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COURT OF JUSTICE OF THE EUROPEAN UNION

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(2015/C 346/01)

Last publication

OJ C 337, 12.10.2015

Past publications

OJ C 328, 5.10.2015

OJ C 320, 28.9.2015

OJ C 311, 21.9.2015

OJ C 302, 14.9.2015

OJ C 294, 7.9.2015

OJ C 279, 24.8.2015

These texts are available on:

EUR-Lex: http://eur-lex.europa.eu

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Državna revizijska komisija za revizijo postopkov oddaje javnih naročil (Slovenia) lodged on 18 June 2015 — Medisanus d.o.o. v Splošna Bolnišnica Murska Sobota

(Case C-296/15)

(2015/C 346/02)

Language of the case: Slovenian

Referring court

Državna revizijska komisija za revizijo postopkov oddaje javnih naročil

Parties to the main proceedings

Applicant: Medisanus d.o.o.

Defendant: Splošna Bolnišnica Murska Sobota

Question referred

1) Must Directive 2004/18/EC ([1]), in particular Article 23(2), Article 23(8) and Article 2 thereof, read in conjunction with

— Directive 2001/83/EC ([2]), in particular Article 83 thereof,

— Directive 2002/98/EC ([3]), in particular Article 4(2) thereof,

— the TFEU, in particular Article 18 thereof,

be interpreted as precluding a specification that industrially manufactured medicinal products must be 'obtained from Slovenian plasma', (a specification based on the domestic legislation of the Republic of Slovenia, namely Article 6(71) of the ZZdr-2)?

([1]) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).

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

([3]) Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC (OJ 2003 L 33, p. 30).

Request for a preliminary ruling from the Verwaltungsgericht Wien (Austria) lodged on 8 July 2015 — Hans Maschek

(Case C-341/15)

(2015/C 346/03)

Language of the case: German

Referring court

Verwaltungsgericht Wien

Parties to the main proceedings

Appellant: Hans Maschek

Respondent: Magistratsdirektion der Stadt Wien

Questions referred

1) Is national legislation, such as the provision at issue of Paragraph 41a(2) of the Wiener Besoldungsordnung 1994, which in principle does not allow an employee who has, at his own request, terminated the employment relationship with effect from a particular date an entitlement to an allowance in lieu of leave within the meaning of Article 7 of Directive No 2003/88/EC ([1]) compatible with Article 7 of Directive 2003/88/EC?

   If not, is a provision of national law which lays down that every employee who, at his own request, terminates an employment contract must make every effort to use up any outstanding entitlement to annual leave by the end of the employment relationship and that, in the event of termination of the employment relationship at the request of the employee, an entitlement to an allowance in lieu of leave arises only if, also in the event of request being made for annual leave beginning on the day of the application to terminate the employment relationship, the employee was unable to take a period of leave corresponding to the full extent of an entitlement to an allowance in lieu of leave compatible with Article 7 of Directive 2003/88/EC?

2) Is it to be assumed that there is only to be an entitlement to payment of an allowance in lieu of leave if the employee who was unable due to incapacity to work to use up his leave entitlement immediately before the termination of his employment relationship (a) without unnecessary delay (and therefore in principle before the date of termination of the employment relationship) made his employer aware of his incapacity to work (e.g. due to illness) and (b) without unnecessary delay (and therefore in principle before the date of termination of the employment relationship) provided proof (e.g. through a doctor's sick note) of his incapacity to work (e.g. due to illness)?

   If not, is a provision of national law which lays down that there is only to be an entitlement to an allowance in lieu of leave if the employee who was unable due to incapacity to work to use up his leave entitlement immediately before the termination of his employment relationship (a) without unnecessary delay (and therefore in principle before the date of termination of the employment relationship) made his employer aware of his incapacity to work (e.g. due to illness) and (b) without unnecessary delay (and therefore in principle before the date of termination of the employment relationship) provided proof (e.g. through a doctor's sick note) of his incapacity to work (e.g. due to illness) compatible with Article 7 of Directive 2003/88/EC?

3) According to the case-law of the Court of Justice of the European Union (cf. judgments of the Court of Justice of 18 March 2004 in *Gomez*, C-342/01, paragraph 31; of 24 January 2012 in *Dominguez*, C-282/10, paragraphs 47 to 50; of 3 May 2012 in *Neidei*, C-337/10, paragraph 37) the Member States are free to grant an employee a statutory entitlement to leave or to an allowance in lieu of leave above the minimum entitlement guaranteed by Article 7 of Directive 2003/88. In addition, the entitlements laid down by Article 7 of Directive No 2003/88 have direct effect (cf. judgments of the Court of Justice of 24 January 2012 in *Dominguez*, C-282/10, paragraphs 34 to 36; of 12 June 2014 in *Bollacke*, C-118/13, paragraph 28).

In the light of that interpretation given to Article 7 of Directive 2003/88/EC, does a situation in which the national legislature allows a certain class of persons an entitlement to an allowance in lieu of leave significantly above the requirements of that provision of the directive have the effect that, as a result of the direct effect of Article 7 of Directive 2003/88/EC, those persons who were, contrary to the terms of the directive, refused an entitlement to an allowance in lieu of leave by that national legislation are also entitled to an allowance in lieu of leave to the extent significantly above the requirements of that provision of the directive, and which is allowed by the national legislation to the persons favoured by that provision?

(1) Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9).

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 13 July 2015 — College van Burgemeester en Wethouders van de gemeente Amersfoort; other party: X BV

(Case C-360/15)

(2015/C 346/04)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: College van Burgemeester en Wethouders van de gemeente Amersfoort

Other party to the proceedings: X BV

Questions referred

(1) Must Article 2(3) of Directive 2006/123/EC [1] of the European Parliament and of the Council of 12 December 2006 on services in the internal market be interpreted as meaning that that provision applies to the levying of charges ('leges') by an authority of a Member State in respect of the processing of an application for consent with regard to the timing, location and manner of performance of excavation works associated with the installation of cables for a public electronic communications network?

(2) Must Chapter III of Directive 2006/123/EC … be interpreted as meaning that it also applies in purely internal situations?

(3) Must Directive 2006/123/EC…, against the background of recital 9 in the preamble thereto, be interpreted as meaning that that directive does not apply to national rules which require the intention to carry out excavation work in connection with the installation, maintenance and removal of cables for a public electronic telecommunications network to be notified to the municipal council, and on the basis of which the latter is not competent to prohibit that work but is, however, competent to impose conditions in respect of the location, timing and manner of performance of the work and of the promotion of shared use of facilities and the coordination of the work with the managers of other construction works on the land?

(4) Must Article 4(6) of Directive 2006/123/EC … be interpreted as meaning that that provision applies to a consent decision with regard to the location, timing and manner of performance of excavation work in connection with the installation of cables for a public electronic telecommunications network, without the relevant authority of a Member State being competent to prohibit that work as such?

(5) (A) If, given the answers to the foregoing questions, Article 13(2) of Directive 2006/123/EC … is applicable in the present case, does that provision have direct effect?

(B) If the answer to Question 5(A) is in the affirmative, does Article 13(2) of Directive 2006/123/EC … mean that the costs which may be charged may be calculated on the basis of the estimated costs for all application procedures, or on the basis of the costs of all applications such as the one at issue here, or on the basis of individual applications?

(C) If the answer to Question 5(A) is in the affirmative, according to which criteria must indirect and fixed costs be allocated to authorisation applications in accordance with Article 13(2) of Directive 2006/123/EC …?

(1) OJ 2006 L 376, p. 36.

Action brought on 14 July 2015 — European Commission v Romania

(Case C-366/15)

(2015/C 346/05)

Language of the case: Romanian

Parties

Applicant: European Commission (represented by: E. Sanfrutos Cano and L. Nicolae, acting as Agents)

Defendant: Romania

Form of order sought

— Declare that, by failing to adopt all the laws, regulations and administrative provisions necessary to comply with Commission Directive 2013/28/EU of 17 May 2013 amending Annex II to Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles [1] or, in any event, by failing to notify the Commission of such measures, Romania has failed to fulfil its obligations under Article 2(1) of that Directive;

— order Romania to pay the costs.

Pleas in law and main arguments

The period for transposing the directive into national law expired on 22 August 2013.

(1) OJ 2013 L 135, p. 14.

Request for a preliminary ruling from the Trybunał Konstytucyjny (Poland) lodged on 20 July 2015 — Rzecznik Praw Obywatelskich (RPO)

(Case C-390/15)

(2015/C 346/06)

Language of the case: Polish

Referring court

Trybunał Konstytucyjny

Applicant in the main proceedings

Rzecznik Praw Obywatelskich (RPO)

Other parties to the proceedings: Marszałek Sejmu Rzeczypospolitej Polskiej, Prokurator Generalny

Questions referred

1. Is point 6 of Annex III to Council Directive 2006/112/EC of 28 November 2006 on the common system on value added tax [1], in the version amended by Council Directive 2009/47/EC of 5 May 2009 amending Directive 2006/112/EC as regards reduced rates of value added tax [2], invalid on the ground that, during the legislative procedure, the essential formal requirement of consultation with the European Parliament was not complied with?

2. Is Article 98(2) of Directive 2006/112/EC, referred to in Question 1, in conjunction with point 6 of Annex III to that directive, invalid on the ground that it infringes the principle of fiscal neutrality to the extent to which it excludes the application of reduced tax rates to books published in digital format and other electronic publications?

(1) OJ 2006 L 347, p. 1.
(2) OJ 2009 L 116, p. 18.

Request for a preliminary ruling from the Tribunal Superior de Justicia de Andalucía (Spain) lodged on 20 July 2015 — Marina del Mediterráneo, S.L. and Others v Consejería de Obras Públicas y Vivienda de la Junta de Andalucía

(Case C-391/15)

(2015/C 346/07)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Andalucía

Parties to the main proceedings

Applicants: Marina del Mediterráneo, S.L., Marina del Mediterráneo Duquesa, S.L., Marina del Mediterráneo Estepona, S.L., Marina del Mediterráneo Este, S.L., Marinas del Mediterráneo Torre, S.L., Marina del Mediterráneo Marbella, S.L., Gómez Palma, S.C., Enrique Alemán, S.A., Cyes Infraestructuras, S.A., Cysur Obras y Medioambiente, S.A.

Defendant: Consejería de Obras Públicas y Vivienda de la Junta de Andalucía

Other parties to the proceedings: Agencia Püblica de Puertos de Andalucía, U.T.E. Nassir Bin Abdullah and Sons, S.L., Puerto Deportivo de Marbella, S.A., y Ayuntamiento de Marbella

Questions referred

1. In the light of the principles of sincere cooperation and the effectiveness of directives, are Articles 1(1) and 2(1)(a) of Directive 89/665 ([1]) to be interpreted as precluding national legislation such as Section 310(2) of Ley 30/2007, de 30 de octubre, de Contratos del Sector Público (now Section 40(2) RDLeg 3/2011, que aprueba el texto refundido de la Ley de Contratos del Sector Público), in so far as it prevents access to the special application in procurement proceedings in respect of the procedural acts of the procurement board, such as the decision to admit a tender from a tenderer which, it is alleged, fails to comply with the provisions concerning proof of technical and economic solvency laid down in the national and EU legislation?

2. If the reply to the first question is in the affirmative, do Articles 1 (1) and 2 (1) (a) and (b) of Directive 89/665 have direct effect?

([1]) Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ 1989 L 395, p. 33).

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 29 July 2015 — Selena România SRL v Direcția Generală Regională a Finanțelor Publice (DGRFP) București

(Case C-416/15)

(2015/C 346/08)

Language of the case: Romanian

Referring court

Curtea de Apel București

Parties to the main proceedings

Applicant: Selena România SRL

Defendant: Direcția Generală Regională a Finanțelor Publice (DGRFP) București

Intervener: Direcția Generală Regională a Finanțelor Publice (DGRFP) Galați

Questions referred

1) **Is Council Implementing Regulation (EU) No 21/2013** ([1]) [extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China to imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not] **to be interpreted as meaning that it also applies to imports made by residents of the European Union from Taiwan before 17 January 2013, in other words in 2012 but after the adoption of Council Implementing Regulation (EU) No 791/2011** ([2]) [imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China]?

2) **Does the definitive anti-dumping duty described in Article 1 of Council Implementing Regulation (EU) No 21/2013 also apply to imports made by residents of the European Union from Taiwan during the period before 17 January 2013 and before the date of adoption of Commission Regulation (EU) No 437/2012** ([3]) [initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China by imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, and making such imports subject to registration] **but after the adoption of Council Regulation (EU) No 791/2011?'**

([1]) Council Implementing Regulation (EU) No 21/2013 of 10 January 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China to imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not (OJ 2013 L 11, p. 1).

([2]) Council Implementing Regulation (EU) No 791/2011 of 3 August 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China (OJ 2011 L 204, p. 1).

([3]) Commission Regulation (EU) No 437/2012 of 23 May 2012 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China by imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, and making such imports subject to registration (OJ 2012 L 134, p. 12).

Request for a preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) lodged on 30 July 2015 — Thomas Philipps GmbH & Co. KG v Grüne Welle Vertriebs GmbH

(Case C-419/15)

(2015/C 346/09)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Applicant: Thomas Philipps GmbH & Co. KG

Defendant: Grüne Welle Vertriebs GmbH

Questions referred

1. Does the first sentence of Article 33(2) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs ([1]) preclude a licensee who has not been entered in the register of Community designs from bringing claims for the infringement of a registered Community design?

2. In the event that the first question is answered in the negative: may the exclusive licensee of a Community design, with the consent of the right holder, bring an action on its own claiming damages for its own loss under Article 32(3) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs or can the licensee only intervene in an action brought by the right holder for an infringement of its Community design under Article 32(4) of that regulation?

(1) OJ 2002 L 3, p. 1.

Request for a preliminary ruling from the Tribunal de première instance francophone de Bruxelles (Belgium) lodged on 30 July 2015 — Criminal proceedings against U (*)

(Case C-420/15)

(2015/C 346/10)

Language of the case: French

Referring court

Tribunal de première instance francophone de Bruxelles

Party to the main proceedings

U (*)

Question referred

Are Articles 2 and 3 of the Royal Decree of 20 July 2001 on the registration of vehicles incompatible with Articles 18, 20, 45, 49 and 56 of the Treaty on the Functioning of the European Union, in that, in order to be driven in Belgium, even if only in order to pass through the country, vehicles belonging to a resident of a Member State of the European Union other than Belgium and registered in that other State must be registered in Belgium, if that person is also a Belgian resident?

Appeal brought on 10 August 2015 by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) against the judgment of the General Court (Third Chamber) delivered on 4 June 2015 in Case T-222/14, Deluxe Laboratories v OHIM (Deluxe)

(Case C-437/15 P)

(2015/C 346/11)

Language of the case: Spanish

Parties

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

Other party to the proceedings: Deluxe Laboratories, Inc.

(*) Information erased within the framework of the protection of individuals with regard to the processing of personal data.

Form of order sought

OHIM claims that the Court should:

— annul the judgment under appeal;

— order the applicant before the General Court to pay the costs.

Grounds of appeal and main arguments

OHIM claims that the judgment under appeal should be annulled since the General Court infringed the first sentence of Article 75 of the CTMR ([1]) in combination with Article 7(1)(b) and (2) of the CTMR, for reasons which may be summarised as follows:

1. The General Court erred in excluding the possibility of a general statement of reasons for various products and services when the perception of the sign in respect of each of them is uniform and, consequently, the reasoning applicable in respect of each of them is invariable.

2. To require OHIM to repeat systematically the same reasoning for each of the products or services, or uniform categories of products or services, amounts to making the duty to state reasons a purely formal obligation.

3. The Board of Appeal expressly identified the reasons for which the sign, in relation to any of the products and services in question, would be perceived solely as an indication of the superior quality of that product or service.

4. It is sufficient that the products and services have a common feature in order to make possible a statement of reasons in respect of all of them, if the sign lacks distinctive character as a result of that feature. In the present case, that common feature is that each of the products and services in question, without exception, are capable of being of high or low quality, with the result that the indication of superior quality is perceived in respect of each and every one of them as a mere selling point.

5. The General Court erred in its interpretation of the concept established in the case-law of a 'sufficiently uniform' category of products or services, leading it to limit unduly the criteria for assessing that concept. In the present case, the common feature identified by the Board of Appeal supports the finding that the products and services in question form a sufficiently uniform category which permits a general statement of reasons.

6. The judgment under appeal is not in accordance with the existing case-law, in particular with the order of 11 December 2014 in *FTI Touristik GmbH* v *OHIM (BigXtra)*, C-253/14 P, EU:C:2014:2445.

([1]) Regulation (EC) No 207/2009 of the Council of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

Request for a preliminary ruling from the Varbergs tingsrätt (Sweden) lodged on 28 August 2015 — P v Q

(Case C-455/15)

(2015/C 346/12)

Language of the case: Swedish

Referring court

Varbergs tingsrätt

Parties to the main proceedings

Applicant: P

Defendant: Q

Question referred

Is Varbergs tingsrätt, in accordance with Article 23(a) of the Brussels II Regulation ([1]) or any provision [thereof] and notwithstanding Article 24 of that regulation, to refuse to recognise the judgment of the Silute District Court of 18 February 2015, see Annex A, and thus to continue to deal with the custody case pending before Varbergs tingsrätt?

([1]) Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ 2003 L 338, p. 1).

Appeal brought on 28 August 2015 by Iranian Offshore Engineering & Construction Company (IOEC) against the judgment of the General Court (Seventh Chamber) delivered on 25 June 2015 in Case T-95/14 Iranian Offshore Engineering & Construction Company (IOEC) v Council

(Case C-459/15 P)

(2015/C 346/13)

Language of the case: Spanish

Parties

Appellant: Iranian Offshore Engineering & Construction Company (IOEC) (represented by: J. Viñals Camallonga, L. Barriola Urruticoechea and J. Iriarte Ángel, abogados)

Other party to the proceedings: Council of the European Union

Form of order sought

The appellant claims that the Court should:

— annul the judgment of the General Court (Seventh Chamber) of 25 June 2015 in Case T-95/14;

— give final judgment in the proceedings by granting the form of order sought by the applicant, now the appellant, at first instance; that is to say, annul Article 1 of Council Decision 2013/661/CFSP ([1]) of 15 November 2013 and Article 1 of Council Implementing Regulation (EU) No 1154/2013 ([2]) of 15 November 2013 in so far as they refer to, or could affect, IOEC, and remove its name from the respective annexes to those provisions;

— order the Council to pay the costs of the proceedings at first instance and on appeal.

Grounds of appeal and main arguments

The appellant relies on three grounds of appeal:

Error of law, in so far as the judgment erroneously states that the Council fulfilled its obligation to state reasons and did not infringe the right to an effective remedy.

Error of law, in that the judgment states that the measures against the appellant are based on evidence, when in reality they lack any factual basis and the judgment is based on presumptions. This also gave rise to a misuse of powers and infringement of the applicable legal provisions and of the principle of equal treatment.

Error of law, in that the judgment erroneously states that IOEC's property rights and the principle of proportionality were respected.

([1]) Council Decision 2013/661/CFSP of 15 November 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013 L 306, p. 18).

([2]) Council Implementing Regulation (EU) No 1154/2013 of 15 November 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013 L 306, p. 3).

GENERAL COURT

Judgment of the General Court of 10 September 2015 — Dow AgroSciences and Dintec Agroquímica — Produtos Químicos v Commission

(Case T-446/10) ([1])

(Plant protection products — Active substance trifluralin — Non-inclusion in Annex I to Directive 91/414/EEC — Regulation (EC) No 33/2008 — Accelerated assessment procedure — Manifest error of assessment — Principle of non-discrimination — Proportionality)

(2015/C 346/14)

Language of the case: English

Parties

Applicants: Dow AgroSciences Ltd (Hitchin, United Kingdom); and Dintec Agroquímica — Produtos Químicos, L[da] (Funchal, Portugal) (represented by: K. Van Maldegem and C. Mereu, lawyers)

Defendant: European Commission (represented initially by P. Ondrůšek and F. Wilman, and subsequently by P. Ondrůšek and G. von Rintelen, acting as Agents, and J. Stuyck, lawyer)

Re:

Application for annulment of Commission Decision 2010/355/EU of 25 June 2010 concerning the non-inclusion of trifluralin in Annex I to Council Directive 91/414/EEC (OJ 2010 L 160, p. 30).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Dow AgroSciences Ltd and Dintec Agroquímica — Produtos Químicos, L[da] to bear their own costs and to pay the costs incurred by the European Commission.*

([1]) OJ C 346, 18.12.2010.

Judgment of the General Court of 8 September 2015 — Amitié v Commission

(Case T-234/12) ([1])

(Arbitration clause — Grant — Financial aid — Suspension of payment — Claim for reimbursement of the declared costs — Damages — Interest on late payment — Debit note — Contractual liability — Counterclaim)

(2015/C 346/15)

Language of the case: English

Parties

Applicant: Amitié Srl (Bologna, Italy) (represented by: D. Bogaert, M. Picat and C. Siciliano, lawyers)

Defendant: European Commission (represented by: F. Moro and S. Delaude, acting as Agents, and initially by R. Van der Hout and A. Krämer, and subsequently by R. Van der Hout and A. Köhler, lawyers)

Re:

Application under Article 272 TFEU and the first paragraph of Article 340 TFEU for, in the first place, a declaration (i) that the amounts received by the applicant under a grant agreement and two financial aid agreements concluded between the applicant and the European Community, represented by the Commission, and also the financial penalty and interest on late payment, reimbursement or payment of which the Commission claims from the applicant on the basis of the final findings of a financial audit, are not payable or, at least, not payable in full; (ii) that the Commission's right to extrapolate the final audit findings to another grant agreement is time-barred; and (iii) that the Commission engaged the contractual liability of the European Union by suspending, on the basis of the preliminary financial audit findings, payment of the amounts payable to the applicant under two other grant agreements; and, in the second place, an order that the Commission pay to the applicant (i) the amounts remaining payable to it under the grant agreements performance of which was suspended and under another financial aid agreement, together with late payment interest; and (ii) damages to make good the loss suffered by the applicant owing to the abusive exercise by the Commission of the rights which it derived from the financial aid or grant agreements subject to the financial audit and the grant agreements the performance of which was suspended, following that audit.

Operative part of the judgment

The Court:

1. *Declares that there is no need to give a ruling on the head of claim of Amitié Srl requesting the Court to take note of the fact that the European Commission abandoned its challenge to the amounts which remained payable to the applicant for the implementation of the grant agreements references ECP-2007-DILI-517005, relating to the Athena (Access to cultural heritage networks across Europe) action, and ECP-2008-DILI-538025, relating to the Judaica Europeana (Jewish urban digital European integrated cultural archive) action;*

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

3. *Orders Amitié to pay to the Commission (i) a sum of EUR 50 458,23, with interest on late payment at the rate of 4,5 % per annum from 6 April 2012 and until full payment of that sum, (ii) a sum of EUR 261 947,36, with interest on late payment at the rate of 4,25 % per annum from 28 December 2012 and until full payment of that sum, (iii) a sum of EUR 358 712,35, with interest on late payment at the rate of 4,5 % per annum from 8 May 2012 and until full payment of that sum, and (iv) a sum of EUR 5 045,82, with interest on late payment at the rate of 4,5 % per annum from 23 June 2012 and until full payment of that sum;*

4. *Orders Amitié to bear its own costs and to pay four fifths of the costs of the Commission;*

5. *Orders the Commission to bear one fifth of its own costs.*

([1]) OJ C 243, 11.8.2012.

Judgment of the General Court of 4 September 2015 — United Kingdom v Commission

(Case T-503/12) [1]

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Single payment scheme — Key controls — Ancillary controls)

(2015/C 346/16)

Language of the case: English

Parties

Applicant: United Kingdom of Great Britain and Northern Ireland (represented initially by C. Murrell, and subsequently by E. Jenkinson and M. Holt, and finally by M. Holt, acting as Agents, and by D. Wyatt QC, and V. Wakefield, Barrister)

Defendant: European Commission (represented by: N. Donnelly, P. Rossi and K. Skelly, acting as Agents)

Re:

Action for annulment of Commission Implementing Decision 2012/500/EU of 6 September 2012 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 2012 L 244, p. 11), as regards four entries in the Annex to the decision relating to a 5 % flat-rate correction applied to expenditure incurred in Northern Ireland (United Kingdom) in the financial years 2008, amounting to EUR 277 231,60 and EUR 13 671 588,90, and 2009, amounting to EUR 270 398,26 and EUR 15 844 193,29.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs and to pay those incurred by the European Commission.*

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[1] OJ C 26, 26.1.2013.

Judgment of the General Court of 8 September 2015 — Ministry of Energy of Iran v Council

(Case T-564/12) [1]

(Common foreign and security policy — Restrictive measures adopted against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Obligation to state reasons — Rights of the defence — Right to effective judicial protection — Error of assessment — Breach of fundamental rights — Proportionality)

(2015/C 346/17)

Language of the case: English

Parties

Applicant: Ministry of Energy of Iran (Tehran, Iran) (represented by: M. Lester, Barrister)

Defendant: Council of the European Union (represented by: M. Bishop and A. De Elera, acting as Agents)

Re:

Action for partial annulment of Council Decision 2012/635/CFSP of 15 October 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 282, p. 58) and of Council Implementing Regulation (EU) No 945/2012 of 15 October 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 282, p. 16).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Ministry of Energy of Iran to pay the costs.*

([1]) OJ C 55, 23.2.2013.

Judgment of the General Court of 4 September 2015 — NIOC and Others v Council

(Case T-577/12) ([1])

(Common foreign and security policy — Restrictive measures adopted against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Action for annulment — Infra-State body — Standing to bring proceedings — Admissibility — Obligation to state reasons — Indication and choice of legal basis — Competence of the Council — Principle of foreseeability of European Union acts — Meaning of associated entity — Manifest error of assessment — Rights of defence — Right to effective judicial protection — Proportionality — Right to property)

(2015/C 346/18)

Language of the case: French

Parties

Applicants: National Iranian Oil Company PTE Ltd (NIOC) (Singapore, Singapore); National Iranian Oil Company International Affairs Ltd (NIOC International Affairs) (London, United Kingdom); Iran Fuel Conservation Organization (IFCO) (Tehran, Iran); Karoon Oil & Gas Production Co. (Khouzestan, Iran); Petroleum Engineering & Development Co. (PEDEC) (Tehran); Khazar Exploration and Production Co. (KEPCO) (Tehran); National Iranian Drilling Co. (NIDC) (Khouzestan); South Zagros Oil & Gas Production Co. (Shiraz, Iran); Maroun Oil & Gas Co. (Ahwaz, Iran); Masjed-Soleyman Oil & Gas Co. (MOGC) (Khouzestan); Gachsaran Oil & Gas Co. (Ahmad, Iran); Aghajari Oil & Gas Production Co. (AOGPC) (Khouzestan); Arvandan Oil & Gas Co. (AOGC) (Khoramshar, Iran); West Oil & Gas Production Co. (Kermanshah, Iran); East Oil & Gas Production Co. (EOGPC) (Mashhad, Iran); Iranian Oil Terminals Co. (IOTC) (Tehran); and Pars Special Economic Energy Zone (PSEEZ) (Boushehr, Iran) (represented by: J.-M. Thouvenin, lawyer)

Defendant: European Council (represented by: V. Piessevaux and M. Bishop, acting as Agents)

Re:

First, an application for annulment of Council Decision 2012/635/CFSP of 15 October 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 282, p. 58) and of Council Implementing Regulation (EU) No 945/2012 of 15 October 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 282, p. 16), in so far as those acts concern the applicants, and secondly, an application for a declaration of the inapplicability to the applicants of Article 20(1)(c) of Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39), as amended by Decision 2012/635, and of Article 23(2)(d) of Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders National Iranian Oil Company PTE Ltd (NIOC), National Iranian Oil Company International Affairs Ltd (NIOC International Affairs), Iran Fuel Conservation Organization (IFCO), Karoon Oil & Gas Production Co., Petroleum Engineering & Development Co. (PEDEC), Khazar Exploration and Production Co. (KEPCO), National Iranian Drilling Co. (NIDC), South Zagros Oil & Gas Production Co., Maroun Oil & Gas Co., Masjed-Soleyman Oil & Gas Co. (MOGC), Gachsaran Oil & Gas Co., Aghajari Oil & Gas Production Co. (AOGPC), Arvandan Oil & Gas Co. (AOGC), West Oil & Gas Production Co., East Oil & Gas Production Co. (EOGPC), Iranian Oil Terminals Co. (IOTC) and Pars Special Economic Energy Zone (PSEEZ) to bear their own costs and to pay those incurred by the Council of the European Union.*

(1) OJ C 79, 16.3.2013.

Judgment of the General Court of 9 September 2015 — Panasonic and MT Picture Display v Commission

(Case T-82/13) (1)

(Competition — Agreements, decisions and concerted practices — Global market for cathode ray tubes for television sets and computer monitors — Decision finding an infringement of Article 101 TFEU and Article 53 of the EEA Agreement — Agreements and concerted practices on pricing, market sharing, capacity and production — Rights of the defence — Proof of participation in the cartel — Single and continuous infringement — 2006 Guidelines on the method of setting fines — Proportionality — Fines — Unlimited jurisdiction)

(2015/C 346/19)

Language of the case: English

Parties

Applicants: Panasonic Corp. (Kadoma, Japan); and MT Picture Display Co. Ltd (Matsuocho, Japan) (represented by: R. Gerrits and A.-H. Bischke, lawyers, M. Hoskins QC, and S.K. Abram, Barrister)

Defendant: European Commission (represented by: A. Biolan, M. Kellerbauer and G. Koleva, acting as Agents)

Re:

Application for, primarily, annulment of Commission Decision C(2012) 8839 final of 5 December 2012 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39.437 — TV and Computer Monitor Tubes), in so far as it concerns the applicants, or, in the alternative, a reduction of the amount of the fine imposed on the applicants.

Operative part of the judgment

The Court:

1. *Sets the amount of the fines imposed by Article 2(2)(f), (h) and (i) of Commission Decision C(2012) 8839 final of 5 December 2012 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39.437 — TV and Computer Monitor Tubes) at EUR 128 866 000, so far as concerns Panasonic Corp., for its direct participation in the infringement concerning the colour picture tubes for television sets market; at EUR 82 826 000, so far as concerns Panasonic, Toshiba Corp. and MT Picture Display Co. Ltd, jointly and severally, and at EUR 7 530 000, so far as concerns Panasonic and MT Picture Display, jointly and severally;*

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

3. *Orders each party to bear its own costs.*

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[1] OJ C 101, 6.4.2013.

Judgment of the General Court of 9 September 2015 — Samsung SDI and Others v Commission

(Case T-84/13) [1]

(Competition — Agreements, decisions and concerted practices — Global market for cathode ray tubes for television sets and computer monitors — Decision finding an infringement of Article 101 TFEU and Article 53 of the EEA Agreement — Agreements and concerted practices on pricing, market sharing, capacity and production — Single and continuous infringement — Duration of the infringement — Cooperation during the administrative procedure — 2006 Leniency Notice — Reduction of the fine — Calculation of the fine — Taking account of undertakings' sales according to the place of delivery — Taking account of the average value of sales recorded during the infringement period)

(2015/C 346/20)

Language of the case: English

Parties

Applicants: Samsung SDI Co. Ltd (Gyeonggi-do, Republic of Korea); Samsung SDI Germany GmbH (Berlin, Germany); and Samsung SDI (Malaysia) Bhd (Negeri Sembilan Darul Khusus, Malaysia) (represented initially by G. Berrisch, lawyer, D. Hull, Solicitor, and L.-A. Grelier, lawyer, then by D. Hull and L.-A. Grelier, and subsequently by L.-A. Grelier, D. Geradin, J. Ysewyn, P. Camesasca, lawyers, and J. Flynn QC)

Defendant: European Commission (represented by: A. Biolan, G. Meessen and H. van Vliet, acting as Agents)

Re:

Application for annulment in part of Commission Decision C(2012) 8839 final of 5 December 2012 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39.437 — TV and Computer Monitor Tubes) and for a reduction of the fines imposed on the applicants.

Operative part of the judgment

The Court:

1. *Declares that there is no longer any need to adjudicate on the action in so far as it concerns Samsung SDI Germany GmbH;*

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

3. *Orders Samsung SDI Co. Ltd and Samsung SDI (Malaysia) Bhd to pay the costs.*

([1]) OJ C 108, 13.4.2013.

Judgment of the General Court of 9 September 2015 — LG Electronics v Commission

(Case T-91/13) ([1])

(Competition — Agreements, decisions and concerted practices — Global market for cathode ray tubes for television sets and computer monitors — Decision finding an infringement of Article 101 TFEU and Article 53 of the EEA Agreement — Agreements and concerted practices on pricing, market sharing, capacity and production — Single and continuous infringement — Imputability to a parent company of an infringement committed by a joint venture — Equal treatment — Method of calculating the fine — Taking into account the value of sales of cathode ray tubes through transformed products — Limitation period — Proportionality — Duration of the administrative procedure)

(2015/C 346/21)

Language of the case: English

Parties

Applicant: LG Electronics, Inc. (Seoul, Republic of Korea) (represented by: G. van Gerven and T. Franchoo, lawyers)

Defendant: European Commission (represented initially by C. Hödlmayr, M. Kellerbauer and P. Van Nuffel, and subsequently by M. Kellerbauer, P. Van Nuffel and A. Biolan, acting as Agents)

Re:

Application for annulment in part of Commission Decision C(2012) 8839 final of 5 December 2012 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39.437 — TV and Computer Monitor Tubes) and for a reduction of the fines imposed on the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders LG Electronics, Inc. to pay the costs.*

([1]) OJ C 108, 13.4.2013.

Judgment of the General Court of 9 September 2015 — Philips v Commission

(Case T-92/13) ([1])

(Competition — Agreements, decisions and concerted practices — Global market for cathode ray tubes for television sets and computer monitors — Decision finding an infringement of Article 101 TFEU and Article 53 of the EEA Agreement — Agreements and concerted practices on pricing, market sharing, capacity and production — Single and continuous infringement — Imputability to a parent company of an infringement committed by a joint venture — Equal treatment — Method of calculating the fine — Taking into account the value of sales of cathode ray tubes through transformed products — Taking into account the average value of sales recorded during the infringement — Taking into account the overall turnover of the group — Proportionality — Duration of the administrative procedure)

(2015/C 346/22)

Language of the case: English

Parties

Applicant: Koninklijke Philips Electronics NV (Eindhoven, Netherlands) (represented by: J. de Pree and S. Molin, lawyers)

Defendant: European Commission (represented initially by C. Hödlmayr, M. Kellerbauer and P. Van Nuffel, subsequently by M. Kellerbauer, P. Van Nuffel and A. Biolan, and lastly by M. Kellerbauer, P. Van Nuffel and V. Bottka, acting as Agents)

Re:

Application for annulment in part of Commission Decision C(2012) 8839 final of 5 December 2012 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39.437 — TV and Computer Monitor Tubes) and, in the alternative, annulment or reduction of the fines imposed on the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Koninklijke Philips Electronics NV to pay the costs.*

([1]) OJ C 108, 13.4.2013.

Judgment of the General Court of 9 September 2015 — Toshiba v Commission

(Case T-104/13) [1]

(Competition — Agreements, decisions and concerted practices — Global market for cathode ray tubes for television sets and computer monitors — Decision finding an infringement of Article 101 TFEU and Article 53 of the EEA Agreement — Agreements and concerted practices on pricing, market sharing, capacity and production — Proof of participation in the cartel — Single and continuous infringement — Imputability of the infringement — Joint control — Fines — Unlimited jurisdiction)

(2015/C 346/23)

Language of the case: English

Parties

Applicant: Toshiba Corp. (Tokyo, Japan) (represented by: J. MacLennan, Solicitor, J. Jourdan, A. Schulz and P. Berghe, lawyers)

Defendant: European Commission (represented by: A. Biolan, V. Bottka and M. Kellerbauer, acting as Agents)

Re:

Application for annulment of Commission Decision C(2012) 8839 final of 5 December 2012 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39.437 — TV and Computer Monitor Tubes), in so far as it concerns the applicant, and, in the alternative, cancellation or reduction of the amount of the fine which was imposed on it.

Operative part of the judgment

The Court:

1. *Annuls, in part, Article 1(2)(d) of Commission Decision C(2012) 8839 final of 5 December 2012 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39.437 — TV and Computer Monitor Tubes) in so far as it finds that Toshiba Corp. participated in a global cartel in the market for colour picture tubes for television sets from 16 May 2000 until 31 March 2003;*

2. *Annuls Article 2(2)(g) of that decision in so far as it imposes a fine of EUR 28 048 000 on Toshiba for its direct participation in a global cartel in the market for colour picture tubes for television sets;*

3. *Sets the amount of the fine imposed on Toshiba in Article 2(2)(h) of the decision at issue, jointly and severally with Panasonic Corp. and MT Picture Display Co. Ltd, at EUR 82 826 000;*

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

5. *Orders each party to bear its own costs.*

[1] OJ C 114, 20.4.2013.

Judgment of the General Court of 4 September 2015 — United Kingdom v Commission

(Case T-245/13) ([1])

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Single payment scheme — Key controls — Ancillary controls — Articles 51, 53, 73 and 73a of Regulation (EC) No 796/2004)

(2015/C 346/24)

Language of the case: English

Parties

Applicant: United Kingdom of Great Britain and Northern Ireland (represented initially by C. Murrell, M. Holt and E. Jenkinson, and subsequently by M. Holt, acting as Agents, and by D. Wyatt QC, and V. Wakefield, Barrister)

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

Re:

Action for partial annulment of Commission Implementing Decision 2013/123/EU of 26 February 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2013 L 67, p. 20), as regards one entry in Annex I to the decision relating to a 5,19 % extrapolated correction applied to expenditure incurred in Northern Ireland (United Kingdom) in the financial year 2010, amounting to EUR 16 513 582,57.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs and to pay those incurred by the European Commission.*

([1]) OJ C 189, 29.6.2013.

Judgment of the General Court of 10 September 2015 — Greece v Commission

(Case T-346/13) ([1])

(EAGGF — 'Guarantee' Section — EAGGF and EAFRD — Expenditure excluded from financing — Rural development measures — Agri-environment — Adequate checks — Lump-sum financial corrections)

(2015/C 346/25)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented initially by: I.-K. Chalkias, X. Basakou and A.-E. Vasilopoulou, and subsequently by: A.-E. Vasilopoulou, G. Kanellopoulos and O. Tsirkinidou, acting as Agents)

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

Re:

Application for annulment of Commission Implementing Decision 2013/214/EU of 2 May 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2013 L 123, p. 11).

Operative part of the judgment

The Court:

1. *Annuls Commission Implementing Decision 2013/214/EU of 2 May 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD, in so far as it imposes a financial correction of 2 % on the Hellenic Republic) in respect of the 'Organic farming' and 'Organic livestock' agri-environment sub-measures;*

2. *Dismisses the remainder of the action;*

3. *Orders the Hellenic Republic and the European Commission to bear their own costs.*

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[1] OJ C 245, 24.8.2013.

Judgment of the General Court of 10 September 2015 — H&M Hennes & Mauritz v OHIM — Yves Saint Laurent (Handbags)

(Case T-525/13) [1]

(Community design — Invalidity proceedings — Registered Community design representing handbags — Earlier design — Ground for invalidity — Individual character — Article 6 of Regulation (EC) No 6/2002 — Obligation to state reasons)

(2015/C 346/26)

Language of the case: English

Parties

Applicant: H&M Hennes & Mauritz BV & Co. KG (Hamburg, Germany) (represented by: H. Hartwig and A. von Mühlendahl, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM intervener before the General Court: Yves Saint Laurent SAS (Paris, France) (represented by: N. Decker, lawyer)

Re:

Action brought against the decision of the Third Board of Appeal of OHIM of 8 July 2013 (Case R 207/2012-3) relating to invalidity proceedings between H&M Hennes & Mauritz BV & Co. KG and Yves Saint Laurent SAS.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders H&M Hennes & Mauritz BV & Co. KG to pay the costs, including those incurred by Yves Saint Laurent SAS in the course of the proceedings before the Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

(1) OJ C 359, 7.12.2013.

Judgment of the General Court of 10 September 2015 — H&M Hennes & Mauritz v OHIM — Yves Saint Laurent (Handbags)

(Case T-526/13) (1)

(Community design — Invalidity proceedings — Registered Community design representing handbags — Earlier design — Ground for invalidity — Individual character — Article 6 of Regulation (EC) No 6/2002 — Obligation to state reasons)

(2015/C 346/27)

Language of the case: English

Parties

Applicant: H&M Hennes & Mauritz BV & Co. KG (Hamburg, Germany) (represented by: H. Hartwig and A. von Mühlendahl, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Yves Saint Laurent SAS (Paris, France) (represented by: N. Decker, lawyer)

Re:

Action brought against the decision of the Third Board of Appeal of OHIM of 8 July 2013 (Case R 208/2012-3) relating to invalidity proceedings between H&M Hennes & Mauritz BV & Co. KG and Yves Saint Laurent SAS.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders H&M Hennes & Mauritz BV & Co. KG to pay the costs, including those incurred by Yves Saint Laurent SAS in the course of the proceedings before the Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

(1) OJ C 359, 7.12.2013.

Judgment of the General Court of 8 September 2015 — Gold Crest v OHIM (MIGHTY BRIGHT)

(Case T-714/13) ([1])

(Community trade mark — Application for the Community word mark MIGHTY BRIGHT — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 346/28)

Language of the case: English

Parties

Applicant: Gold Crest LLC (Goleta, United States) (represented by: P. Rath and W. Festl-Wietek, lawyers)

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

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 8 October 2013 (Case R 2038/2012-2) concerning an application for registration of the word sign MIGHTY BRIGHT as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Gold Crest LLC to bear its own costs and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

([1]) OJ C 61, 1.3.2014.

Judgment of the General Court of 9 September 2015 — Pérez Gutiérrez v Commission

(Case T-168/14) ([1])

(Non-contractual liability — Public health — Directive 2011/37/EC — Manufacture, presentation and sale of tobacco products — Colour photographs proposed by the Commission as health warnings to appear on tobacco packages — Decision 2003/641/EC — Unauthorised use of the image of a deceased person — Harm suffered personally by the widow of the deceased person)

(2015/C 346/29)

Language of the case: Spanish

Parties

Applicant: Ana Pérez Gutiérrez (Mataró, Spain) (represented by: J. Soler Puebla, lawyer)

Defendant: European Commission (represented by: J. Baquero Cruz and C. Cattabriga, acting as Agents)

Re:

Action for damages seeking, firstly, compensation for the harm allegedly suffered by the applicant as a consequence of the unauthorised use of her late husband's picture among the photographs proposed by the Commission for the health warnings to be shown on tobacco packages pursuant to the first subparagraph of Article 5(3) of Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products (OJ 2001 L 194, p. 26) and Commission Decision 2003/641/EC of 5 September 2003 on the use of colour photographs or other illustrations as health warnings on tobacco packages (OJ 2003 L 226, p. 24) and, secondly, the withdrawal of her late husband's picture and a prohibition on its use within the European Union.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ms Ana Pérez Gutiérrez to pay the costs.*

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[1] OJ C 135, 5.5.2014.

Judgment of the General Court of 3 September 2015 — iNET24 Holding v OHIM (IDIRECT24)

(Case T-225/14) [1]

(Community trade mark — International registration designating the European Community — Word mark IDIRECT24 — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009 — Obligation to state reasons — Article 75 of Regulation No 207/2009)

(2015/C 346/30)

Language of the case: German

Parties

Applicant: iNET24 Holding AG (Feusisberg, Switzerland) (represented by: S. Kirschstein-Freund, B. Breitinger and V. Dalichau, lawyers)

Defendant: Office for Harmonisation in the Internal Market (trade marks and designs) (represented by: initially by A. Pohlmann and S. Hanne, acting as Agents)

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 4 February 2014 (Case R 1867/2013-5), concerning the international registration designating the European Community of word mark IDIRECT24.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders iNET24 Holding AG to pay the costs.*

([1]) OJ C 184, 16.6.2014.

Judgment of the General Court of 3 September 2015 — Warenhandelszentrum v OHIM — Baumarkt Max Bahr (NEW MAX)

(Case T-254/14) ([1])

(Community trade mark — Opposition proceedings — Application for the figurative Community trade mark NEW MAX — Earlier figurative Community trade mark MAX — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 346/31)

Language of the case: German

Parties

Applicant: Warenhandelszentrum Ltd (Neu-Ulm, Germany) (represented by: F.-P. Hirschel, lawyer)

Defendant: Office for Harmonisation in the Internal Market (trade marks and designs) (represented by: initially by A. Pohlmann, and subsequently by S. Hanne, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM: Baumarkt Max Bahr GmbH & Co. KG (Hamburg, Germany)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 29 January 2014 (Case R 2035/2012-1), concerning opposition proceedings between Baumarkt Max Bahr GmbH & Co. KG and Warenhandelszentrum Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Warenhandelszentrum Ltd to pay the costs.*

([1]) OJ C 194, 24.6.2014.

Judgment of the General Court of 9 September 2015 — Dairek Attoumi v OHIM — Diesel (DIESEL)

(Case T-278/14) [1]

(Community design — Invalidity proceedings — Registered Community design DIESEL — Earlier international word mark DIESEL — Ground for invalidity — Use of a distinctive sign — Likelihood of confusion — Article 25(1)(e) of Regulation (EC) No 6/2002 — Proof of genuine use — Stay of the administrative proceedings)

(2015/C 346/32)

Language of the case: Spanish

Parties

Applicant: Mansour Dairek Attoumi (Badalona, Spain) (represented by: E. Manresa Medina and J. Manresa Medina, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: O. Mondéjar Ortuño and V. Melgar, Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Diesel SpA (Breganze, Italy) (represented by: F. Celluprica and F. Fischetti, lawyers)

Re:

Action brought against the decision of the Third Board of Appeal of OHIM of 18 February 2014 (Case R 855/2012-3), relating to invalidity proceedings between Diesel SpA and Mansour Dairek Attoumi.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mansour Dairek Attoumi to pay the costs.*

[1] OJ C 253, 4.8.2014.

Judgment of the General Court of 9 September 2015 — Verein StHD v OHIM (Representation of a black ribbon)

(Case T-530/14) [1]

(Community trade mark — Application for Community figurative mark representing a black ribbon — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 346/33)

Language of the case: German

Parties

Applicant: Verein Sterbehilfe Deutschland (Verein StHD) (Zurich, Switzerland) (represented by: P. Brauns, lawyer)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 5 May 2014 (Case R 1940/2013-4) concerning an application for registration of a figurative sign representing a black ribbon as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Verein Sterbehilfe Deutschland (Verein StHD) to pay the costs.*

([1]) OJ C 303, 8.9.2014.

Judgment of the General Court of 9 September 2015 — Inditex v OHIM — Ansell (ZARA)

(Case T-584/14) ([1])

(Community trade mark — Proceedings for revocation — Community word mark ZARA — Genuine use — Article 51(1)(a) of Regulation (EC) No 207/2009)

(2015/C 346/34)

Language of the case: Spanish

Parties

Applicant: Industria de Diseño Textil (Inditex) (Arteixo, Spain) (represented by: C. Duch Fonoll, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Zainab Ansell and Roger Ansell (Moshi, Tanzania)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 19 May 2014 (Case R 1118/2013-2), relating to proceedings for revocation between Zainab Ansell and Roger Ansell, on one hand, and Industria de Diseño Textil, SA (Inditex), on the other hand.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Industria de Diseño Textil, SA (Inditex) to pay the costs.*

([1]) OJ C 339, 29.9.2014.

Judgment of the General Court of 9 September 2015 — SV Capital v EBA

(Case T-660/14) ([1])

(Economic and monetary policy — Application to initiate an investigation for an alleged breach of EU law — Decision of the EBA — Decision of the Board of Appeal of the European Supervisory Authorities — Finding of the Court of its own motion — Lack of competence of the author of the act — Action for annulment — Period allowed for commencing proceedings — Delay — Partly inadmissible)

(2015/C 346/35)

Language of the case: English

Parties

Applicant: SV Capital OÜ (Tallinn, Estonia) (represented by: M. Greinoman, lawyer)

Defendant: European Banking Authority (EBA) (represented by: J. Overett Somnier and Z. Giotaki, acting as Agents, and by F. Tuytschaever, lawyer)

Intervener in support of the defendant: European Commission (represented by: W. Mölls and K.-P. Wojcik, acting as Agents)

Re:

Application for the annulment, first, of Decision C 2013 002 of the EBA of 21 February 2014 rejecting the applicant's request for an investigation to be initiated against the Estonian and Finnish financial sector supervisory authorities, pursuant to Article 17(2) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ 2010 L 331, p. 12), as a result of an alleged breach of EU law and, secondly, of Decision 2014-C1-02 of the Board of Appeal of the European Supervisory Authorities of 14 July 2014 dismissing the action brought against that decision.

Operative part of the judgment

The Court:

1. *Annuls Decision 2014-C1-02 of the Board of Appeal of the European Supervisory Authorities of 14 July 2014;*

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

3. *Orders each party to bear its own costs.*

([1]) OJ C 431, 1.12.2014.

Order of the President of the General Court of 1 September 2015 — France v Commission

(Case T-344/15 R)

(Application for interim measures — Access to documents of the institutions — Regulation (EC) No 1049/2001 — Documents sent by the French authorities to the Commission in accordance with the procedure laid down in Directive 98/34/EC — France's objection to disclosure of the documents — Decision to grant a third party access to the documents — Application for suspension of operation — Urgency — Prima facie case — Weighing up of interests)

(2015/C 346/36)

Language of the case: French

Parties

Applicant: French Republic (represented by: F. Alabrune, G. de Bergues, D. Colas and F. Fize, acting as Agents)

Defendant: European Commission (represented by: J. Baquero Cruz and F. Clotuche-Duvieusart, acting as Agents)

Re:

Application to suspend operation of Decision GESTDEM 2014/6064 of 21 April 2015 concerning a confirmatory application for access pursuant to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001, regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43), by which the Commission granted access to two documents emanating from the French authorities which had been sent to the Commission in accordance with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ 1998 L 204, p. 37).

Operative part of the order

1. *The operation of European Commission decision GESTDEM 2014/6064 of 21 April 2015 concerning a confirmatory application for access pursuant to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001, regarding public access to European Parliament, Council and Commission documents, by which the Commission granted access to two documents emanating from the French authorities which had been sent to the Commission in accordance with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services, is suspended.*

2. *Costs are reserved.*

Action brought on 9 July 2015 — Renfe-Operadora v OHIM (AVE)

(Case T-367/15)

(2015/C 346/37)

Language of the case: Spanish

Parties

Applicant: Renfe-Operadora, Public business entity (Madrid, Spain), (represented by: J.-B. Devauriex, lawyer and M. Hernández Sandoval, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Community figurative mark containing the word element 'AVE' — Application for *restitutio in integrum* — Application for registration No 5.640.198

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 24 April 2015 in Case R 712/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision by granting its application for 'Restitution in integrum' and, consequently, declare admissible the earlier appeal brought by the applicant against the decision of the Cancellation Division of 4 February 2014, which is to be heard by the Fifth Board of Appeal of OHIM.

— order OHIM to pay the costs.

Pleas in law

— Incomplete statement of facts in the contested decision, procedural irregularities giving rise to infringement of the applicant's rights of defence and of the duty of care owed to the applicant.

— Incorrect assessment of the evidence, lack of proportion between the formal defect supposedly committed by the applicant and the consequences of the same inasmuch as the applicant was deprived of its right to challenge a decision against his interests, and too strict an approach taken in the decision.

— Infringement of the applicant's right to a fair hearing as it could not challenge the grounds on which the declaration of partial annulment of the mark 'AVE' was based.

Appeal brought on 13 August 2015 by European External Action Service (EEAS) against the judgment of the Civil Service Tribunal of 3 June 2015 in Case F-78/14, Gross v EEAS

(Case T-472/15 P)

(2015/C 346/38)

Language of the case: French

Parties

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

Other party to the proceedings: Philipp Oliver Gross (Brussels, Belgium)

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of the Civil Service Tribunal of the European Union (Third Chamber) of 3 June 2015 in Case F-78/14 (Gross v EEAS);

— uphold the claims submitted by the appellant at first instance;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on seven pleas in law, some of which concern the staff appraisal system and others of which concern the promotion system.

— The appraisal system

1. First plea in law, alleging an infringement of Article 43 of the Staff Regulations of Officials of the European Union ('the Staff Regulations'), breach of the rules on the allocation of the burden of proof, breach of the rule against ruling *ultra petita* and breach of the appellant's rights of the defence.

2. Second plea in law, alleging infringement of the limits of judicial review. The appellant submits that, in the judgment under appeal, the Civil Service Tribunal ('the CST') has exceeded the limits of its power of judicial review several times, and appears to be seeking to oblige it to adopt a particular system of staff appraisal.

3. Third plea in law, alleging that the Tribunal erred in law in finding that an appraisal system not based on marks lacks objectivity, and that it infringed Article 43 of the Staff Regulations.

4. Fourth plea in law alleging an infringement of Article 266 TFEU, in that, by partially annulling the decision at issue, the CST made it impossible to implement the judgment under appeal without giving rise to other instances of unlawfulness. The appellant submits that, if Article 4 of the decision at issue is unlawful, a new comparative analysis of the defendant's merits with those of the other officials eligible for promotion in his grade must be made, pursuant to the judgment under appeal, on the basis of the staff appraisal reports which, in accordance with the CST's ruling, do not make it possible for that analysis to be made on an objective and comparable basis.

— The promotion system

5. Fifth plea in law alleging infringement of the rule against ruling *ultra petita* and of the appellant's rights of the defence.

6. Sixth plea in law alleging infringement of the rules on the allocation of the burden of proof.

7. Seventh plea in law alleging that the CST erred in law in finding that the appellant had infringed Article 45 of the Staff Regulations.

Action brought on 21 August 2015 — Romania v Commission

(Case T-478/15)

(2015/C 346/39)

Language of the case: Romanian

Parties

Applicant: Romania (represented by: R.Radu, A. Buzoianu and E. Gane, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision adopted by letter BUDG/B/3/MV D(2015) 2453089 of 11 June 2015 ordering Romania to make available to the EU budget the gross amount of EUR 1 079 513,03 as own resources;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission lacked competence to adopt the contested decision.

   — EU legislation contains no provision conferring on the Commission the power to require a Member State to pay a sum of money corresponding to a loss of EU own resources which occurred following the remission of customs duties decided by another Member State which was responsible for the assessment and collection of customs duties and their payment to the EU budget as traditional own resources.

2. Second plea in law, alleging that the reasons stated in the decision are insufficient and inadequate

   — The reasons stated in the contested decision are not sufficient or adequate, as required under Article 296 TFEU, since, first, the contested decision does not include the legal basis for its adoption and that basis cannot be inferred from the other elements of the letter and, secondly, the Commission did not set out, in the contested decision, the legal reasoning which led it to require Romania to make payment.

3. Third plea in law, alleging that the Commission failed to exercise its powers correctly

   — In the event that the Court finds that the EU institution acted within the limits of the powers conferred upon it by the Treaties, Romania considers that that institution exercised its powers incorrectly and infringed the principle of good administration and Romania's rights of the defence.

   — The Commission infringed its obligations in respect of due care and good administration, since it did not carefully examine all the relevant information available to it and did not request additional necessary information before adopting the contested decision. The Commission did not establish a direct causal link between the acts imputed to Romania and the loss of EU own resources. Nor did the Commission justify the sum required from Romania by reference to the amount of customs duty corresponding to the value of the transit operation in question but based it on the value remitted by Germany.

   — The Commission's actions were unforeseeable and did not allow Romania to exercise its rights of the defence.

4. Fourth plea in law, alleging a failure to observe the principles of legal certainty and legitimate expectations

   — The legal rules on the basis of which the Commission imposed the obligation to make payment were not identified or specified in the decision in question. Nor was their application foreseeable for Romania. Prior to receiving the Commission's letter, Romania could not foresee or be aware of the obligation to make available to that institution the sum of money requested, corresponding to the loss of EU traditional own resources. By the same token, Romania considers that, by adopting the contested decision and requiring Romania to make payment, five years after the events in question took place and in spite of the conclusions reached by the Commission in the dialogue which took place with the Romanian authorities during that period, the Commission breached Romania's legitimate expectations that it would not be required to pay the customs duties relating to the transit operations in question.

Action brought on 31 August 2015 — Netherlands v Commission

(Case T-501/15)

(2015/C 346/40)

Language of the case: Dutch

Parties

Applicant: Kingdom of the Netherlands (represented by: M. Bulterman, B. Koopman and H. Stergiou, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested decision

  — in so far as it relates to the financial correction concerning the sanctioning system deemed by the European Commission to be too lenient in the amount of EUR 336 064,53 (2009), EUR 403 863,66 (2010) and EUR 230 786,49 (2011);

  — in so far as it relates to the financial correction that is applied in connection with the partial control for 3 SMRs in 2009 (EUR 1 597 182 EUR 15,53 and EUR 358,20), 4 RBEs in 2010 (EUR 1 630 540,68 and EUR 6 520,50) and 4 RBEs in 2011 (EUR 1 631 326,51) in so far as it concerns the European Commission's finding that the Netherlands has breached SMR8; and

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

Pleas in law and main arguments

The applicant seeks the partial annulment of Commission Implementing Decision (EU) 2015/1119 of 22 June 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (notified under document C(2015) 4076) (OJ 2015 L 182, p. 39).

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

1. First plea in law, alleging infringement of Article 24 of Regulation (EC) No 73/2009 and Article 71 of Regulation (EC) No 1122/2009 ([1]) by finding, contrary to those provisions, that the Netherlands sanctioning system is too lenient.

2. Second plea in law, alleging infringement of Articles 3, 4 and 5 of Regulation (EC) No 73/2009 ([2]) by finding, contrary to those provisions and in breach of the principle of legal certainty, that the Netherlands carried out a partial control for statutory management requirement 8 ('SMR') as set out in Annex II to Regulation (EC) No 73/2009. The applicant submits that the Commission wrongly considers the Netherlands sanctioning system not to meet all the requirements of Regulation (EC) No 21/2004 ([3]) and of Articles 3, 4 and 5 of Regulation (EC) No 73/2009.

([1]) Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009 L 30, p. 16).

([2]) Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ 2009 L 316, p. 65).

([3]) Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ 2004 L 5, p. 8).

Action brought on 1 September 2015 — Spain v Commission

(Case T-502/15)

(2015/C 346/41)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: L. Banciella Rodríguez-Miñón)

Defendant: European Commission

Form of order sought

The applicant claims that the court should:

— annul in part the Commission Implementing Decision of 22 June 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agriculture Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), in so far as it concerns the Kingdom of Spain;

— order the European Commission to pay the costs.

Pleas in law and main arguments

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

In relation to the Catalan Autonomous Community:

1. The imposition of a flat-rate correction in the amount of EUR 609 337,80 and the method of calculation used, were contrary to Article 31(2) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the Common Agricultural Policy, the guidelines set out in Commission document No VI/5330/97 of 23 December 1997 (Guidelines for the calculation of financial consequences when preparing the decision regarding the clearance of the accounts of the EAGFF Guarantee section) and to the document AGRI-64043-2005 *(Commission Communication on how the Commission intends in the context of the EAGGF-Guarantee clearance procedure to handle shortcomings in the context of cross-compliance control systems implemented by Member States)* in so far as it is inappropriate to apply a flat-rate assessment, since the Kingdom of Spain had provided a specific evaluation of the actual risks for the fund. The implementing measure adopted by the Commission was not only incorrect, but also disproportionate and unjustified.

2. The addition of a specific correction in the amount of EUR 609 337,80 to the general flat-rate correction of 2 % and the method of calculation are contrary to Article 31(2) of Council Regulation (EC) No 1290/2005 and to the Commission documents on the guidelines for the calculation of financial corrections, because it is not appropriate to use two methods of calculation at the same time for the same infringement. To proceed in that way is not only legally incoherent but also disproportionate and unjustified.

3. The correction imposed for the 2010 application year, the 2011/2012 financial year, infringes Article 31(4) of Regulation (EC) No 1290/2005, implies failure to observe the principle of sincere cooperation and infringes the rights of defence of the Kingdom of Spain in so far as the defendant has unduly extended the financial correction to cover the period subsequent to the 24 months preceding the Communication, even though the shortcomings had already been rectified by the Kingdom of Spain.

In relation to the Autonomous Community of the Canaries on the basis of the following plea in law:

4. The correction imposed at a flat-rate on the sum of EUR 1 689 689,03 and the method of calculation used are contrary to Article 31(2) of Council Regulation (EC) No 1290/2005 and the guidelines set out in Commission document AGRI/D/40474/2010-REV 1.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (2nd Chamber) of 9 September 2015 — De Loecker v EEAS

(Case F-28/14) ([1])

(Civil service — EEAS staff — Member of the temporary staff — Head of delegation in a third country — Breakdown in the relationship of trust — Transfer to the EEAS seat — Early termination of the employment contract — Period of notice — Reasons given for the decision — Article 26 of the Staff Regulations — Rights of the defence — Right to be heard)

(2015/C 346/42)

Language of the case: French

Parties

Applicant: Stéphane De Loecker (Brussels, Belgium) (represented by: initially, J.-N. Louis and D. Abreu de Caldas, lawyers, and subsequently J.-N. Louis and N. de Montigny, lawyers)

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

Re:

Application for annulment of the decisions of the High Representative of the European Union to terminate the applicant's contract as a member of the temporary staff, to refuse to hear him in respect of alleged psychological harassment, to reject his request for the appointment of an external investigator and to have his complaint registered as a request.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*
2. *Declares that Mr De Loecker shall bear his own costs and orders him to pay all the costs incurred by the European External Action Service.*

([1]) OJ C 184, 16.6.2014, p. 44.

Order of the Civil Service Tribunal of 7 September 2015 — Verhelst v EMA

(Case F-9/15) ([1])

(2015/C 346/43)

Language of the case: French

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

([1]) OJ C 118, 13.4.2015, p. 46.

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