought on 26 May 2015 — ANKO AE v Research Executive Agency (REA)

(Case T-270/15)

(2015/C 279/46)

Language of the case: Greek

Parties

Applicant: ANKO AE Antiprosopeion, Emporiou kai Viomichanias (Athens, Greece) (represented by: V. Christianos, lawyer)

Defendant: Research Executive Agency (REA)

Form of order sought

The applicant claims that the General Court should:

— declare that the suspension of payment which the Research Executive Agency (REA) applied with respect to the sum which it continues to owe to the applicant as its contribution to the ESS project is in breach of its contractual obligations and, consequently, ANKO should be paid the remaining part of its contribution, the sum of EUR 125 253,82, with legal interest, and

— order the REA to pay the applicant's costs.

Pleas in law and main arguments

With this action the applicant claims that the General Court of the European Union should, under Article 272 TFEU, declare that the suspension of payment which the Research Executive Agency applied with respect to the sum which it continues to owe to the applicant as its contribution to the ESS project in the context of the FP7 programme is in breach of its contractual obligations and, consequently, that that sum should be paid to ANKO, with interest from the date of lodging this action.

In particular, ANKO maintains that it fully and properly performed its contractual obligations. In contrast, the Research Executive Agency (REA) suspended its payments to ANKO, in breach of Section II.5 (3)(d) of Annex II to the principal agreement for the ESS project. For that reason, the Research Executive Agency (REA) continues to owe to the applicant with respect to the ESS project the sum payment of which was unlawfully suspended, namely EUR 125 253,82.

In particular, ANKO maintains that the suspension of payments by the Research Executive Agency (REA) to it with respect to the ESS project is contrary to the ESS project agreement and to EU law for the following reasons:

— First, the Research Executive Agency (REA) unlawfully suspended payments to ANKO, since none of the five conditions set out in Section II.5 (3)(d) of Annex II to the principal agreement applies.

— Second, the Research Executive Agency (REA) unlawfully laid down a condition, on which the suspension of payments could be terminated, for which no provision was made in the contractual documents and which is contrary to EU law.

Action brought on 29 May 2015 — Alcogroup and Alcodis v Commission

(Case T-274/15)

(2015/C 279/47)

Language of the case: French

Parties

Applicants: Alcogroup (Brussels, Belgium); and Alcodis (Brussels) (represented by: P. de Bandt, J. Dewispelaere and J. Probst, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested decisions;

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

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law alleging that, by adopting and implementing the contested decisions, the Commission infringed the applicants' rights of defence and their right to the inviolability of private premises and that it breached the principles of sound administration and proportionality.

Action brought on 1 June 2015 — Tayto Group v OHIM — MIP Metro (real)

(Case T-287/15)

(2015/C 279/48)

Language in which the application was lodged: English

Parties

Applicant: Tayto Group Ltd (Corby, United Kingdom) (represented by: G. Würtenberger and R. Kunze, lawyers)

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

Other party to the proceedings before the Board of Appeal: MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany)

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: Figurative mark in red and blue containing the word element 'real' — Community trade mark No 38 968

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 16 March 2015 in Case R 2285/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in part;

— order OHIM to pay the costs.

Pleas in law

— Infringement of Articles 15, 51, 64, 75 and 76 of Regulation No 207/2009.

Action brought on 9 June 2015 — KV v EACEA

(Case T-306/15)

(2015/C 279/49)

Language of the case: English

Parties

Applicant: KV (Athens, Greece) (represented by: S. Pappas, lawyer)

Defendant: Education, Audiovisual and Culture Executive Agency

Form of order sought

The applicant claims that the Court should:

— annul decision EACEA/MH/mvh/OKRAPF15D006233 of the Education, Audiovisual and Culture Executive Agency (EACEA), dated 10 April 2014, on the financing of the agreement 518072-LLP-1-2011-1-DE-COMENIUS-CNW/2011-3848 with regard to the NEST — 'Network for Staff and Teachers in Childcare Services' Project;

— order the defendant to bear its own costs and the costs incurred by the applicants in the current proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging a first manifest error of assessment.

   — The contested decision is vitiated by a manifest error of assessment when distinguishing between 'usual' and 'additional' service provided by the applicants' partners/shareholders during the project in question, as the Agency manifestly disregarded the nature of the services provided by the partners, the clear will of the applicant's general assembly to address and regulate such services as it considered them to constitute a distinct category that was not falling under the provisions of the Statutes, and the fact that the services provided by the partners in the project in question met all the requirements of the aforementioned decision of the general assembly.

2. Second plea in law, alleging a second manifest error of assessment

   — The contested decision is vitiated by a manifest error of assessment as regards the reasoning of the decision relating to the link of subordination between the partners/shareholders and the applicant, the existence of which was clearly established in the evidence submitted to the Agency.

Action brought on 2 June 2015 — Hellenic Republic v Commission

(Case T-314/15)

(2015/C 279/50)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: K. Boskovits and L. Cotroni)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the Commission decision of 23 March 2015 in relation to the State aid SA.28876 (2012/C) (ex CP202/2009) which Greece granted to the undertakings Container Terminal Port of Piraeus and Cosco Pacific Limited;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. The first plea in law for annulment is a claim of infringement of the rights of defence of the Hellenic Republic.

   — In support of that plea, the Hellenic Republic invokes the change in the factual and legal basis for the procedure between the decision to initiate the procedure and the decision declaring that aid had been granted.

2. The second plea in law for annulment is a claim of misinterpretation and misapplication of Article 107(1) TFEU in relation to the concept of State aid.

— In support of that plea, the Hellenic Republic invokes the absence of economic advantage and the absence of selectivity with respect to the measures at issue and particularly the fact that the defendant failed to define correctly the reference system of the measures at issue, failed to assess the substantially distinct legal and factual situation of the undertakings which are active in public infrastructure projects in the light of the particular characteristics of the concession agreements with that subject matter and disregarded the basic and guiding principles of the general tax system which the measures at issue manifestly serve.

3. The third plea in law for annulment is a claim of erroneous, deficient, and contradictory statement of reasons with respect to the determination of State aid.

— In support of that plea, the Hellenic Republic invokes the erroneous, deficient, and contradictory statement of reasons as regards: (a) the granting of State aid through State resources, (b) the existence of a selective advantage, (c) the comparison with similar tax related provisions with respect to concession agreements for public infrastructure projects which the Commission approved, and (d) distortion of competition and the effect on trade between Member States.

4. The fourth plea in law for annulment is a claim of misinterpretation and misapplication of Article 107(3) TFEU in relation to the compatibility of the aid with the internal market.

— In support of that plea, the Hellenic Republic invokes the defendants's erroneous assessment with respect to the existence of compatible regional aid and with respect to whether the aid was necessary and proportionate and had an incentive effect in achieving an objective of common interest.

5. The fifth plea in law for annulment is a claim of erroneous quantification of the aid and infringement of the general principles of EU law at the stage of recovery.

— In support of that plea, the Hellenic Republic invokes the erroneous methodology employed by the defendant with respect to the quantification of the aid and infringement of the principle of equal treatment.

Action brought on 22 June 2015 — Sun System Kereskedelmi és Szolgáltató v OHIM — Hollandimpex Kereskedelmi és Szolgáltató (Choco Love)

(Case T-325/15)

(2015/C 279/51)

Language in which the application was lodged: English

Parties

Applicant: Sun System Kereskedelmi és Szolgáltató kft (Budapest, Hungary) (represented by: Á. László, lawyer)

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

Other party to the proceedings before the Board of Appeal: Hollandimpex Kereskedelmi és Szolgáltató kft (Budapest, Hungary)

Details of the proceedings before OHIM

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

Trade mark at issue: Community figurative mark containing the word elements 'Choco love' — Community trade mark application No 11 496 916

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 26 March 2015 in Case R 1369/2014-1

Form of order sought

The applicant claims that the Court should:

— uphold the application, alter the contested decision by accepting the opposition and reject the Community trade mark application 'Choco love'; or in the alternative:

— annul the contested decision and remit the case to OHIM for reexamination;

— order OHIM to pay the applicant's costs.

Plea in law

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

Action brought on 2 June 2015 — Hellenic Republic v Commission

(Case T-327/15)

(2015/C 279/52)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: G. Kanellopoulos, O. Tsirkinodou and A. E. Vasilopoulou)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the Commission Implementing Decision of 25 March 2015 on applying financial correction on the EAGGF Guidance Section of the Operational Programme CCI No 2000GR061PO021 (GREECE — Objective 1 — Rural Reconstruction), to the amount of EUR 72 105 592,41, which was notified under number C(2015) 1936 final.

Pleas in law and main arguments

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

1. In the first plea for annulment, it is claimed that the contested decision lacks a legal basis, because Article 39 of Regulation (EC) 1260/1999 ([1]), on which it is based, has been repealed, in so far as concerns the EAGGF Guidance Section (the first part of the first plea in law), and, in any event, the legal requirements for reliance on Article 39 of Regulation (EC) No 1260/1999 are not met in advance (the second part of the first plea in law).

2. In the second plea for annulment, it is claimed, in the alternative to the first plea in law, that the adoption of the contested decision exceeded the competence *ratione temporis* of the Commission (the first part of the second plea in law), or that its adoption was out of time and in breach of essential procedural requirements and is an infringement of the right of the Hellenic Republic to be heard and of its rights of defence (the second part of the second plea in law).

3. In the third plea, it is claimed that the contested decision is incompatible with the principle of legal certainty and the legitimate expectations of the Member State.

4. Last, in the fourth plea for annulment it is claimed that the contested decision has infringed the principle of *ne bis in idem* because a multiple correction has been imposed, and in any event it is claimed that the financial correction imposed is entirely disproportionate and should be annulled.

([1]) Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ 1999 L 161, p. 1).

Appeal brought on 24 June 2015 by Geoffroy Alsteens against the judgment of the Civil Service Tribunal of 21 April 2015 in Case F-87/12 RENV Alsteens v Commission

(Case T-328/15 P)

(2015/C 279/53)

Language of the case: French

Parties

Appellant: Geoffroy Alsteens (Marcinelle, Belgium) (represented by: S. Orlandi and T. Martin, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the Civil Service Tribunal in Case F-87/12 RENV *Alsteens* v *Commission*;

— annul the Commission's decision of 18 November 2011 to the extent that it fixes 31 March 2012 as the limit of the extension period for the appellant's temporary staff contract;

— order the Commission to pay a provisional sum of 1 euro by way of compensation for the damage suffered by the appellant, together with the costs of the four sets of legal proceedings.

Grounds of appeal and main arguments

The appellant raises three grounds in support of his appeal.

1. First ground of appeal, alleging infringement of the adversarial principle and an error of law. The appellant claims that the Civil Service Tribunal ('the CST') (i) wrongly rejected as inadmissible, in the light of the rule of correspondence, the pleas in law based on a manifest error of assessment and the principle of sound administration, even though the Commission had never raised an objection of inadmissibility and the parties had never had the opportunity to take a position on that alleged inadmissibility, and (ii) in any event, erred in law in finding that the appellant had not complied with the rule of correspondence.

2. Second ground of appeal, alleging a distortion of the appellant's arguments, a breach of the duty to provide a statement of reasons and an error of law, as the CST held that it was not necessary to give a ruling on the interpretation of Article 8 of the Conditions of Employment of Other Servants of the European Union ('the CEOS') and that the judgment of 5 October 1995 in *Alexopoulou* v *Commission* (T-17/95, ECR — SC, EU:T:1995:176) was entirely irrelevant for the purposes of resolving the dispute.

3. Third ground of appeal, alleging a breach of the duty to provide a statement of reasons and an error of law, as the CST held that it was necessary to receive a specific request from the appellant in order to derogate from the mechanical application of the six-year rule, thereby disregarding the fact that the contested decision was an act adversely affecting the appellant.

Action brought on 24 June 2015 — Certuss Dampfautomaten v OHIM — Universal for Engineering Industries (Universal 1800 TC)

(Case T-329/15)

(2015/C 279/54)

Language in which the application was lodged: English

Parties

Applicant: Certuss Dampfautomaten GmbH & Co. KG (Krefeld, Germany) (represented by: J. Sroka, lawyer)

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

Other party to the proceedings before the Board of Appeal: Universal for Engineering Industries SAE (Giza, Egypt)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'Universal 1800 TC' — Application for registration No 10 632 503

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 9 April 2015 in Case R 1303/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 24 June 2015 — Keil v OHIM — Naturafit Diätetische Lebensmittelproduktions (BasenCitrate)

(Case T-330/15)

(2015/C 279/55)

Language in which the application was lodged: German

Parties

Applicant: Rudolf Keil (Grevenbroich, Germany) (represented by: J. Sachs, lawyer)

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

Other party to the proceedings before the Board of Appeal: Naturafit Diätetische Lebensmittelproduktions GmbH (Röttenbach, Germany)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'BasenCitrate' — Community trade mark No 11 120 284

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 15 April 2015 in Case R 1541/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the defendant and the intervener to pay the costs, including those which were incurred in the course of the proceedings before the Board of Appeal.

Pleas in law

— Infringement of Article7(1)(b) of Regulation No 207/2009;

— Infringement of Article7(1)(c) of Regulation No 207/2009.

Action brought on 23 June 2015 — Universal Protein Supplements v OHIM (Representation of a body builder)

(Case T-335/15)

(2015/C 279/56)

Language of the case: English

Parties

Applicant: Universal Protein Supplements Corp. (New Brunswick, United States) (represented by: S. Malynicz, Barrister)

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 representing a body builder — Application for registration No 13 060 991

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 6 March 2015 in Case R 2958/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs of the applicant.

Pleas in law

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

Action brought on 27 June 2015 — Polski Koncern Naftowy Orlen v OHIM (Shape of a service station)

(Case T-339/15)

(2015/C 279/57)

Language of the case: Polish

Parties

Applicant: Polski Koncern Naftowy Orlen SA (Płock, Poland) (represented by: M. Siciarek, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Three-dimensional Community trade mark (Shape of a service station) — Application No 12 411 071

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 2 April 2015 in Case R 2245/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs, including those of the applicant in the course of the proceedings before the Board of Appeal of OHIM and before the Court.

Plea in law

— Infringement of Article 7(1)(b), Article 7(2) and Article 75 of Regulation No 207/2009.

Action brought on 27 June 2015 — Polski Koncern Naftowy Orlen v OHIM (Shape of a service station)

(Case T-340/15)

(2015/C 279/58)

Language of the case: Polish

Parties

Applicant: Polski Koncern Naftowy Orlen SA (Płock, Poland) (represented by: M. Siciarek, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Three-dimensional Community trade mark (Shape of a service station) — Application No 12 411 112

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 2 April 2015 in Case R 2247/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs, including those of the applicant in the course of the proceedings before the Board of Appeal of OHIM and before the Court.

Plea in law

— Infringement of Article 7(1)(b), Article 7(2) and Article 75 of Regulation No 207/2009.

Action brought on 27 June 2015 — Polski Koncern Naftowy Orlen v OHIM (Shape of a service station)

(Case T-341/15)

(2015/C 279/59)

Language of the case: Polish

Parties

Applicant: Polski Koncern Naftowy Orlen SA (Płock, Poland) (represented by: M. Siciarek, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Three-dimensional Community trade mark (Shape of a service station) — Application No 12 411 138

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 2 April 2015 in Case R 2248/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs, including those of the applicant in the course of the proceedings before the Board of Appeal of OHIM and before the Court.

Plea in law

— Infringement of Article 7(1)(b), Article 7(2) and Article 75 of Regulation No 207/2009.

Action brought on 27 June 2015 — Polski Koncern Naftowy Orlen v OHIM (Shape of a service station)

(Case T-342/15)

(2015/C 279/60)

Language of the case: Polish

Parties

Applicant: Polski Koncern Naftowy Orlen SA (Płock, Poland) (represented by: M. Siciarek, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Three-dimensional Community trade mark (Shape of a service station) — Application No 12 416 905

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 2 April 2015 in Case R 2249/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs, including those of the applicant in the course of the proceedings before the Board of Appeal of OHIM and before the Court.

Plea in law

— Infringement of Article 7(1)(b), Article 7(2) and Article 75 of Regulation No 207/2009.

Action brought on 27 June 2015 — Polski Koncern Naftowy Orlen v OHIM (Shape of a service station)

(Case T-343/15)

(2015/C 279/61)

Language of the case: Polish

Parties

Applicant: Polski Koncern Naftowy Orlen SA (Płock, Poland) (represented by: M. Siciarek, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Three-dimensional Community trade mark (Shape of a service station) — Application No 12 416 954

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 2 April 2015 in Case R 2250/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs, including those of the applicant in the course of the proceedings before the Board of Appeal of OHIM and before the Court.

Plea in law

— Infringement of Article 7(1)(b), Article 7(2) and Article 75 of Regulation No 207/2009.

Appeal brought on 7 July 2015 by Maria Luisa Garcia Minguez against the order of the Civil Service Tribunal of 28 April 2015 in Case F-72/14, Garcia Minguez v Commission

(Case T-357/15 P)

(2015/C 279/62)

Language of the case: French

Parties

Appellant: Maria Luisa Garcia Minguez (Brussels, Belgium) (represented by L. Ortiz Blanco and Á. Givaja Sanz, lawyers)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant requests the General Court:

— to set aside the order of the Civil Service Tribunal of the European Union of 28 April 2015 in case F-72/14;

— to rule on the proceedings in F-72/14 and to annul the decision of the Commission not to admit the appellant to the internal competition COM/3/AD 9/13; and

— to order the Commission to pay the costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on three pleas in law.

1. First plea in law, alleging an error of law in the interpretation of the terms 'Commission' and 'institution' appearing in the competition notice and Articles 27 and 29 of the Staff Regulations. The appellant contends that the Education, Audiovisual and Culture Executive Agency (EACEA) must be considered part of the Commission for the purpose of determining those eligible for an internal competition.

2. Second plea in law, alleging an error of law in the interpretation of the principles of equal treatment and non-discrimination and of Articles 27 and 29 of the Staff Regulations. The appellant contends that it is unlawful to admit staff working directly for an institution to an internal competition, including those who are seconded to an executive agency, and at the same time to exclude the other staff working for the same agency.

3. Third plea in law, in the alternative, alleging infringement of the obligation to reply to a plea put forward in the application, failure to give reasons and an error of law in the interpretation of the principles of equal treatment and non-discrimination and of the statutes of the institutions. The appellant contends that her particular situation — she performed, with the agreement of the Commission, the duties of head of unit for two units shown on the Commission organisation chart — justifies her being admitted to the internal competition in question.

Action brought on 1 July 2015 — Dr Vita v OHIM (69)

(Case T-360/15)

(2015/C 279/63)

Language of the case: Polish

Parties

Applicant: Dr Vita sp. z o.o. (Olsztyn, Poland) (represented by: D. Rzążewska, 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 including the number '69' — Application No 12 794 566

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 1 April 2015 in Case R 2513/2014-5

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 7(1)(b) and (c) and Article 7(2) of Regulation No 207/2009

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (1st Chamber) of 16 July 2015 — EJ v Commission

(Case F-112/14) ([1])

(Civil service — Officials — Reform of the Staff Regulations — Regulation No 1023/2013 — Types of posts — Transitional rules concerning assignment to types of posts — Article 30(2) of Annex XIII to the Staff Regulations — Lawyer administrators in grade AD 13 of the Commission's Legal Service — Situation of 'legal advisers' and 'members of the Legal Service' — Methods of accessing grade AD 13 under the 2004 Staff Regulations — Promotion under Article 45 of the Staff Regulations — Appointment pursuant to Article 29 of the Staff Regulations — Assignment to the types of posts 'Adviser or equivalent' and 'Administrator in transition' — Act adversely affecting an official — Concept of 'significant responsibilities' — Concept of 'special responsibilities' — Equal treatment — Opportunity for promotion to grade AD 14 — Legitimate expectations — Principle of legal certainty)

(2015/C 279/64)

Language of the case: French

Parties

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

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

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

Re:

Action for annulment of the appointing authority's decisions to assign the applicants, in accordance with the new rules on career and promotion applicable after the reform of the Staff Regulations of 1 January 2014, to the type of post 'Senior Administrator in transition', thereby depriving them, in their view, of the opportunity of promotion to grade AD 14, and for a declaration that Article 30(3) of Annex XIII to the Staff Regulations is unlawful.

Operative part of the judgment

The Tribunal:

1. *Annuls the individual decisions, as evidenced by a note added after 1 January 2014 to the applicants' individual computerised files, adopted by the appointing authority of the European Commission, assigning EJ and the other applicants whose anonymised names are set out in the annex hereto to the post which within the European Commission is entitled 'Senior Administrator in transition' and corresponds to the Staff Regulations type of post 'Administrator in transition';*

2. *Orders the European Commission to bear its own costs and to pay the costs incurred by EJ and the other applicants whose anonymised names are set out in the annex hereto;*

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

([1]) OJ C 26, 26.01.2015, p. 47.

Judgment of the Civil Service Tribunal (First Chamber) of 16 July 2015 — Muariu v EIOPA

(Case F-116/14) ([1])

(Civil Service — EIOPA staff — Temporary member of staff — Vacancy notice — Requirement for minimum professional experience of eight years — Internal candidate already confirmed in her post as a temporary member of staff following a probationary period — Provisionally posted to the new position, giving classification at a higher grade — Material error in the vacancy notice — Withdrawal of the offer of employment — Applicability of the GIPs — Consultation of the Staff Committee — Legitimate expectations)

(2015/C 279/65)

Language of the case: French

Parties

Applicant: Simona Muariu (Frankfurt-am-Main, Germany) (represented by: L. Levi, lawyer)

Defendant: European Insurance and Occupational Pensions Authority (EIOPA) (represented by: C. Coucke, acting as Agent, and F. Tuytschaever, lawyer)

Re:

Application for annulment of the decision of the executive director of the European Insurance and Occupational Pensions Authority (EIOPA) which withdrew a previous decision appointing the applicant as a temporary member of staff at grade AD 8 and a claim for damages for the material and non-material harm allegedly suffered.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of 24 February 2014 of the European Insurance and Occupational Pensions Authority in so far as;*

   — *in disregard, in a contractual relationship, of the acquired rights and terms of the contract, it retroactively rejects the application of Ms Murariu for the post of senior expert on personal pensions and impliedly withdraws the offer of employment, under a temporary posting, already accepted by Ms Murariu, made to her on 17 July 2013;*

   — *it deprives Ms Murariu of the benefit of remuneration corresponding to grade AD 8 for the period of her temporary posting from 16 September 2013 to 24 February 2014;*

2. *Dismisses the remainder of the claims;*

3. *Orders the European Insurance and Occupational Pensions Authority to compensate Ms Murariu for her material loss, suffered between 16 September 2013 and 24 February 2014, in an amount corresponding to the difference in remuneration between grades AD 6 and AD 8, together with default interest, to run from 16 September 2013, at the rate set by the European Central Bank for main refinancing operations during the relevant period and increased by two points;*

4. *Dismisses the remainder of the claims for compensation;*

5. *Orders the European Insurance and Occupational Pensions Authority to bear its own costs and to pay the costs incurred by Ms Murariu.*

([1]) OJ C 26, 26.1.2015, p. 47.

Order of the Civil Service Tribunal (First Chamber) of 14 July 2015 — Roda v Commission

(Case F-109/14) ([1])

(Civil Service — Remuneration — Survivor's pension — Article 27 of Annex VIII to the Staff Regulations — Right of the divorced spouse of the deceased official — Alimony paid by the deceased official — Capping of the survivor's pension — Action manifestly unfounded)

(2015/C 279/66)

Language of the case: Italian

Parties

Applicant: Silvana Roda (Ispra, Italy) (represented by: L. Ribolzi, lawyer)

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

Re:

Application for annulment of the Commission's decision not to increase the amount of the survivor's pension of which the applicant, who is the ex-spouse of a deceased official, is the beneficiary.

Operative part of the order

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

2. *Orders Ms Roda to bear her own costs and to pay the costs incurred by the European Commission.*

([1]) OJ C 7, 12.1.15, p. 54.

Order of the Civil Service Tribunal (Third Chamber) of 16 July 2015 — FG v European Commission

(Case F-20/15) ([1])

(Civil Service — Officials — Reform of the Staff Regulations — Regulation No 1023/2013 — Types of posts — Transitional rules on grading in the types of posts — Article 30(2) of Annex XIII to the Staff Regulations — Suitability for promotion to the grade above — Promotion year 2014 — Administrator without 'particular responsibilities' — Promotion possibilities capped at grade AD 12 — Name of that administrator not included in the list of promotable officials in grade AD 12 — Possibility of requesting to benefit under Article 30(3) of Annex XIII to the Staff Regulations — Deadline of 31 December 2015 — Admissibility of the action — Concept of measure adversely affecting a person — Amendment of the digital personal file of the official — Administrative information — Published on the institution's intranet — Failure to satisfy the requirements of the pre-litigation procedure — Article 81 of the Rules of Procedure)

(2015/C 279/67)

Language of the case: French

Parties

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

Defendant: European Commission (represented by: T.S. Bohr and E. Ehrbar, acting as Agents, and B. Wägenbaur, lawyer)

Re:

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

Operative part of the order

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

2. *Each party shall bear its own costs.*

(1) OJ C 127, 20.4.2015, p. 41.

Order of the Civil Service Tribunal (Third Chamber) of 15 July 2015 — De Esteban Alonso v Commission

(Case F-35/15) (1)

(Civil service — Article 24 of the Staff Regulations — Request for assistance — Criminal proceedings before a national court — Joinder of Commission in bringing a civil action — Action dismissed as manifestly unfounded)

(2015/C 279/68)

Language of the case: French

Parties

Applicant: Fernando De Esteban Alonso (Saint-Martin-de-Seignanx, France) (represented by: C. Huglo, lawyer)

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

Re:

Application for annulment of the Commission's decision not to take further action on the request for assistance made by the applicant where he was under investigation for misappropriation of funds accruing to the Community budget.

Operative part of the order

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

2. *Mr De Esteban Alonso is to bear his own costs and to pay the costs incurred by the European Commission.*

(1) OJ C 146, 4/5/2015, p. 52.

Order of the President of the Civil Service Tribunal of 15 July 2015 — Wolff v EEAS

(Case F-94/15 R)

(Civil Service — Interim measures — Application for a suspension of operation — Elections to the Staff Committee — Urgency — Absence — Balance of the interests at stake)

(2015/C 279/69)

Language of the case: French

Parties

Applicant: Oren Wolff (Etterbeek, Belgium) (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European External Action Service (represented by: G.-J. Van Hegelsom, S. Marquardt and E. Chaboureau, acting as Agents)

Re:

Application for annulment of the decision rejecting the applicant's challenge to the results of the elections to the Staff Committee of the EEAS.

Operative part of the order

1. *Mr Wolff's application for interim measures is rejected.*

2. *The costs are reserved.*

Action brought on 4 May 2015 — ZZ v Commission

(Case F-72/15)

(2015/C 279/70)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the proposal to transfer the applicant's pension rights to the EU's pension scheme, which applies the new general implementing provisions of Article 11(2) of Annex VIII to the Staff Regulations of 3 March 2011.

Form of order sought

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

— Annul the decision of 26 May 2014, accepted on 11 July 2014, to credit the pension rights acquired by the applicant prior to his entry into service, in the context of the transfer of those rights to the pension scheme of the EU institutions, in accordance with the general provisions implementing Article 11(2) of Annex VIII to the Staff Regulations of 3 March 2011;

— Order the Commission to pay the costs.

Action brought on 11 May 2015 — ZZ v Commission

(Case F-74/15)

(2015/C 279/71)

Language of the case: Italian

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision to grant only an increase in the compensation to 20 % of the capital provided for in respect of total permanent invalidity under Article 14 of the Common rules on the insurance of officials of the Communities against the risk of accident and of occupational disease and compensation for the non-pecuniary harm allegedly suffered by the applicant and an order that the Commission pay default interest.

Form of order sought

— Annul the decision of 26 June 2014 by which the Commission grants an increase of 20 % of the compensation referred to in Article 14 of the Common rules on the insurance of officials of the Communities against the risk of accident and of occupational disease in the version applicable until 31 December 2006, on the ground of serious irregularities in the opinion given on 8 January 2014 by the medical committee, since it did not uphold in full the applicant's requests and granted only 20 % in compensation, under Article 14 of the Common rules, in respect of harm to the cardio-respiratory function, without taking into account the mental harm and functional disruption of sleep due to the alteration of the left lateral decubitus position;

— Order the Commission to pay compensation in respect of the harm estimated *pro bono et aequo* at EUR 50 000 for the non-pecuniary harm suffered by the applicant and connected with the delay in payment of the compensation granted;

— Order the Commission to pay default interest, which it is to calculate, on EUR 98 372,51 for the period covering the expiry of six months following the submission of the claim for deterioration and the date of effective liquidation of the capital, at the rate fixed by the European Central Bank for the principal financing operations and applicable to the period concerned, increase by two points;

— Order the Commission to pay default interest, which it is to calculate, on the amount which will be estimated at the end of the present proceedings, from the date of the judgment until that of actual payment, at the rate fixed by the European Central Bank for the principal financing operations and applicable to the period concerned, increase by two points;

— In any event, order the Commission to pay the costs and disbursements.

Action brought on 18 May 2015 — ZZ and Others v EIB

(Case F-78/15)

(2015/C 279/72)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: L. Levi, lawyer)

Defendant: European Investment Bank (EIB)

Subject-matter and description of the proceedings

Firstly, annulment of the decisions in the pay statements for February 2015, fixing the annual salary adjustment as limited to 1,2 % for 2015 and annulment of the later statements and, in so far as necessary, the information notes which the defendant sent to the applicants on 6 and 10 February 2015. Secondly, an order that the EIB pay damages in respect of the material and non-material harm allegedly suffered.

Form of order sought

— Declare the present action admissible and well founded, including the plea of illegality which it contains;

— Consequently:

— Annul the decision contained in the applicant's pay statements for February 2015, which decision fixed the annual salary adjustment at 1,2 % for 2015 and, accordingly, annul the similar decisions contained in the later pay statements and, in so far as necessary, annul two information notes sent by the defendant to the applicants on 6 February 2015 and 10 February 2015;

— Accordingly, order the defendant:

— to pay to each defendant, as compensation for the material harm, (i) the balance of the salary corresponding to the application of the annual adjustment for 2015, namely an increase of 0,4 %, for the period of 1 January 2015 to 31 December 2015; (ii) the balance of the salary corresponding to the effects of application of the annual adjustment of 1,2 % for 2015 on the amount of the salaries which will be paid with effect from January 2016; (iii) default interest on the balances of the salaries due until payment in full of the sums due, the rate of the default interest to be applied must be calculated on the basis of the rate set by the European Central Bank for main refinancing operations, applicable during the relevant period, increased by three points and (iv) damages in respect of the loss of purchasing power; this material loss as a whole being estimated, provisionally, for each applicant, at EUR 30 000;

— to pay to each applicant EUR 1 000 in respect of non-material harm;

— Order the EIB to pay all the costs.

Action brought on 26 May 2015 — ZZ v ECB

(Case F-79/15)

(2015/C 279/73)

Language of the case: French

Parties

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

Defendant: European Central Bank

Subject-matter and description of the proceedings

Annulment of the decision of the European Central Bank to close the procedure for recognition of the occupational source of the applicant's disease and claim for damages in respect of the material and non-material harm allegedly suffered.

Form of order sought

— Annul the contested decision;

— Order the European Central Bank to pay her EUR 30 000 in respect of the material and non-material harm suffered;

— Order the European Central Bank to pay the costs.

Action brought on 26 May 2015 — ZZ and ZZ v Commission

(Case F-80/15)

(2015/C 279/74)

Language of the case: French

Parties

Applicants: ZZ and ZZ (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: Commission

Subject-matter and description of the proceedings

A finding of the unlawfulness of Article 45 of and Annex I to the Staff Regulations of Officials and the transitional measures relating thereto, and annulment of the decisions of the Appointing Authority not to include the applicants on the list of officials promoted to grade AD 13 or AD 14 in promotion year 2014.

Form of order sought

— Principally:

— Find that Article 45 of the Staff Regulations and Annex I thereto, as well as the transitional measures relating thereto are unlawful;

— Annul the decision of the Appointing Authority not to include the applicants on the list of officials promoted to grade AD 13 or AD 14 in promotion year 2014 provided for in Article 45 of the Staff Regulations;

— Order the Commission to pay the costs;

— In the alternative:

— Annul the decision of the Appointing Authority not to include the applicants on the list of officials promoted to grade AD 13 or AD 14 in promotion year 2014 provided for in Article 45 of the Staff Regulations;

— Order the Commission to pay the costs.

Action brought on 26 May 2015 — ZZ v EIB

(Case F-82/15)

(2015/C 279/75)

Language of the case: Italian

Parties

Applicant: ZZ (represented by: L. Isola and G. Isola, lawyers)

Defendant: European Investment Bank

Subject-matter and description of the proceedings

The annulment, first, of the decision not to reimburse the expenses incurred by the applicant for laser treatment undergone in 2007 and, secondly, of the consecutive and connected decisions taken by the bank in 2014.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decision notified on 4 December 2014 and all measures connected, consecutive or prior to it, which certainly include the letters of the EIB of 8 January 2014, 31 January 2014, 14 February 2014, 24 February 2014, 30 April 2014 and 3 July 2014, and the opinion of 26 February 2008 of Dr M., the bank's medical officer and the report he issued in October 2008 and, lastly, the opinion issued by Dr S. on 6 October 2014;

— order the EIB to reimburse the sum of EUR 3 000, corresponding to the sum spent by the applicant to undergo laser treatment performed on 29 and 31 October 2007 and 21 and 23 November 2007, and to pay compensation assessed on equitable grounds for the material and non-material harm incurred, together with interest and an amount to offset inflation on the sums granted;

— in the alternative, order the European Union to pay EUR 3 000 by way of compensation for the damage incurred by the applicant because of its ambiguous provisions, together with interest and an amount to offset inflation;

— order the EIB and the European Union to pay, on the basis of joint and several liability, compensation assessed on equitable grounds in respect of the non-material harm incurred and to pay the costs of the proceedings.

Action brought on 28 May 2015 — ZZ v European GNSS Agency

(Case F-83/15)

(2015/C 279/76)

Language of the case: French

Parties

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

Defendant: European GNSS Agency

Subject-matter and description of the proceedings

The annulment of the appraisal report relating to the applicant's probationary period and the subsequent decision of the defendant's executive director to dismiss him at the end of his probationary period.

Form of order sought

The applicant claims that the Tribunal should:

— annul the appraisal report relating to the applicant's probationary period and, consequently;

— annul the decision of 15 October 2014 dismissing the applicant at the end of his probationary period, confirmed by the decision of 30 October 2014;

— order the European GNSS Agency to pay the costs.

Action brought on 2 June 2015 — ZZ v Council

(Case F-84/15)

(2015/C 279/77)

Language of the case: French

Parties

Applicant: ZZ (represented by: J.-N. Louis and N. de Montigny, lawyers)

Defendant: Council of the European Union

Subject-matter and description of the proceedings

The annulment of the decision not to promote the applicant to the next higher grade (AD 12) in the Council of the European Union's 2014 promotion procedure.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decision not to promote the applicant to grade AD 12 in the 2014 promotion procedure;

— order the Council of the European Union to pay the costs.

Action brought on 9th June 2015 — ZZ v ECB

(Case F-86/15)

(2015/C 279/78)

Language of the case: English

Parties

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

Defendant: European Central Bank

Subject-matter and description of the proceedings

Annulment of the decision not to admit the applicant to the program 'Career transition support' of the ECB and claim for compensation in respect of the material and non-material damage allegedly sustained.

Form of order sought

— Annul the decision of the Career Transition Support (CTS) Team of 18 August 2014 rejecting the applicant's CTS application;

— grant the applicant compensation for the material prejudice he suffered consisting of the CTS financial package, estimated at 101 447 euros, increased by late interests calculated at the rate of the European Central Bank plus 3 points;

— grant the Applicant compensation for the moral prejudice he suffered, estimated at 10 000 euros;

— order the defendant to pay all the costs.

Action brought on 15 June 2015 — ZZ/Commission

(Case F-88/15)

(2015/C 279/79)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision not to promote the applicant to the next higher grade (AD 12) as part of the European Commission's promotion procedure for the year 2014 and claim for damages for the non-material harm allegedly suffered.

Form of order sought

— Annul the decision not to promote the applicant to grade AD 12 including to the list published on 14 November 2014 and the response of the appointing authority to the complaint dated 5 March 2015;

— Grant the sum of EUR 10 000 on the basis of the non-material harm suffered;

— Order the defendant to pay the costs incurred by the applicant during the proceedings.

Action brought on 18th May 2015 — ZZ v Commission

(Case F-89/15)

(2015/C 279/80)

Language of the case: English

Parties

Applicant: ZZ (represented by: G.-M. Enache, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision not to include the applicant on the reserve list of competition EPSO/AD/248/13 and claim for compensation in respect of the material and non-material damage allegedly sustained.

Form of order sought

— Annul the Decision of the Appointing Authority regarding the complaint lodged by the applicant under Article 90(2) of the Staff regulations contesting the decision of the selection board not to include his name on the reserve list of competition EPSO/AD/248/13;

— annulment of the Decision of the selection board on the request for review submitted by the applicant in competition EPSO/AD/248/13;

— annulment of the Decision of the selection board in open competition EPSO/AD/248/13 not to include the applicant's name on the reserve list for Open Competition EPSO/AD/248/13;

— compensate the material and moral damages suffered. Material damages are estimated by the applicant at 50 000 euros, representing loss caused by difference between the basic salary he would have been entitled to once recruited from the reserve list and his actual basic salary he remained on. Moral damages estimated at 50 000 euros for the burden posed to the applicant due to the efforts in and personal time wasted out unnecessarily for dealing with the situation and for staying apart from his family whereas he would have had the chance by being recruited from the reserve list and reunited with his family members;

— order the Commission to pay the costs.

Order of the Civil Service Tribunal of 13 July 2015 — Carreira v ESMA

(Case F-69/14) ([1])

(2015/C 279/81)

Language of the case: French

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

([1]) OJ C 380, 27/10/2014, p. 27.

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