Official Journal of the European Union

C 59

English edition

Information and Notices

Volume 59

15 February 2016

Contents

EN

General Court

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2016/C 059/01)

Last publication

OJ C 48, 8.2.2016

Past publications

OJ C 38, 1.2.2016

OJ C 27, 25.1.2016

OJ C 16, 18.1.2016

OJ C 7, 11.1.2016

OJ C 429, 21.12.2015

OJ C 414, 14.12.2015

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 12 November 2015 by Lotte Co. Ltd against the judgment of the General Court (Second Chamber) of 15 September 2015 in Case T-483/12 *Nestlé Unternehmungen Deutschland GmbH* v *Office for Harmonisation in the Internal Market (Trade Marks and Designs)*

(Case C-586/15 P)

(2016/C 059/02)

Language of the case: German

Parties

Appellant: Lotte Co. Ltd (represented by: M. Knitter, Rechtsanwältin)

Other parties to the proceedings: Nestlé Unternehmungen Deutschland GmbH and Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court (Second Chamber) of 15 September 2015 (T-483/12) and dismiss the action brought against the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market of 3 September 2012 in Case R 2103/2010-4;

— in the alternative, set aside the judgment under appeal of the General Court and refer the case back to that court;

— order Nestlé Unternehmungen Deutschland GmbH to pay the costs of the proceedings.

Grounds of appeal and main arguments

The appellant claims that Article 15(1)(a) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark has been infringed. In particular, three errors of law are relied on:

1. The appellant claims that incorrect assessment criteria were used in determining whether there was a permissible difference in actual use of the trade mark cited in opposition under Article 15(1)(a) of Regulation No 207/2009. In that regard, the appellant states that the General Court erred in law in determining the distinctive elements of the trade mark cited in opposition on the basis of the criteria for finding a likelihood of confusion. The character or domination of certain elements within the trade mark, which plays a conclusive role in determining whether there is a likelihood of confusion, cannot be given equal weight in assessing the permissibility of a different use of the trade mark. In that connection, the issue is not whether there is a likelihood of confusion. It is rather whether the form of the use of the registered trade mark differs only in such minor detail that both signs could be regarded, on the whole, as equivalent.

2. In addition, the General Court failed to take account of all relevant circumstances for determining the distinctive elements of the trade mark cited in opposition. The General Court erred in law in adopting the criteria applied by the Board of Appeal without itself addressing the individual and numerous elements of the complex trade mark cited in opposition.

3. In the view of the appellant, there are contradictions and failings in logic in the grounds of the General Court for determining the form of the use of the trade mark. The General Court stated that the sign used may differ only in 'minor elements' from the form in which it is registered and that the sign used and the trade mark as registered must be regarded, 'on the whole, as equivalent' for a finding of use such as to preserve the rights of the trade mark proprietor. In applying those assessment criteria, the General Court contradicted itself and erred in logic. In addition, the General Court used a rigid assessment for whether the three elements that it considered distinctive were present in the form of the trade mark used. With reference to those criteria, the General Court proceeded on the premiss of use such as to preserve the rights of the trade mark proprietor and failed to take into account that numerous new elements had been added to the form of its use, as a result of which the sign used and the trade mark as registered could no longer be regarded, 'on the whole, as equivalent'.

Appeal brought on 14 November 2015 by National Iranian Oil Company PTE Ltd (NIOC) and Others against the judgment of the General Court (Seventh Chamber) delivered on 4 September 2015 in Case T-577/12 NIOC and Others v Council of the European Union

(Case C-595/15 P)

(2016/C 059/03)

Language of the case: French

Parties

Appellants:

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), Pars Special Economic Energy Zone (PSEEZ) (represented by: J.-M. Thouvenin, avocat)

Other party to the proceedings:

Council of the European Union

Form of order sought

— Set aside the judgment delivered on 4 September 2015 by the General Court (Seventh Chamber) in Case T-577/12;

— grant the appellants the form of order sought in the proceedings before the General Court;

— order the Council of the European Union to pay the costs of both sets of proceedings.

Pleas in law and main arguments

1. By their first ground of appeal, the appellants submit that the General Court erred in law in paragraph 44 of the judgment under appeal when it ruled that, by referring to Article 46(2) of Regulation (EU) No 267/2012 ([1]), Council Implementing Regulation (EU) No 945/2012 of 15 October 2012 ([2]) must be regarded as having clearly stated that its legal basis is constituted by the aforementioned Article 46(2).

2. By their second ground of appeal, the appellants submit that the General Court erred in law in paragraphs 55 to 57 of the judgment under appeal, which can be summed up by the statement that 'it is not apparent from Article 215(2) TFEU that individual restrictive measures taken against natural or legal persons and groups or non-State entities must be adopted according to the procedure laid down in Article 215(1) TFEU'. First, Article 215(1) TFEU, the only provision of the FEU Treaty dealing with restrictive measures, lays down clearly that the procedure applicable with respect to such measures is that provided for in that article, and does not provide for any other; secondly, Article 291 TFEU is incompatible with Article 215(2) TFEU; alternatively, Article 291(2) TFEU cannot be regarded as being capable of providing the Council with an additional legal basis for the adoption of restrictive measures over and above that constituted by Article 215(2) TFEU; lastly, and alternatively, even if it is held that Article 291(2) TFEU is capable of providing the Council with an additional legal basis for the adoption of restrictive measures over and above that constituted by Article 215(2) TFEU, the recourse to that legal basis is none the less unlawful in the present case.

3. By their third ground of appeal, which is put forward in the alternative in the event that it is held that recourse to Article 291(2) TFEU, as a basis for the adoption of individual restrictive measures, is legally possible in the context of a policy of adopting restrictive measures initially based on Article 215 TFEU, the appellants submit that the General Court erred in law when it ruled, in essence, in paragraphs 75 to 83 of its judgment, that the Council of the European Union, in the words of Article 291(2), 'duly justified' the recourse to that derogating procedure, which was the only one available in this case. First, the requisite justification must be explicit; secondly, even if an implicit justification is capable of satisfying that requirement, it is not fulfilled in this case, since the General Court misinterpreted the legislation concerned.

4. By their fourth ground of appeal, which is put forward in the alternative in the event that it is held that recourse to Article 291(2) TFEU, as a basis for the adoption of individual restrictive measures, is legally possible in the context of a policy of adoption of restrictive measures that is based on Article 215 TFEU, the appellants submit that the General Court erred in law when it ruled, in paragraph 87 of its judgment, that Article 46(2) of Regulation No 267/2012 reserves to the Council 'the power to implement Article 23(2) and (3) of that regulation', which suffices to fulfil the obligation to state reasons concerning the statement of the legal basis of that provision, which is Article 291(2) TFEU. According to the appellants, the General Court came to that conclusion as a result of a legally flawed interpretation of Article 46(2) of Regulation No 267/2012.

5. By their fifth ground of appeal, which is put forward in the alternative in the event that it is held that recourse to Article 291(2) TFEU, as a basis for the adoption of individual restrictive measures, is legally possible in the context of a policy of adopting restrictive measures based on Article 215 TFEU, the appellants submit that the General Court erred, in paragraphs 86 to 88 of its judgment, when it found that the obligation to state reasons for legal acts of the European Union did not oblige the Council to state expressly that Regulation No 267/2012 was based on Article 291(2) TFEU, as far as concerns the legal basis of Article 46(2) of Regulation No 267/2012.

6. By their sixth ground of appeal, the appellants submit that the General Court erred in law when it ruled, in paragraphs 100 and 103 and also in paragraphs 108 and 110, that the consistency of the restrictive measures adopted by the European Union with the principles of legal certainty and of foreseeability of the law, from which it follows that those measures must be clear and precise, is to be verified in the light of the rules of the case-law as to the uniform interpretation of acts of the European Union, which require that those acts be interpreted and applied in the light of the versions existing in the other official languages.

7. By their seventh ground of appeal, the appellants submit that the General Court erred in law in paragraph 134 of its judgment when it ruled that Article 23(2)(d) of Regulation No 267/2012 (the criterion at issue) is compatible with the principles of the rule of law and more generally with EU law, since it is 'neither arbitrary nor discretionary', and, in paragraph 140 of its judgment, that 'the criterion at issue limits the Council's discretion, by establishing objective criteria, and guarantees the degree of foreseeability required by EU law'. In that regard, the appellants submit that the General Court erred in law by interpreting the criterion at issue by reference to the judgment of 13 March 2012 in *Melli Bank* v *Council* (C-380/09 P).

8. By their eighth ground of appeal, in the alternative, the appellants submit that, on the assumption that the meaning to be given to the term 'association' is that given to it by the General Court, it must be held that it has been applied incorrectly in this case.

(1) 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).
(2) 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).

Action brought on 23 November 2015 — European Commission v Council of the European Union

(Case C-626/15)

(2016/C 059/04)

Language of the case: French

Parties

Applicant: European Commission (represented by: A. Bouquet, E. Paasivirta, C. Hermes, acting as Agents)

Defendant: Council of the European Union

Form of order sought

The Commission claims that the Court should:

— partially annul the decision of the Council of 11 September 2015, as contained in the conclusion of the Chairman of the Permanent Representatives Committee of 11 September 2015 approving the submission — on behalf of the European Union and its Member States — of a reflection document on a future proposal to the Commission for the Conservation of Antarctic Marine Living Resources for the creation of a marine protected area in the Weddell Sea, referred to in the summary record of 23 September 2015 of the 2554th meeting of the Permanent Representatives Committee (Document 11837/15, point 65, pages 19 and 20, and Document 11644/1/15/REV), inasmuch as the Council required that the reflection document be submitted on behalf of the European Union and its Member States, rather than on behalf of the European Union alone;

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

Pleas in law and main arguments

By its action, the Commission respectfully asks the Court to annul the decision of the Council of 11 September 2015 inasmuch as the Council required that the reflection document to the Commission for the Conservation of Antarctic Marine Living Resources for the creation of a marine protected area in the Weddell Sea be submitted on behalf of the European Union and its Member States, rather than on behalf of the European Union alone.

The Commission submits that, by considering that competence in the matter is shared and indicating, consequently, that the reflection document should be decided by consensus and be submitted on behalf of the European Union and its Member States, the contested decision is unlawful, in that it thus precludes the Commission from submitting that document on behalf of the European Union alone, in breach of the European Union's exclusive competence in the matter (and of the Commission's prerogatives to represent the European Union).

The Commission raises two pleas in law in support of its action for annulment of the contested decision.

In the first place, the Commission submits that, by adopting the contested act, the Council breached the European Union's exclusive competence in the matter of the conservation of marine biological resources, as laid down in Article 3(1)(d) TFEU. First, the Commission argues that the Council disregarded the legal context of the measure concerned by the contested act, both in connection with the Convention on the Conservation of Antarctic Marine Living Resources and with the European Union. Secondly, the Commission maintains that the Council disregarded the purpose and the content of that measure.

In the second place, the Commission submits, in the alternative, that even if the measure did not have to be regarded as a measure for the conservation of marine biological resources within the meaning of Article 3(1)(d) TFEU, by adopting the contested act, the Council, in any event, infringed the European Union's exclusive competence inasmuch as the European Union has exclusive external competence in the matter because the measure envisaged may affect rules of the European Union or alter their scope for the purpose of Article 3(2) TFEU. First, the Commission argues that the Council disregarded the fact that the measure envisaged may affect or alter two regulations of secondary law (Regulation (EC) No 600/2004 ([1]) and Regulation (EC) No 601/2004 ([2])). Secondly, the Commission submits that the Council did not take account of the effect on, or alteration of, the framework position of the European Union of June 2014.

([1]) Council Regulation (EC) No 600/2004 of 22 March 2004 laying down certain technical measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources (OJ 2004 L 97, p. 1).

([2]) Council Regulation (EC) No 601/2004 of 22 March 2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources and repealing Regulations (EEC) No 3943/90, (EC) No 66/98 and (EC) No 1721/1999 (OJ 2004 L 97, p. 16).

Reference for a preliminary ruling from First-tier Tribunal (Tax Chamber) (United Kingdom) made on 30 November 2015 — London Borough of Ealing v Commissioners for Her Majesty's Revenue and Customs

(Case C-633/15)

(2016/C 059/05)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicant: London Borough of Ealing

Defendant: Commissioners for Her Majesty's Revenue and Customs

Questions referred

1. Is the United Kingdom entitled, pursuant to the final paragraph of article 133 PVD ([1]), to impose the condition contained in paragraph (d) of that article on bodies governed by public law, (i) in circumstances where the relevant transactions were treated by the United Kingdom as taxable on 1st January 1989, but other Sporting Services were subject to exemption on that date and (ii) in circumstances where the relevant transactions had not first been granted exemption under national law before the United Kingdom sought to impose the condition contained in Article 133(d)?

2. If the answer to (1) above is in the affirmative, is the United Kingdom entitled to impose the condition contained in paragraph (d) of article 133 PVD on non-profit making bodies governed by public law without also applying that condition to non-profit making bodies which are not governed by public law?

3. If the answer to (2) above is in the affirmative, is the United Kingdom permitted to exclude all public non-profit making bodies from the benefit of the exemption contained in article 132(1)(m) without having considered in each individual case whether the granting of exemption would be likely to cause distortion of competition to the disadvantage of commercial enterprises subject to VAT?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax OJ L 347, p. 1.

Reference for a preliminary ruling from Court of Appeal (Ireland) made on 2 December 2015 — Minister for Justice and Equality v Tomas Vilkas

(Case C-640/15)

(2016/C 059/06)

Language of the case: English

Referring court

Court of Appeal

Parties to the main proceedings

Applicant: Minister for Justice and Equality

Defendant: Tomas Vilkas

Questions referred

1. Does Article 23 of the Framework Decision (1) contemplate or and allow for the agreement of a new surrender date on more than one occasion?

2. If so, does it do so in any, or all, of the following situations: i.e., where the surrender of the requested person within the period laid down in paragraph 2 has already been prevented by circumstances beyond the control of any of the Member States, leading to the agreement of a new surrender date, and such circumstances –

   i) are found to be on-going; or

   ii) having ceased, are found to be re-occurring; or

iii) having ceased, different such circumstances have arisen which have prevented, or are likely to prevent, surrender of the requested person within the required period referable to the said new surrender date?

(1) 2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States
OJ L 190, p. 1.

Appeal brought on 7 December 2015 by Viasat Broadcasting UK Ltd against the judgment of the General Court (Eighth Chamber) delivered on 24 September 2015 in Case T-674/11 TV2/Danmark v European Commission

(Case C-657/15 P)

(2016/C 059/07)

Language of the case: Danish

Parties

Appellant: Viasat Broadcasting UK Ltd (represented by: M. Honoré and S. Kalsmose-Hjelmborg, advokater)

Other parties to the proceedings: TV2 Danmark A/S, European Commission, Kingdom of Danmark

Forms of order sought

— Set aside point 1 of the operative part of the General Court's judgment of 24 September 2015 in Case T-674/11 *TV2/Danmark* v *Commission* (claim 1); and

— Set aside that part of the General Court's judgment of 24 September 2015 in Case T-674/11 *TV2/Danmark* v *Commission* by which the General Court upholds the third part of the applicant's first plea in law (claim 2); and

— Find in favour of the Commission with regard to the action for annulment brought by TV2 and the Kingdom of Denmark; and

— Order TV2/Danmark and the Kingdom of Denmark, applicants at first instance, to pay Viasat's costs.

Pleas in law and main arguments

In relation to the first form of order sought, Viasat submits that the General Court found, incorrectly, that the Commission had erred in finding that advertising revenues charged by TV2 Reklame A/S in 1995 and 1995 constituted State aid.

Viasat further submits that the advertising revenues from 1995 and 1996 entailed a transfer of State resources, as the advertising revenues went through the company TV2 Reklame A/S and the TV2 Fund, which were both under State control. Furthermore, the actual use of the resources was decided on by the Minister for Culture (Kulturministeren) and the Parliamentary Finance Committee (Folketingets Finansudvalg). The General Court was also incorrect in holding that TV2 had a legal right to the resources in the TV2 Fund or portions thereof.

In relation to the second plea in law, Viasat submits that the General Court erred in upholding the applicant's submission that the second *Altmark* condition was met in the case (paragraphs 88-111). Viasat observes that, in its judgment, the General Court considers solely the interpretation of the contested decision which the Commission, in the General Court's view, ought to have submitted in its written pleadings before the General Court, without examining the statement of reasons in the contested decision. There is nothing in paragraphs 114 to 116 of the contested decision showing that the second *Altmark* condition would include a requirement of efficiency on the part of the recipient of the compensation.

The General Court thus ought to have ruled on whether the Commission could rightly require, in connection with the second *Altmark* condition, that there must not only be foreseeability with regards to TV2's future advertising revenues (that is to say, income), but also the costs in connection with the calculation of the compensation.

Viasat submits that the Commission's requirement of a sufficient degree of transparency in relation to costs is a logical and necessary consequence of the broad freedom a public service provider has in the radio and television sectors: see inter alia paragraph 214 in the judgment in *BUPA* v *Commission*, T-289/03, EU:T:2008:29.

The need for transparency surrounding costs is also relevant in relation to the other *Altmark* criteria: see judgment of the General Court in *Viasat* v *Commission*, T-125/12, EU:T:2015:687 paragraphs 80-83.

Request for a preliminary ruling from the Hanseatisches Oberlandesgericht in Bremen (Germany) lodged on 9 December 2015 — Criminal proceedings against Robert Caldararu

(Case C-659/15)

(2016/C 059/08)

Language of the case: German

Referring court

Hanseatisches Oberlandesgericht in Bremen

Parties to the main proceedings

Robert Caldararu

Other party: Generalstaatsanwaltschaft Bremen

Questions referred

1. Is Article 1(3) of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States ([1]) (2002/584/JHA) to be interpreted as meaning that extradition for the purposes of prosecution is impermissible where there are strong indications that detention conditions in the issuing Member State infringe the fundamental rights of the person concerned and the fundamental legal principles as enshrined in Article 6 of the Treaty on European Union, or is it to be interpreted as meaning that, in such circumstances, the executing Member State can or must make the decision on the permissibility of extradition conditional upon an assurance that detention conditions are compliant? To that end, can or must the executing Member State lay down specific minimum requirements applicable to the detention conditions in respect of which an assurance is sought?

2. Are Articles 5 and 6(1) of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) to be interpreted as meaning that the issuing judicial authority is also entitled to give assurances that detention conditions are compliant, or do assurances in this regard remain subject to the domestic rules of competence in the issuing Member State?

([1]) OJ 2002 L 190, p. 1.

Appeal brought on 8 December 2015 by Viasat Broadcasting UK Ltd against the judgment of the General Court (Eighth Chamber) delivered on 24 September 2015 in Case T-125/12: Viasat Broadcasting UK Ltd v European Commission

(Case C-660/15 P)

(2016/C 059/09)

Language of the case: English

Parties

Appellant: Viasat Broadcasting UK Ltd (represented by: M. Honoré and S. Kalsmose-Hjelmborg, advokater)

Other parties to the proceedings: European Commission, Kingdom of Denmark, TV2/Danmark A/S

Form of order sought

The appellant claims that the Court should:

— set aside the judgment in Case T-125/12, Viasat Broadcasting UK Ltd v Commission, and

— annul Commission Decision 2011/839/EU ([1]) of 20 April 2011 on measures adopted by the Danish state in favour of TV2/Danmark (EUT 2011 L 340, s. 1), and

— order the defendant at first instance to pay the costs of Viasat both incurred in the first instance and before your Court

alternatively,

— set aside the judgment under appeal, and

— refer the case back to the General Court, and

— reserve the costs of the proceedings at first instance and on.

Pleas in law and main arguments

In support of the form of order sought, Viasat contends that the General Court erred in law when stating that in its assessment under Article 106(2) TFEU the Commission was not required to take account of the fact that aid to TV2 had been granted without observing fundamental principles of transparency and cost efficiency.

More in particular, Viasat contends that the General Court erred in law (1) by relying on the M6 judgment and the related case law to dismiss Viasat's claims, (2) by holding that Viasat's arguments lead to a 'logical impasse' (3) by rejecting the significance of the 2005 and 2011 SGEI Communications and the 2009 Broadcasting Communication (4) by holding that the 2001 Broadcasting Communication prevented the Commission from applying the methodology which, in Viasat's view, flows from Article 106(2) TFEU.

([1]) Commission Decision of 20 April 2011 on the measures implemented by Denmark (C 2/03) for TV2/Danmark OJ L 340, p. 1.

Action brought on 14 December 2015 — European Commission v Portuguese Republic

(Case C-665/15)

(2016/C 059/10)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: P. Guerra e Andrade and J. Hottiaux, acting as Agents)

Defendant: Portuguese Republic

Form of order sought

— Declare that, by failing to be connect to the European Union driving licence network, the Portuguese Republic has failed to fulfil its obligations under Article 7(5)(d) of Directive 2006/126/EC ([1]).

— order Portuguese Republic to pay the costs.

Pleas in law and main arguments

It is apparent from Directive 2006/126 and from case-law that a Member State which issues a driving licence is required to verify whether the minimum requirements for the issue of driving licences are fulfilled.

If the Portuguese Republic is not connected to the European Union driving licence network (RESPER), it cannot verify whether the minimum requirements for the issue of driving licences are fulfilled. It cannot, in particular, verify whether the applicant already holds a driving licence in another Member State.

Moreover, as the Portuguese Republic is not connected to RESPER, other Member States cannot verify, together with Portugal, whether the minimum requirements for the issue of driving licences are fulfilled.

It should be added that other Member States cannot carry out any form of control, together with Portugal, in cases in which the minimum requirements for the issue of driving licences are clearly not fulfilled.

Accordingly, as Portugal is not connected to RESPER, it undermines the essential purpose of the requirement to be connected to the network and of Directive 2006/126, namely to improve road safety and facilitate the free movement of persons.

Article 7(5)(d) of Directive 2006/126 clearly establishes that Member States must use the EU driving licence network, in particular in order to carry out checks and especially in order to prevent a licence holder having more than one driving licence.

Under Article 16(2) of the directive, Member States were required to apply Article 7(5) of the directive as from 19 January 2013.

([1]) Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (recast) (OJ 2006 L 403, p. 18).

GENERAL COURT

Judgment of the General Court of 17 December 2015 — Orange Polska v Commission

(Case T-486/11) ([1])

(Competition — Abuse of dominant position — Polish telecommunications market — Decision establishing an infringement of Article 102 TFEU — Conditions imposed by the incumbent operator for allowing paid access for new operators to the network and to wholesale broadband access services — Legitimate interest in finding that an infringement was committed — Fines — Obligation to state reasons — Gravity of the infringement — Mitigating circumstances — Proportionality — Unlimited jurisdiction — 2006 Guidelines on the method of setting fines)

(2016/C 059/11)

Language of the case: English

Parties

Applicant: Orange Polska S.A. formerly Telekomunikacja Polska S.A. (Warsaw, Poland) (represented: initially by M. Modzelewska de Raad, P. Paśnik, S. Hautbourg, lawyers, A. Howard, Barrister, and C. Vajda QC, and subsequently by M. Modzelewska de Raad, P. Paśnik, S. Hautbourg, A. Howard and D. Beard QC)

Defendant: European Commission (represented: initially by B. Gencarelli, K. Mojzesowicz and G. Koleva, and subsequently by K. Mojzesowicz, G. Koleva and M. Malferrari and finally by G. Koleva, M. Malferrari, É. Gippini Fournier and J. Szczodrowski, Agents)

Interveners in support of the applicant: Polska Izba Informatyki i Telekomunikacji (Warsaw, Poland) (represented: P. Rosiak and K. Karasiewicz, lawyers)

Intervener in support of the defendant: European Competitive Telecommunications Association (represented: initially by P. Alexiadis and J. MacKenzie, and subsequently by J. MacKenzie, Solicitors)

Re:

Application for the full or partial annulment of Commission Decision C(2011) 4378 final of 22 June 2011 relating to a proceeding under Article 102 TFEU (Case COMP/39.525 — Telekomunikacja Polska) and for a reduction of the fine imposed by the Commission in Article 2 of that decision.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Orange Polska S.A. to bear its own costs and to pay those of the European Commission;*

3. *Orders Polska Izba Informatyki i Telekomunikacji and the European Competitive Telecommunications Association to bear their own costs.*

([1]) OJ C 340, 19.11.2011.

Judgment of the General Court of 17 December 2015 — SNCF v Commission

(Case T-242/12) ([1])

(State aid — Aid measures implemented by France in favour of Sernam SCS — Aid measures for restructuring and recapitalising, guarantees and debt write-off by SNCF in favour of Sernam — Decision declaring the aid measures incompatible with the internal market — Misuse of aid — Recovery — Economic continuity — Private investor criterion)

(2016/C 059/12)

Language of the case: French

Parties

Applicant: Société nationale des chemins de fer français (SNCF) (Paris, France) (represented by: P. Beurier, O. Billard and V. Landes, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and B. Stromsky, acting as Agents)

Intervener in support of the applicant: French Republic (represented by: initially D. Colas and J. Gstalter, subsequently by D. Colas and J. Rossi and finally by D. Colas and J. Bousin, acting as Agents)

Intervener in support of the defendant: Mory SA, in liquidation, (Pantin, France) and Mory Team, in liquidation, (Pantin) (represented by: B. Vatier and F. Loubières, lawyers)

Re:

Application for annulment of Commission Decision 2012/398/EU of 9 March 2012 on State aid SA. 12522 (C 37/08) — France — Enforcing the Sernam 2 Decision (OJ 2012 L 195, p. 19).

Operative part of the judgment

The Court:

1. *Dismisses the application of the Société nationale des chemins de fer français (SNCF);*

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

3. *Orders the French Republic to bear its own costs;*

4. *Orders Mory and Mory Team to bear their own costs.*

([1]) OJ C 273, 8.9.2012.

Judgment of the General Court of 17 December 2015 — Italy v Commission

(Case T-275/13) ([1])

(Languages — Notice of open competition for the recruitment of administrators — Choice of second language from three languages — Language of communication with the candidates to the competition — Regulation No 1 — Article 1d(1), Article 27, first paragraph, and Article 28(f) of the Staff Regulations — Principle of non-discrimination — Proportionality)

(2016/C 059/13)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, and by P. Gentili and S. Fiorentino, avvocati dello Stato)

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

Intervener in support of the applicant: Kingdom of Spain (represented by: J. García-Valdecasas Dorrego, abogado del Estado)

Intervener in support of the defendant: Federal Republic of Germany (represented by: T. Henze and B. Beutler, acting as Agents)

Re:

Application for annulment of notice of open competition EPSO/AD/249/13 to draw up two reserve lists for administrations to fill vacant posts in the fields of macroeconomics and financial economics (OJ 2013 C 75 A, p. 1).

Operative part of the judgment

The Court:

1) *Annuls the notice of open competition EPSO/AD/249/13 to draw up two reserve lists for administrations to fill vacant posts in the fields of macroeconomics and financial economics;*

2) *Orders the European Commission to bear, in addition to its own costs, those incurred by the Italian Republic;*

3) *Orders the Kingdom of Spain and the Federal Republic of Germany to bear their own costs relating to their interventions.*

([1]) OJ C 207, 20.7.2013.

Judgment of the General Court of 17 December 2015 — Italy v Commission

(Case T-295/13) ([1])

(Languages — Corrigendum to the notice of open competition for the recruitment of administrators — New competition procedures — Choice of second language from three languages — Regulation No 1 — Article 1d(1), Article 27 and Article 28(f) of the Staff Regulations — Principle of non-discrimination — Proportionality)

(2016/C 059/14)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, and by P. Gentili and S. Fiorentino, avvocati dello Stato)

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

Intervener in support of the applicant: Kingdom of Spain (represented by: J. García-Valdecasas Dorrego, abogado del Estado)

Re:

Application for annulment of the corrigendum to notice of open competition EPSO/AD/177/10 to constitute a reserve list from which to recruit administrators in the fields of European public administration, law, economics, audit and information and communication technology (OJ 2013 C 82 A, p. 1), and corrigendum to notice of open competition EPSO/AD/178/10 and corrigendum to notice of open competition EPSO/AD/179/10 to constitute a reserve list from which to recruit administrators in the fields of, respectively, librarianship and information science and audiovisual, published in the Official Journal of the European Union C 82 A, of 21 March 2013 (OJ 2013 C 82 A, p. 1).

Operative part of the judgment

The Court:

1) *Annuls the corrigendum, published in the Official Journal of the European Union of 21 March 2013, to notice of open competition EPSO/AD/177/10 to constitute a reserve list from which to recruit administrators in the fields of European public administration, law, economics, audit and information and communication technology, and the corrigendum, published in the Official Journal of the European Union of 21 March 2013, to notice of open competition EPSO/AD/178/10 and corrigendum to notice of open competition EPSO/AD/179/10 to constitute a reserve list from which to recruit administrators in the fields of, respectively, librarianship and information science and audiovisual, in so far as their nature and content have been identified in paragraphs 68 to 70 of the present judgment;*

2) *Orders the European Commission to bear, in addition to its own costs, those incurred by the Italian Republic;*

3) *Orders the Kingdom of Spain to bear its own costs relating to its intervention.*

([1]) OJ C 207, 20.7.2013.

Judgment of the General Court of 17 December 2015 — Italy v Commission

(Case T-510/13) ([1])

(Languages — Notice of open competition for the recruitment of translators — Choice of second language from three languages — Language of communication with the candidates to the competition — Regulation No 1 — Article 1d(1), Article 27 and Article 28(f) of the Staff Regulations — Principle of non-discrimination — Proportionality)

(2016/C 059/15)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, and by P. Gentili and S. Fiorentino, avvocati dello Stato)

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

Intervener in support of the applicant: Kingdom of Spain (represented by: J. García-Valdecasas Dorrego, abogado del Estado)

Intervener in support of the defendant: Federal Republic of Germany (represented by: T. Henze and B. Beutler, acting as Agents)

Re:

Application for annulment of notice of open competitions EPSO/AD/260/13, EPSO/AD/261/13, EPSO/AD/262/13, EPSO/AD/263/13, EPSO/AD/264/13, EPSO/AD/265/13 and EPSO/AD/266/13 to draw up reserve lists for the recruitment of Danish-language translators, English-language translators, French-language translators, Italian-language translators, Maltese-language translators, Dutch-language translators and Slovenian-language translators (OJ 2013 C 199 A, p. 1).

Operative part of the judgment

The Court:

1) *Annuls the notice of open competitions EPSO/AD/260/13, EPSO/AD/261/13, EPSO/AD/262/13, EPSO/AD/263/13, EPSO/AD/264/13, EPSO/AD/265/13 and EPSO/AD/266/13 to draw up reserve lists for the recruitment of Danish-language translators, English-language translators, French-language translators, Italian-language translators, Maltese-language translators, Dutch-language translators and Slovenian-language translators;*

2) *Orders the European Commission to bear, in addition to its own costs, those incurred by the Italian Republic;*

3) *Orders the Kingdom of Spain and the Federal Republic of Germany to bear their own costs relating to their interventions.*

([1]) OJ C 336, 16.11.2013.

Judgment of the General Court of 17 December 2015 — Spain v Commission

(Joined Cases T-515/13 and T-719/13) ([1])

(State aid — Shipbuilding — Tax provisions applicable to certain agreements for the financing and acquisition of vessels — Decision declaring the aid partly incompatible with the internal market and ordering its recovery in part — Action for annulment — Individual concern — Admissibility — Advantage — Selective nature — Effect on trade between Member States — Adverse effect on competition — Obligation to state reasons)

(2016/C 059/16)

Language of the cases: Spanish

Parties

Applicants: Kingdom of Spain (represented by: initially, N. Díaz Abad and, subsequently, M. Sampol Pucurull, abogados del Estado) (Case T-515/13); Lico Leasing, SA (Madrid, Spain) and Pequeños y Medianos Astilleros Sociedad de Reconversión, SA (Madrid) (represented by: M. Merola and A. Sánchez, lawyers) (Case T-719/13)

Defendant: European Commission (represented by: V. Di Bucci, M. Afonso, É. Gippini Fournier and P. Němečková, acting as Agents)

Re:

Application for annulment of Commission Decision 2014/200/EU of 17 July 2013 on the aid scheme SA.21233 C/11 (ex NN/11, ex CP 137/06) implemented by Spain — Tax scheme applicable to certain finance lease agreements, also known as the 'Spanish Tax Lease System' (OJ 2014 L 114, p. 1).

Operative part of the judgment

The Court:

1. *Annuls Commission Decision 2014/200/EU of 17 July 2013, on the aid scheme SA.21233 C/11 (ex NN/11, ex CP 137/06) implemented by Spain — Tax scheme applicable to certain finance lease agreements, also known as the 'Spanish Tax Lease System';*

2. *Orders the European Commission to bear its own costs and to pay those incurred by the Kingdom of Spain, Lico Leasing, SA and Pequeños y Medianos Astilleros Sociedad de Reconversión, SA.*

(1) OJ C 336, 16.11.2013.

Judgment of the General Court of 17 December 2015 — Bice International v OHIM — Bice (bice)

(Case T-624/14) (1)

(Community trade mark — Invalidity proceedings — Community word mark bice — Ealier national figurative mark 1926 BiCE RISTORANTE — No genuine use of the earlier mark — Article 57(2) and (3) of Regulation No 207/2009)

(2016/C 059/17)

Language of the case: German

Parties

Applicant: Bice International Ltd (Dubai, United Arab Emirates) (represented initially by N. Gibb, Solicitor, and D. McFarland, Barrister, and subsequently by D. McFarland)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Bice AG (Baar, Switzerland) (represented by: D. Pauli, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 23 May 2014 (Case R 1249/2013-1), relating to invalidity proceedings between Bice International Ltd and Bice AG.

Operative part of the judgment

1) *The action is dismissed.*

2) *Bice International Ltd shall bear the costs.*

(1) OJ C 351, 6.10.2014.

Judgment of the General Court of 17 December 2015 — Olympus Medical Systems v OHIM (3D)

(Case T-79/15) (1)

(Community trade mark — Application for the Community figurative mark 3D — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009)

(2016/C 059/18)

Language of the case: English

Parties

Applicant: Olympus Medical Systems Corp. (Tokyo, Japan) (represented by: A. Ebert-Weidenfeller and C. Opatz, lawyers)

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

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 11 December 2014 (Case R 1708/2014-2) relating to an application for registration of the figurative sign 3D as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Olympus Medical Systems Corp. to pay the costs.*

([1]) OJ C 118, 13.4.2015.

Order of the General Court of December 2015 — Italy v Commission

(Case T-673/14) ([1])

(Action for annulment — State aid — Transport — Establishment of Airport Handling SpA — Decision to open the formal examination procedure provided for in Article 108(2) TFEU — Measure not open to challenge — Aid measures completely implemented by the date on which the action was brought — Inadmissibility)

(2016/C 059/19)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, and S. Fiorentino and A. De Stefano, avvocati dello Stato)

Defendant: European Commission (represented by: G. Conte and S. Noë, acting as Agents)

Re:

Application for annulment of Commission Decision C(2014) 4537 final of 9 July 2014 to initiate a formal investigation procedure under Article 108(2) TFEU concerning the establishment of the company Airport Handling (State Aid SA.21420 (2014/C) (ex 20 14/NN) (ex 20 13/PN)).

Operative part of the order

1) *The application is dismissed as inadmissible.*

2) *The Italian Republic is ordered to pay the costs.*

([1]) OJ C 409, 17.11.2014.

Order of the General Court of 10 December 2015 — Cofely Solelec and Others v Parliament

(Case T-224/15) ([1])

(Actions for annulment — Public service contracts — Tender procedure — Rejection of a tenderer's bid — Withdrawal of the contested act — Case not proceeding to judgment)

(2016/C 059/20)

Language of the case: French

Parties

Applicants: Cofely Solelec (Esch-sur-Alzette, Luxembourg), Mannelli & Associés SA (Bertrange, Luxembourg) and Cofely Fabricom (Brussels, Belgium) (represented: initially by V. Elvinger and S. Marx, and subsequently by S. Marx, lawyers)

Defendant: European Parliament (represented by: L. Chrétien and M. Mraz, acting as Agents)

Re:

Application for the annulment of Decision No 103299 of 27 April 2015 of the Directorate General for Infrastructures and Logistics of the European Parliament rejecting the applicants' bid for lot 75 'electricity — power' in respect of the public procurement procedure INLO-D-UPIL-T-14-A04 concerning the project to extend and modernise the Konrad Adenauer Building in Luxembourg (Luxembourg) and awarding the contract to another tenderer.

Operative part of the order

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

2. *The European Parliament is to bear its own costs and is to pay those incurred by Cofely Solelec, Mannelli & Associés SA and Cofely Fabricom.*

([1]) OJ C 205, 22.6.2015.

Order of the President of the General Court of 17 December 2015 — Lysoform Dr. Hans Rosemann and Others v ECHA

(Case T-543/15 R)

(Application for interim measures — REACH — Making available on the market and use of biocidal products — Inclusion of a company as a supplier of an active substance on the list referred to in Article 95 of Regulation (EU) No 528/2012 — Application for suspension of operation — Lack of urgency)

(2016/C 059/21)

Language of the case: English

Parties

Applicants: Lysoform Dr. Hans Rosemann GmbH (Berlin, Germany); Ecolab Deutschland GmbH (Monheim am Rhein, Germany); Schülke & Mayr GmbH (Norderstedt, Germany); and Diversey Europe Operations BV (Utrecht, Netherlands) (represented by: K. Van Maldegem, M. Grunchard, lawyers, and P. Sellar, Advocate)

Defendant: European Chemicals Agency (ECHA) (represented by: C. Buchanan and W. Broere, acting as Agents)

Re:

Application for suspension of operation of the decision of ECHA of 17 June 2015 to include company O. as a supplier of an active substance on the list referred to in Article 95(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ 2012 L 167, p. 1).

Operative part of the order

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

2. *Costs are reserved.*

Order of the President of the General Court of 17 December 2015 — Lysoform Dr. Hans Rosemann and Others v ECHA

(Case T-669/15 R)

(Application for interim measures — REACH — Making available on the market and use of biocidal products — Inclusion of a company as a supplier of an active substance on the list referred to in Article 95 of Regulation (EU) No 528/2012 — Application for suspension of operation — Lack of urgency)

(2016/C 059/22)

Language of the case: English

Parties

Applicants: Lysoform Dr. Hans Rosemann GmbH (Berlin, Germany); Ecolab Deutschland GmbH (Monheim am Rhein, Germany); Schülke & Mayr GmbH (Norderstedt, Germany); and Diversey Europe Operations BV (Utrecht, Netherlands) (represented by: K. Van Maldegem, M. Grunchard, lawyers, and P. Sellar, Advocate)

Defendant: European Chemicals Agency (ECHA) (represented by: C. Buchanan and W. Broere, acting as Agents)

Re:

Application for suspension of operation of the decision of ECHA of 16 July 2015 to include company B. as a supplier of an active substance on the list referred to in Article 95(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ 2012 L 167, p. 1).

Operative part of the order

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

2. *Costs are reserved.*

Action brought on 22 October 2015 — PAN Europe e.a. v Commission

(Case T-600/15)

(2016/C 059/23)

Language of the case: English

Parties

Applicants: Pesticide Action Network Europe (PAN Europe) (Brussels, Belgium), Bee Life European Beekeeping Coordination (Bee Life) (Louvain-la-Neuve, Belgium), Unione nazionale associazioni apicoltori italiani (Unaapi) (Castel San Pietro Terme, Italy) (represented by: B. Kloostra, lawyer, A. van den Biesen, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the Commission Implementing Regulation (EU) N° 2015/1295 ([1]); and

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

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission acted in breach of Articles 4 and 6 of Regulation (EC) N° 1107/2009 ([2]) and Annex I and Annex II to Regulation (EC) N° 1107/2009 when adopting the contested regulation and approving the putting on the market of sulfoxaflor.

   — The Commission acted in breach of Article 4 of Regulation (EC) N° 1107/2009 and/or did not apply correctly the requirements regarding the approval of active substances as laid down in Regulation (EC) N° 1107/2009;

   — The Commission also acted in breach of Article 4 in combination with Article 6(f) of Regulation (EC) N° 1107/2009 and of point 1.1 and 2.2 of Annex II to the Regulation and/or did not apply correctly the requirements regarding the approval of active substances as laid down in Regulation (EC) N° 1107/2009; and

   — The Commission acted in breach of Article 4 and Article 6(i) of Regulation (EC) N° 1107/2009 and/or did not apply correctly the requirements regarding the approval of active substances as laid down in Regulation (EC) N° 1107/2009.

2. Second plea in law, alleging that the contested regulation breaches beekeepers' right to property and their right to conduct a business as laid down in the Articles 16 and 17 of the Charter of Fundamental Rights of the European Union ([3]).

3. Third plea in law, alleging that the Commission acted in breach of the principle of good administration, consistency of decision-making and the duty of care, with the adoption of the contested regulation.

([1]) Commission Implementing Regulation (EU) N° 2015/1295 of 27 July 2015 approving the active substance sulfoxaflor, in accordance with Regulation (EC) N° 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) N° 540/2011 (OJ L 199, p. 8).

([2]) Regulation (EC) N° 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, p. 1).

([3]) Charter of Fundamental Rights of the European Union (OJ 2000, C 326, p. 1).

Action brought on 10 November 2015 — Scandlines Danmark et Scandlines Deutschland v Commission

(Case T-630/15)

(2016/C 059/24)

Language of the case: English

Parties

Applicants: Scandlines Danmark ApS (København, Denmark), Scandlines Deutschland GmbH (Hamburg, Germany) (represented by: L. Sandberg-Mørch, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare the application admissible and well-founded;

— annul the decision of the European Commission of 23 July 2015 on State aid SA.39078 (2014/N) (Denmark) for the financing of the Fehmarn Belt Fixed Link project; and

— order the Commission to pay the applicants' costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission erred in finding that the funding granted to Femern A/S for the Danish rail hinterland connections does not constitute State aid within the meaning of Article 107(1) TFEU.

2. Second plea in law, alleging that the Commission erred in finding that the aid measures granted to Femern A/S for the Fixed Link are compatible with the internal market pursuant to Article 107(3)(b) TFEU. The Commission erred in law and made a manifest error of assessment in finding that the Fehmarn Belt Fixed Link project was of common European interest and in finding that the aid was necessary and proportionate. The Commission also erred in law and made a manifest error of assessment regarding the prevention of undue distortions of competition and balancing test and regarding the mobilisation of the State guarantees.

3. Third plea in law, alleging that the Commission infringed its obligation to initiate the formal investigation procedure. The applicants allege that there are evidence of serious difficulties relating to the length and the circumstances of the preliminary investigation procedure. In addition, they allege an insufficient and incomplete analysis regarding the funding granted to Femern A/S for the Danish rail hinterland connections, regarding the common European interest of the Fehmarn Belt Fixed Link project, regarding the necessity and proportionality of the aid and finally regarding the prevention of undue distortions of competition and balancing test.

4. Fourth plea in law, alleging that the Commission failed to fulfil its duty to state reasons. The Commission failed to provide reasons in relation to the Danish rail hinterland connections, in relation to the common European interest of the Fehmarn Belt Fixed Link project, in relation to the necessity and proportionality of the aid and finally in relation to the undue distortions of competition and balancing test.

Action brought on 11 November 2015 — Stena Line Scandinavia v Commission

(Case T-631/15)

(2016/C 059/25)

Language of the case: English

Parties

Applicant: Stena Line Scandinavia AB (Göteborg, Sweden) (represented by: P. Alexiadis, Solicitor, L. Sandberg-Mørch, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the application admissible and well-founded;

— annul the decision of the European Commission of 23 July 2015 on State aid SA.39078 (2014/N) (Denmark) for the financing of the Fehmarn Belt Fixed Link project; and

— order the Commission to pay the applicant's 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 erred in finding that the funding granted to A/S Femern for the Danish rail hinterland connections does not constitute State aid within the meaning of Article 107(1) TFEU.

2. Second plea in law, alleging that the Commission erred in finding that the aid measures granted to Femern A/S for the Fixed Link are compatible with the internal market pursuant to Article 107(3)(b) TFEU. The Commission erred in law and made a manifest error of assessment in finding that the Fehmarn Belt Fixed Link project was of common European interest and in finding that the aid was necessary and proportionate. The Commission also erred in law and made a manifest error of assessment regarding the prevention of undue distortions of competition and balancing test and regarding the mobilisation of the State guarantees.

3. Third plea in law, alleging that the Commission infringed its obligation to initiate the formal investigation procedure. The applicant alleges that there are evidence of serious difficulties relating to the length and the circumstances of the preliminary investigation procedure. In addition, the applicant alleges an insufficient and incomplete analysis regarding the funding granted to Femern A/S for the Danish rail hinterland connections, regarding the common European interest of the Fehmarn Belt Fixed Link project, regarding the necessity and proportionality of the aid and regarding the prevention of undue distortions of competition and balancing test.

4. Fourth plea in law, alleging that the Commission failed to fulfil its duty to state reasons. The Commission failed to provide reasons in relation to the Danish rail hinterland connections, in relation to the common European interest of the Fehmarn Belt Fixed Link project, in relation to the necessity and proportionality of the aid and in relation to the undue distortions of competition and balancing test.

Action brought on 19 November 2015 — Guardian Europe v European Union

(Case T-673/15)

(2016/C 059/26)

Language of the case: English

Parties

Applicant: Guardian Europe Sàrl (Bertrange, Luxembourg) (represented by: F. Louis, lawyer, and C. O'Daly, Solicitor)

Defendants: European Union represented by the European Commission and the Court of Justice of the European

Form of order sought

The applicant claims that the Court should:

— (1) order that the applicant be compensated for the following damages caused as a result of the General Court's failure to rule within a reasonable time: (a) guarantee costs of EUR 936 000; (b) opportunity costs/loss of profit of EUR 1 671 000; and (c) non-pecuniary losses of EUR 14,8 million;

— (2) award interest on the amounts sought under (1) above, in so far as relevant, at the average rate applied by the European Central Bank at the relevant time to its main refinancing operations, increased by two percentage points;

— (3) order that the applicant be compensated for damages caused as a result of the Commission and the General Court's infringement of the principle of equal treatment namely the following amounts: (a) guarantee costs of EUR 1 547 000; (b) opportunity costs/loss of profit of EUR 9 292 000; and (c) non-pecuniary losses of EUR 14,8 million;

— (4) award interest on the amounts sought under (3) above, in so far as relevant, at the average rate applied by the European Central Bank at the relevant time to its main refinancing operations, increased by two percentage points; and

— (5) order the defendants to pay the applicant's costs relating to its application.

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 that the applicant has a right to damages against the European Union under Article 268 and Article 340 second paragraph of the TFEU due to the General Court's infringement of its rights under Article 47 of the Charter of Fundamental Rights of the European Union and Article 6(1) of the European Convention on Human Rights and Fundamental Freedoms to a judgment within a reasonable time. The failure to rule within a reasonable time period caused the applicant three types of loss between 12 February 2010 and 27 September 2012: (1) increased costs related to a bank guarantee for the amount of the fine that the applicant did not immediately pay to the Commission following the adoption of decision No C(2007)5791 final of 28 November 2007 in Case COMP/39165 — Flat glass; (2) opportunity costs because the low rate of interest on the amount of the fine belatedly returned to the applicant following the Court of Justice's judgment in 2014 was much lower than the potential return that the applicant could have achieved if, instead of paying this money to the Commission in 2008, it had invested it in its business; and (3) non-pecuniary damages due to the decision wrongly having imposed the highest fine on the applicant in November 2007 and, due to the General Court's failure to adjudicate within a reasonable time, this only being belatedly remedied by the Court of Justice in November 2014.

2. Second plea in law, alleging that the applicant has a right to damages against the European Union under Article 268 and Article 340 second paragraph of the TFEU because the European Commission and the General Court both manifestly breached the principle of equal treatment and discriminated against the applicant. Decision No C(2007)5791 final of 28 November 2007 in Case COMP/39165 — Flat glass, wrongly excluded captive sales when calculating the fines imposed on the decision's other addressees and failed to rectify the ensuing discrimination against the applicant, which as a non-integrated producer did not have any captive sales. The General Court compounded the Commission's mistake by upholding the decision's exclusion of these captive sales. This error was only corrected by the Court of Justice in November 2014 when it reduced the decision's fine by EUR 44,4 million. However, this reduction did not compensate for the damage to the applicant from November 2007 to November 2014, which was caused by it wrongfully having received an inflated fine, which suggested that it bore a particular responsibility for the flat glass cartel and also resulted in additional financial costs. The Commission's and General Court's unlawful act caused the applicant the same three types of loss as those outlined under the first plea in law but over the longer period from November 2007 to November 2014.

Appeal brought on 26 November 2015 by Patrick Wanègue against the order of the Civil Service Tribunal of 15 September 2015 in Case F-21/15, Wanègue v Committee of the Regions

(Case T-682/15 P)

(2016/C 059/27)

Language of the case: French

Parties

Appellant: Patrick Wanègue (Dilbeek, Belgium) (represented by M.-A. Lucas, lawyer)

Other party to the proceedings: Committee of the Regions of the European Union

Form of order sought

The appellant claims that the Court should:

— set aside the order of 15 September 2015 in Case F-21/15 by which the Civil Service Tribunal (Second Chamber) dismissed, as being in part manifestly unfounded in law and in part manifestly inadmissible, the appellant's action brought on 5 February 2015 against the Committee of the Regions;

— rule on the action and grant the appellant the form of order sought in his application;

— order the Committee of the Regions to pay the costs of both proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Articles 51(1) and 53(1) of the Rules of Procedure of the Civil Service Tribunal (CST) and of the principle of the equality of the parties in the proceedings, in that the period of two months laid down for lodging the defence, extended by ten days on account of distance, was calculated from the date of service of the notification that the application was in order, and not the date of service of the application, so that the defence lodged by the Committee of the Regions (CoR) was placed on the case file for the proceedings even though it had been lodged out of time; the CST then relied on that defence in order to dismiss the action by way of an order on the basis of Article 81 of the Rules of Procedure, and the appellant was thus deprived of the possibility of applying for judgment by default of the basis of Article 121 of the Rules of Procedure.

2. Second plea in law, alleging (i) infringement of the principle that the provisions of EU law are to be interpreted having regard to their context and of the obligation to state reasons, in that the CST, in paragraphs 64 to 70 of its order, interpreted Article 56 of the Staff Regulations of Officials of the European Union without having regard either to Article 55 of those regulations or to the decisions adopted by the CoR on that basis, and failed to respond to the appellant's arguments derived from those provisions; and (ii) errors of law, in that the CST thus misinterpreted the scope and purpose of Articles 55 and 56 of the Staff Regulations and Article 3 of Annex VI to those regulations, and Articles 2 and 4 of Decision No 048/03 on the detailed rules for granting flat-rate allowances for overtime worked by certain officials in categories C and D who are required to work overtime on a regular basis ('Decision No 48/03').

3. Third plea in law, alleging (i) infringement of the principles that the provisions of the Staff Regulations are to be interpreted in accordance with the European Charter of Fundamental Rights and that Article 31 of the Charter is to be interpreted in accordance with Decision No 48/03; and (ii) infringement of the obligation to state the reasons on which judgments are based and the requirement that pleadings are to be construed in accordance with their actual terms, in that the CST, in paragraphs 71 to 74 of its order, did not have regard to Article 6 of Decision No 48/03 for the purposes of interpreting Article 31(2) of the Charter, failed to respond to the requisite legal standard to the appellant's arguments based on those provisions, and misinterpreted the subject matter and cause of his action.

4. Fourth plea in law, alleging (i) infringement of the requirement that pleadings are to be construed in accordance with their actual terms and of the principle that actions are to be assessed on the basis of the information existing at the time the contested measure was adopted, in that the CST took the view, in paragraph 77 of its order, that the appellant based his arguments, derived from the principle of equal treatment, on the consequences of the contested decision and rejected them in any event on the basis of those consequences; and (ii) infringement of the obligation to state reasons, the principle that the provisions of the Staff Regulations are to be interpreted in accordance with the principle of equality and the principle of equality itself, in that the CST, in paragraphs 77 and 78 to 80 of its order, failed to respond to the requisite legal standard to the appellant's arguments.

5. Fifth plea in law, alleging (i) infringement of the requirement that pleadings are to be construed in accordance with their actual terms and of Article 50(1)(e) of the Rules of Procedure of the CST, in that the CST took the view, in paragraph 82 of its order, that the plea of illegality raised by the appellant was not supported by any arguments, contrary to the requirements of that provision, and was therefore manifestly inadmissible; and (ii) illegality as a consequence of paragraphs 54 to 57 of the order under appeal.

Appeal brought on 27 November 2015 by Roderich Weissenfels against the judgment of the Civil Service Tribunal of 24 September 2015 in Case F-92/14, Weissenfels v Parliament

(Case T-684/15 P)

(2016/C 059/28)

Language of the case: German

Parties

Appellant: Roderich Weissenfels (Freiburg, Germany) (represented by G. Maximini, lawyer)

Other party to the proceedings: European Parliament

Form of order sought

The appellant claims that the Court should:

— set aside the judgment;

— grant the form of order sought at first instance and

— consequently order the Parliament to pay the damages for non-material harm sought and to pay the costs of proceedings at both instances, including those of the pre-litigation procedure and all necessary expenses and disbursements of the appellant.

Pleas in law and main arguments

By means of the present appeal, the appellant seeks the setting aside of the judgment of the Civil Service Tribunal of 24 September 2015 in *Weissenfels* v *Parliament* (F-92/14, ECR-SC, EU:F:2015:110).

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

1. First plea in law: Breach of the requirement of impartiality (the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union)

   The appellant asserts that both the judicial proceedings which led to the judgment under appeal and the judgment itself are consistently characterised by recurrent breaches of the requirement of impartiality. Those breaches are obvious in both subsidiary proceedings and in breaches of law which are relevant for the decision.

2. Second plea in law: Denial of justice, infringement of the principles of logic and distortion of the facts with regard to the refusal to have the fulfilment of criminal offences examined

3. Third plea in law: Infringement of the principles of logic, distortion of the facts and manifestly incorrect assessment in respect of the disputed slanderous claim contained in the e-mail of 10 April 2002

4. Fourth plea in law: Distortion of the facts and of the subject-matter of the proceedings, infringement of the principles of logic, disregard for the law and breach of law with regard to the passing on of the appellant's personal data

Appeal brought on 28 November 2015 by Peter Schönberger against the order of the Civil Service Tribunal of 30 September 2015 in Case F-14/12 RENV, Schönberger v Court of Auditors

(Case T-688/15 P)

(2016/C 059/29)

Language of the case: German

Parties

Appellant: Peter Schönberger (Luxembourg, Luxembourg) (represented by O.Mader, lawyer)

Other party to the proceedings: Court of Auditors of the European Union

Form of order sought by the appellant

The appellant claims that the Court should:

— annul the contested decision;

— grant the form of order sought at first instance.

Pleas in law and main arguments

By the present appeal, the appellant seeks to have set aside the order of 30 September 2015 in *Schönberger* v *Court of Auditors* (F-14/12 RENV, ECRFP, EU:F:2015:112).

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

1. First plea in law, alleging the misapplication of Article 81 of the Rules of Procedure of the European Union Civil Service Tribunal

   The appellant claims that the Civil Service Tribunal ('the CST') misapplied Article 81 of its Rules of Procedure in the contested decision and thereby infringed the appellant's right to be heard and to a fair trial.

2. Second plea in law, alleging replacement of the grounds as a result of the consideration of arguments which were submitted late

   According to the appellant, the CST effected a replacement of grounds in so far as it relied on arguments which were presented by the defendant out of time.

3. Third plea in law, alleging the distortion of facts

   According to the appellant, the CST distorted the position of the Court of Auditors in so far as it maintained in the contested decision that the latter held that a comparison of the appellant's merits with those of the other officials eligible for promotion would not have resulted in the appellant's promotion, although the Court of Auditors merely declared that the appellant would not be automatically promoted if a greater number of posts were available.

4. Fourth plea in law, alleging erroneous application of a promotion criterion

   The appellant further claims that, when assessing his merits, the CST wrongly applied a promotion criterion which exceeds the criteria of the Court of Auditors and which is unnecessarily strict in so far as evidence was required to show that the appellant was one of the 53 officials eligible for promotion with the greatest merits.

5. Fifth plea in law, alleging erroneous comparative assessment of the degree of responsibility exercised

   Furthermore, the appellant claims that the comparative assessment of his level of responsibility was undertaken by the CST without a factual basis and wrongly assumes an automatic priority for Heads of Unit.

6. Sixth plea in law, alleging an incorrect assessment of the applicable promotion rate

The appellant claims in that regard that the question of the applicable promotion rate concerns the substance of the dispute. It should, therefore, not have been dealt with in the context of the examination of admissibility.

7. Seventh plea in law, alleging an incorrect application of the principle of equal treatment

Finally, the appellant claims that the CST applied the principle of equal treatment wrongly and inconsistently with settled case-law in so far as it disregarded the fact that that principle is infringed where institutions exceed their margin of discretion and arbitrarily adopted measures which infringe the Staff Regulations of Officials of the European Union.

Action brought on 25 November 2015 — HTTS v Council

(Case T-692/15)

(2016/C 059/30)

Language of the case: German

Parties

Applicant: HTTS Hanseatic Trade Trust & Shipping GmbH (Hamburg, Germany) (represented by: M. Schlingmann and M. Bever, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Order the Council of the European Union to pay the applicant damages in the amount of EUR 2 516 221,50 for material and non-material loss suffered due to the inclusion of the applicant in the list of persons, entities and bodies in Annex V to Regulation (EC) No 423/2007 and in Annex VIII to Regulation (EU) No 961/2010;

— Order the Council of the European Union to pay interest for late payment in the amount of two percent over the rate of interest set by the European Central Bank for the principal refinancing operation from 17 October 2015 until payment in full of the above amount;

— Order the Council to pay the costs of the proceedings, including those incurred by the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, according to which it claims that the Council — which unlawfully included it in the list of persons, entities and bodies all of whose funds and economic resources were frozen — infringed provisions which protect individual interests and which do not confer discretion on it.

The applicant suffered material and non-material loss as a direct consequence of the restrictive measures that the Council unlawfully imposed on it.

Appeal brought on 2 December 2015 by Juha Tapio Silvan against the judgment of the Civil Service Tribunal of 22 September 2015 in Case F-83/14, *Silvan* v *Commission*

(Case T-698/15 P)

(2016/C 059/31)

Language of the case: French

Parties

Appellant: Juha Tapio Silvan (Brussels, Belgium) (represented by N. de Montigny and J.-N. Louis, lawyers)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant claims that the Court should:

— order

— that the judgment of the Civil Service Tribunal (2nd Chamber) delivered on 22 September 2015 in Case F-83/14 (*Tapio Silvan* v *Commission*) is set aside;

— give judgment again and

— order

— that the decision not to promote the appellant is annulled;

— the Commission to pay the costs in both sets of proceedings.

Grounds of appeal and main arguments

In support of the appeal, the appellant relies on three grounds of appeal.

1. First ground of appeal, relating to the admissibility of the pleas in law relied on and of the evidence adduced, which is divided into two parts:

— the first part, alleging a breach of procedural rules and an error of law by the Civil Service Tribunal (CST) in the declaration of inadmissibility of the plea in law alleging that the appointing authority failed to carry out a comparative assessment of the merits;

— the second part, alleging an error in law by the CST in its failure to assess the evidence submitted by the applicant showing the lack of a comparative assessment of the merits by the appointing authority at every stage of the promotion procedure.

2. Second ground of appeal, alleging infringement of Article 45 and the lack of a comparative assessment of the merits, which is divided in two parts:

— the first part, alleging, first, an error in law by the CST in the context of the analysis of the documents submitted and the distortion of the clear sense of the evidence submitted by the parties, the lack of effective judicial review by the CST and failure to state reasons, and, secondly, an error of assessment, failure to state reasons, lack of effective judicial review by the CST and distortion of the clear sense of the evidence.

— The second part alleging, first, an error in law in assessing the pleas set out by the appellant in that the CST held that the appellant had not raised a plea of illegality of the general implementing provisions C(2011) 8190 of Article 45 of the Statute, adopted by the European Commission on 14 November 2011, in that no comparative assessment is provided for at the stage of joint committee on promotions, and, second, an error of assessment and distortion of the clear sense of the evidence submitted.

3. Third ground of appeal, alleging an error of assessment in the context of the analysis of the merits, which is divided in two parts:

— the first part, alleging the error in law by the CST in assessing the burden of proof;

— the second part, alleging the error of assessment and distortion of the clear sense of the evidence submitted.

Action brought on 2 December 2015 — Syriatel Mobile Telecom v Council

(Case T-705/15)

(2016/C 059/32)

Language of the case: French

Parties

Applicant: Syriatel Mobile Telecom (Joint Stock Company) (Damascus, Syria) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well founded;

— as a consequence, order the European Union to repair all of the harm allegedly suffered by the applicant at an amount to be fixed equitably by the Court;

— order an expert to be appointed in order to establish the total extent of the harm suffered by the applicant;

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

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging, first, the non-material harm caused by harm to its reputation, and, second, the material harm caused by the breakdown of its contractual relationships, by the loss of equipment and by the loss of revenue, which the applicant has suffered as a direct causal link to the measures taken by the Council of the European Union, for which the Council is liable.

Action brought on 3 December 2015 — Souruh v Council

(Case T-707/15)

(2016/C 059/33)

Language of the case: French

Parties

Applicant: Souruh SA (Damascus, Syria) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well founded;

— as a consequence, order the European Union to repair all of the harm allegedly suffered by the applicant at an amount to be fixed equitably by the Court;

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

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging, first, the non-material harm caused by harm to its reputation, and, second, the material harm caused by the breakdown of its contractual relationships, by the loss of equipment and by the loss of revenue, which the applicant has suffered as a direct causal link to the measures taken by the Council of the European Union, for which the Council is liable.

Action brought on 3 December 2015 — Cham and Bena Properties v Council

(Case T-708/15)

(2016/C 059/34)

Language of the case: French

Parties

Applicant: Cham Holding Co. SA (Damascus, Syria), and Bena Properties Co. SA (Damascus) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well founded;

— as a consequence, order the European Union to repair all of the harm allegedly suffered by the applicant at an amount to be fixed equitably by the Court;

— order an expert to be appointed in order to establish the total extent of the harm suffered by the applicant;

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

Pleas in law and main arguments

In support of their action, the applicants rely on three principal pleas and a subsidiary plea, alleging that they have suffered harm for which the Council of the European Union is liable.

1. First plea, alleging the unlawfulness of the measures adopted by the Council, in that the Council has failed to fulfil its duty of care and diligence by basing its decisions to include the applicants on vague and imprecise grounds, notwithstanding the case-law requiring it to justify precisely its decisions, and by overlooking its obligation to have a hearing prior to maintaining the applicants in the lists of sanctions. Moreover, the restrictive measures adopted against the applicants are of an unjustified and disproportionate nature and infringe their right to reputation and their right to property.

2. Second plea, alleging the non-material harm which the applicants have suffered, in that their inclusion in the lists of sanctions has undermined their reputation.

3. Third plea, alleging material harm suffered by the applicants because of their inclusion in the lists of persons and entities covered by restrictive measures, in that by that fact they have lost many contracts and many sources of revenue.

4. Fourth plea, put forward in the alternative, alleging the strict liability of the European Union for the harm caused to the applicants following their inclusion in the lists of persons and entities covered by the sanctions against Syria.

Action brought on 3 December 2015 — Almashreq Investment Fund v Council

(Case T-709/15)

(2016/C 059/35)

Language of the case: French

Parties

Applicant: Almashreq Investment Fund (Damascus, Syria) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well founded;

— as a consequence, order the European Union to repair all of the harm allegedly suffered by the applicant at an amount to be fixed equitably by the Court;

— order an expert to be appointed in order to establish the total extent of the harm suffered by the applicant;

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

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging the fact that it has suffered non-material damage, consisting of harm to its reputation, as a direct causal link to the measures taken by the Council of the European Union, for which the Council is liable.

Action brought on 3 December 2015 — Drex Technologies v Council

(Case T-710/15)

(2016/C 059/36)

Language of the case: French

Parties

Applicant: Drex Technologies SA (Tortola, British Virgin Islands) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well founded;

— as a consequence, order the European Union to repair all of the harm allegedly suffered by the applicant at an amount to be fixed equitably by the Court;

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

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging the fact that it has suffered non-material damage, consisting of harm to its reputation, as a direct causal link to the measures taken by the Council of the European Union, for which the Council is liable.

Action brought on 3 December 2015 — Othman v Council

(Case T-711/15)

(2016/C 059/37)

Language of the case: French

Parties

Applicant: Razan Othman (Damascus, Syria) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well founded;

— as a consequence, order the European Union to repair all of the harm allegedly suffered by the applicant at an amount to be fixed equitably by the Court;

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

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging the fact that he has suffered non-material damage, consisting of harm to his reputation, as a direct causal link to the measures taken by the Council of the European Union, for which the Council is liable.

Action brought on 3 December 2015 — Crédit Mutuel Arkéa v ECB

(Case T-712/15)

(2016/C 059/38)

Language of the case: French

Parties

Applicant: Crédit Mutuel Arkéa (Le Relecq-Kerhuon, France) (represented by: H. Savoie, lawyer)

Defendant: European Central Bank (ECB)

Form of order sought

The applicant claims that the Court should annul the European Central Bank decision of 5 October 2015 (ECB/SSM/2015 — 9695000CG7B8NLR5984/28) setting out the prudential requirements for Groupe Crédit Mutuel.

Pleas in law and main arguments

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

1. First plea in law, alleging that the decision of the European Central Bank of 5 October 2015 ('the decision') is unlawful on the grounds that it infringes the provisions of EU law restricting the ECB's competence in matters of prudential supervision to credit institutions only. The plea is divided into four parts.

   — First part, alleging that the legislation applicable to the ECB's banking supervision activities strictly restricts its competence to credit institutions and other financial institutions.

   — Second part, alleging that the Confédération nationale du Crédit Mutuel (CNCM) is not a credit institution and that the supervision of Crédit Mutuel by the ECB could not take place at the level of the CNCM.

   — Third part, alleging that the inability of the ECB to exercise prudential supervisory authority over the CNCM is confirmed by the fact, acknowledged by the ECB, that it has no power to impose penalties.

   — Fourth part, alleging that, since it lacks the power to impose any measures on the CNCM, it is in vain and on a legally erroneous basis that the decision purports to impose corrective measures on the Crédit Mutuel group, which has no legal existence.

2. Second plea in law, alleging that the decision should also be annulled on the ground that it unlawfully finds that Crédit Mutuel as a whole is a group within the meaning of the European provisions on prudential supervision. The plea is divided into three parts:

   — First part, alleging that the general principle laid down by EU law constitutes, on the one hand, prudential supervision of credit institutions on an individual basis and, on the other, consolidated supervision at the level of mutual groups assuming that they may be treated like a single entity.

   — Second part, alleging that the legal conditions laid down by EU law allowing for consolidated prudential supervision at group level of banks have not been met.

   — Third part, alleging that none of the three conditions permitting consolidated supervision at the level of Crédit Mutuel as a whole have been met in the present case.

3. Third plea in law, alleging that the decision should also be annulled inasmuch as it unlawfully increases from 8 % to 11 % the requirement of common equity tier 1 capital applicable to the Crédit Mutuel Arkéa group. The plea is divided into two parts:

   — First part, that the decision is vitiated by an error of law.

   — Second part, that the decision is also vitiated by errors of assessment.

Action brought on 2 December 2015 — Makhlouf v Council

(Case T-714/15)

(2016/C 059/39)

Language of the case: French

Parties

Applicant: Rami Makhlouf (Damascus, Syria) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well founded;

— as a consequence, order the European Union to repair all of the harm allegedly suffered by the applicant at an amount to be fixed equitably by the Court;

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

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging the fact that he has suffered non-material damage, consisting of harm to his reputation, as a direct causal link to the measures taken by the Council of the European Union, for which the Council is liable.

Action brought on 4 December 2015 — BBY Solutions v OHIM — Worldwide Sales Corporation España (BEST BUY GEEK SQUAD)

(Case T-715/15)

(2016/C 059/40)

Language in which the application was lodged: English

Parties

Applicant: BBY Solutions, Inc. (Minneapolis, United States) (represented by: A. Poulter, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Worldwide Sales Corporation España, SL (Sant Vicenç dels Horts, Spain)

Details of the proceedings before OHIM

Applicant of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark containing the word elements 'BEST BUY GEEK SQUAD' — Community trade mark application No 6 064 001

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 23 September 2015 in Joined Cases R 517/2015-2 and R 437/2015-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision to the extent that it upheld the opposition;

— annul the opposition division's decision dated 22 December 2014 in Opposition No B 1354630 to the extent that it upheld the opposition;

— accept CTM Application No 6 064 001 for registration;

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

Plea in law

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

Action brought on 30 November 2015 — Gallardo Blanco v OHIM — Expasa Agricultura y Ganadería, SA (Representation of a branding iron (shape of an H-shaped horse bit))

(Case T-716/15)

(2016/C 059/41)

Language in which the application was lodged: Spanish

Parties

Applicant: Gallardo Blanco (Los Barrios, Spain) (represented by: E. Estella Garbayo, lawyer)

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

Other party to the proceedings before the Board of Appeal: Expasa Agricultura y Ganadería, SA (Jerez de la Frontera, Spain)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community figurative mark (Representation of a branding iron (shape of an H-shaped horse bit)) — Application for registration No 10 424 323

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 29 September 2015 in Case R 1502/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Second Board of Appeal of OHIM of 29 September 2015;

— annul the decision of the Opposition Division of OHIM of 14 April 2014;

— amend the previous decisions granting full registration of Community mark No 10 424 323;

— order the defendant to pay the costs of these proceedings, of the opposition proceedings and of the appeal before OHIM.

Plea in law

— Infringement of Articles 4, 8(1)(b) and 42(2) of Regulation No 207/2009.

Action brought on 9 December 2015 — PTC Therapeutics International v EMA

(Case T-718/15)

(2016/C 059/42)

Language of the case: English

Parties

Applicant: PTC Therapeutics International Ltd (Dublin, Ireland) (represented by: M. Demetriou, QC, C. Thomas, Barrister, G. Castle, B. Kelly and H. Billson, Solicitors)

Defendant: European Medicines Agency (EMA)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Medicines Agency EMA/722323/2015 of 25 November 2015 to grant a third party access to the information about a medicinal product, pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43), in so far as the decision concerns commercially confidential information the release of which will infringe the applicant's rights and in so far as the decision is prohibited by EU law;

— remit the contested decision back to the EMA for further consideration regarding redaction of confidential passages in consultation with the applicant; and,

— order the EMA to pay all costs in these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the document at issue is protected by Article 4(2) and/or Article 4(3) of Regulation (EC) No 1049/2001.

2. Second plea in law, alleging that the document at issue in its entirety constitutes commercially confidential information that is protected by Article 4(2) of the said Regulation.

3. Third plea in law, alleging that the release of the document would undermine the EMA's decision making process.

4. Fourth plea in law, alleging that the EMA failed to carry out a balancing exercise as required by law.

5. Fifth plea in law, alleging that the outcome of a proper balancing exercise, as required by law, would have been a decision not to release any part of the document.

Appeal brought on 8 December 2015 by LP against the Order of the Civil Service Tribunal of 28 September 2015 in Case F-73/14 LP v Europol

(Case T-719/15 P)

(2016/C 059/43)

Language of the case: French

Parties

Appellant: LP (The Hague, Netherlands) (represented by M. Velardo, lawyer)

Other party to the proceedings: European Police Office (Europol)

Form of order sought by the appellant

The applicant claims that the General Court should:

— Set aside the order of 28 September 2015 in Case F-73/14 and give a ruling on the case or, in the alternative, refer the case back to the Civil Service Tribunal;

— Order Europol to pay the cost of both parties

Pleas in law and main arguments

In support of the appeal, the appellant relies on a single plea in law, alleging that the contested order is vitiated by several errors of law and infringes EU law, in particular in respect of the obligation to provide a statement of reasons, the duty of care and the manifest error of assessment.

Action brought on 04 December 2015 — Commission v CINAR

(Case T-720/15)

(2016/C 059/44)

Language of the case: English

Parties

Applicant: European Commission (represented by: D. Waelbroeck, lawyer, A. Duron, lawyer, S. Delaude, agent, L. Di Paolo, agent, and J. Estrada de Solà, agent)

Defendant: CINAR Ltd (London, United Kingdom)

Form of order sought

The applicant claims that the Court should:

— condemn the defendant to reimburse GBP 25 616 to the applicant;

— condemn the defendant to pay interest on the principal amount of GBP 25 616 at the rate applied by the European Central Bank for its main refinancing operations on 1 December 2005 (2,09 %) plus one and a half percentage points, covering the period running from 6 December 2005 until the date of receipt of the funds to be reimbursed; and

— order the defendant to pay all costs and expenses in these proceedings.

Plea in law and main arguments

In support of the action, the applicant relies on one plea in law alleging that the defendant has breached its contractual obligations regarding the justification of costs claimed. As the financial contribution due to the defendant is less than the total amount paid by the applicant by means of an advance payment, the applicant contends that, under the contract, the defendant is liable for the sum due.

Action brought on 4 December 2015 — Interessengemeinschaft privater Milchverarbeiter Bayerns v Commission

(Case T-722/15)

(2016/C 059/45)

Language of the case: German

Parties

Applicant: Interessengemeinschaft privater Milchverarbeiter Bayerns e. V. (Mertingen, Germany) (represented by: C. Bittner and N. Thies)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the contested decision to be invalid in so far as it:

  — states in Article 1 that the State aid which the Federal Republic of Germany granted unlawfully in breach of Article 108(3) TFEU in respect of the milk quality tests carried out by the Land Bavaria in favour of dairy sector undertakings in that Land is during the period starting 1 January 2007 incompatible with the internal market;

  — orders in Articles 2 to 4 the repayment of that State aid together with interest by the beneficiaries;

— order the defendant to bear the costs incurred by the applicant.

Pleas in law and main arguments

By the present action, the applicant seeks the partial annulment of Commission Decision C(2015) 6295 final of 18 September 2015 concerning State aid SA.35484 (2013/C) (ex SA.35484 (2012/NN)) granted by Germany in respect of milk quality tests pursuant to the Milk and Fat Law.

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

1. First plea in law, alleging an infringement of Article 108(3) TFEU in conjunction with Article 6(1) and the first sentence of Article 20(1) of Regulation (EC) No 659/1999 ([1])

   The applicant claims that the contested decision is based on facts and points of law which were not part of the opening decision.

2. Second plea in law, alleging an infringement of Article 107(1) TFEU in so far as the surcharge was classified as a State resource

   According to the applicant, the surcharge should not be classified as a State resource, since it is not under permanent State control and is not available to the national authorities. The national authorities merely forwarded payments from Bavarian dairy companies to the milk testers designated to carry out milk quality tests.

3. Third plea in law, alleging an infringement of Article 107(1) TFEU in so far as the financing of the milk quality tests was classified as State aid in favour of Bavarian dairy companies

   In this regard, it is claimed that the costs of milk quality tests are not expenses usually borne by Bavarian dairy companies. The tests were carried out in the public interest. In addition, the alleged benefits enjoyed by the dairy companies were offset by the requirement to pay a surcharge.

4. Fourth plea in law (in the alternative), alleging an infringement of Article 107(3) TFEU

   The applicant claims that, during the period 2000-2006, the defendant considered the contested funding to be compatible with the internal market. Since then, there has been no change to the contested funding. Those circumstances indicate that the defendant's discretion was reduced so that it is required to consider the contested funding granted since 1 January 2007 as compatible with the internal market.

5. Fifth plea in law (in the alternative), alleging an infringement of Article 108(1) and (3) TFEU in so far as the financing of the milk quality tests was classified as new State aid which is thus subject to the obligation to notify

6. Sixth plea in law (in the alternative), alleging an infringement of the principle of legitimate expectations

Finally, the applicant claims that, for the period 2000-2006, the Commission found that the financing of milk quality tests was compatible with the internal market. In addition, still in February 2012, it classified the financing of milk quality tests as existing aid. As a result, it created the legitimate expectation that in any event there would be no order for repayment of the alleged State aid.

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

Action brought on 4 December 2015 — Genossenschaftsverband Bayern v Commission

(Case T-723/15)

(2016/C 059/46)

Language of the case: German

Parties

Applicant: Genossenschaftsverband Bayern e. V. (Munich, Germany) (represented by: C. Bittner and N. Thies, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in so far as:

  — in Article 1 it declares that State aid was unlawfully granted in Germany in breach of Article 108(3) TFEU in respect of the milk quality tests carried out in Bavaria in favour of dairy sector undertakings in Bavaria and that that State aid has been incompatible with the internal market since 1 January 2007;

  — in Articles 2 to 4 it orders the recovery of the aid from the beneficiaries, together with interest;

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

Pleas in law and main arguments

By the present action, the applicant seeks the partial annulment of Commission Decision C(2015) 6295 final of 18 September 2015 concerning State aid SA.35484 (2013/C) (ex SA.35484 (2012/NN)) granted by Germany in respect of milk quality tests pursuant to the Milk and Fat Law.

In support of the action, the applicant relies on six pleas in law, which are in essence identical or similar to those relied on in Case T-722/15 *Interessengemeinschaft privater Milchverarbeiter Bayerns* v *Commission*.

Action brought on 14 December 2015 — Justice & Environment v Commission

(Case T-727/15)

(2016/C 059/47)

Language of the case: English

Parties

Applicant: Association Justice & Environment, z.s. (Brno, Czech Republic) (represented by: S. Podskalská, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the decision of the European Commission, Directorate General for Environment, dated 19 August 2015, reference number Ref GestDem No 2015/4284, by which a request for access to documents has been refused and the decision of the Secretary General on behalf of the European Commission dated 15 October 2015, reference number Ares(2015)4311297, by which a confirmatory application has been declined, null and void; and

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

Pleas in law and main arguments

In support of the action, the applicant contends that the contested decisions are unlawful because they are contrary to: (i) Article 15 of the Treaty on the Functioning of the European Union (ex Article 255 TEC); (ii) Article 4 (2) of Regulation (EC) No 1049/2001 ([1]); (iii) Article 6 (1) of Regulation (EC) No 1367/2006 ([2]); and (iv) The United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) in conjunction with the Council Decision of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters (2005/370/EC) ([3])

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

([2]) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 2006, p. 13).

([3]) OJ L 124, 2005, p. 1.

Action brought on 17 December 2015 — MSD Animal Health Innovation and Intervet international v EMA

(Case T-729/15)

(2016/C 059/48)

Language of the case: English

Parties

Applicants: MSD Animal Health Innovation GmbH (Schwabenheim, Germany) and Intervet international BV (Boxmeer, Netherlands) (represented by: J. Stratford, QC, C. Thomas, Barrister, P. Bogaert, lawyer, B. Kelly and H. Billson, Solicitors)

Defendant: European Medicines Agency (EMA)

Form of order sought

The applicants claim that the Court should:

— annul the decision of EMA of 25 November 2015, communicated to the applicants the 3 December 2015, to grant a third party access to the information about a veterinary medicinal product, pursuant to Regulation (EC) No 1049/2001 (OJ 2001 L 145, p. 43), in so far as the decision concerns commercially confidential information the release of which will infringe the applicants' rights and in so far as the decision is prohibited by EU law;

— order the EMA to pay all costs in these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the documents at issue is protected by Article 4(2) and/or Article 4(3) of Regulation (EC) No 1049/2001 pursuant to a general presumption of confidentiality.

2. Second plea in law, alleging that the documents at issue in their entirety constitute commercially confidential information that is protected by Article 4(2) of said Regulation.

3. Third plea in law, alleging that the release of the documents would undermine the EMA's decision making process.

4. Fourth plea in law, alleging that the EMA failed to carry out a balancing exercise as required by law.

5. Fifth plea in law, alleging that the outcome of a proper balancing exercise, as required by law, would have been a decision not to release any part of the documents or at least a decision to accede to the redactions proposed by the applicants.

Action brought on 18 December 2015 — Hydro Aluminium Rolled Products v Commission

(Case T-737/15)

(2016/C 059/49)

Language of the case: German

Parties

Applicant: Hydro Aluminium Rolled Products GmbH (Grevenbroich, Germany) (represented by: U. Karpenstein and K. Dingemann, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul, pursuant to Article 264 TFEU, European Commission Decision (EU) 2015/1585 of 25 November 2014 in the procedure State aid SA.33995 (2013/C) (ex 2013/NN) implemented by Germany for the support of renewable electricity and the limitation of energy-intensive users, C(2014) 8786 final;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: No State resources

   The applicant submits that the defendant erred in taking the view that the exception in favour of energy-intensive users laid down in the EEG-Act 2012 involved the use of 'State resources' within the meaning of Article 107(1) TFEU. The EEG-surcharge is paid only by private persons and the resources collected also cannot be attributed to the State because of the absence of permanent control and the associated impossibility of actual access for the authorities.

2. Second plea in law: Absence of selectivity

   The applicant asserts that the special compensation rule (Besondere Ausgleichsregelung, 'the BesAR') is not selective — as required by Article 107(1) TFEU –, but constitutes an exception which is logical and inherent in the regulatory system of the EEG-Act.

3. Third plea in law: Infringement of the principle of the protection of legitimate expectations

   In that regard, it is claimed that the defendant established, with respect to the applicant, a legitimate expectation because it failed to examine, in the light of the law on aid, the EEG-Act — of which it was aware — for more than ten years. In addition, the defendant refrained from making recoveries of comparable aid in other Member States.

Action brought on 18 December 2015 — Aurubis and Others v Commission

(Case T-738/15)

(2016/C 059/50)

Language of the case: German

Parties

Applicants: Aurubis AG (Hamburg, Germany), Aurubis Stolberg GmbH & Co. KG (Stolberg, Germany), Covestro Deutschland AG (Leverkusen, Germany), Dow Olefinverbund GmbH (Schkopau, Germany), Rheinkalk GmbH (Wülfrath, Germany), Siltronic AG (Munich, Germany), Vestolit GmbH (Marl, Germany) and Wacker Chemie AG (Munich) (represented by: C. Arhold and N. Wimmer, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Article 3(1) of the contested decision

  — in so far as the Commission finds that the reductions in the surcharge for the funding of support for electricity from renewable sources (EEG-surcharge) in the years 2013 and 2014 for energy-intensive users (Besondere Ausgleichsregelung, 'the BesAR') constitute State aid within the meaning of Article 107(1) TFEU, or

  — in the alternative, in so far as the Commission finds that the BesAR constitutes unlawful State aid established in breach of Article 108(3) TFEU.

— annul Articles 6, 7 and 8 of the contested decision in so far as the Commission orders the recovery of the aid, and

— order the Commission to pay the costs incurred by the applicants.

Pleas in law and main arguments

By means of the present action, the applicants seek the partial annulment of Commission Decision (EU) 2015/1585 of 25 November 2014 (notified under document C(2014) 8786 final) on the aid scheme SA.33995 (2013/C) (ex 2013/NN) implemented by Germany for the support of renewable electricity and of energy-intensive users ([1]).

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

1. First plea in law: Infringement of Article 107(1) TFEU

   The applicants claim that the BesAR is not State aid within the meaning of Article 107(1) TFEU, not least because of the lack of a transfer of State resources. In addition, it gives energy-intensive users no selective economic advantage.

2. Second plea in law: Infringement of Article 108 TFEU

   The applicants claim that, by ordering (partial) recovery, the Commission infringed Article 108 TFEU because the EEG-Act 2012 should have been classified, if at all, only as existing aid and not as new, unlawfully established aid.

3. Third plea in law: Breach of the principle of legitimate expectations

   In that regard, it is claimed that the recovery of the aid allegedly granted unlawfully infringes the applicants' legitimate expectations as to the lawfulness of the national legislation, which were established in particular by the Commission decision on the EEG-Act 2000.

4. Fourth plea in law: Infringement of Article 108(1) TFEU in conjunction with Article 18 of the Rules of Procedure

   Within the context of the fourth plea in law, the applicants complain that the Commission did not propose any appropriate measures to the Federal Republic of Germany before the initiation of the formal investigation procedure.

([1]) OJ 2015 L 250, p. 122.

Action brought on 21 December 2015 — Vinnolit v Commission

(Case T-743/15)

(2016/C 059/51)

Language of the case: German

Parties

Applicant: Vinnolit GmbH & Co. KG (Ismaning, Germany) (represented by: M. Geipel, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision (EU) 2015/1585 of 25 November 2014 on the aid scheme SA.33995 (2013/C) (ex 2013/NN) (implemented by Germany for the support of renewable electricity and of energy-intensive users), in particular the finding, in Articles 1 and 3, that the special compensation rule ('Besondere Ausgleichsregelung') under the EEG-Act 2012 has the classification of State aid and that it is incompatible with the internal market and the obligation referred to in Articles 2, 6 and 7 relating to the partial recovery of benefits granted in 2013 and 2014 from the recipient users;

— order the defendant 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: No aid within the meaning of Article 107 TFEU

   The applicant claims that the cap of the EEG-surcharge for energy-intensive users, provided for in the Gesetz für den Vorrang erneuerbarer Energien (Law for the priority of renewable energy sources, hereinafter referred to as EEG), constitutes a modification of a civil law compensation mechanism. No advantage through State resources or State-controlled resources is granted.

2. Second plea in law: In any event, no new aid

   The applicant also claims that the reduced EEG-surcharge for energy-intensive users does not constitute new aid for the purposes of Article 108 TFEU because the financing mechanism for the support of renewable energies in the Federal Republic of Germany has, in the past, been classified by the Commission as compatible with the law on State aid and has not been substantially modified thus far.

3. Third plea in law: Infringement of the principle of the protection of legitimate expectations

   The applicant submits in that regard that, by its decision, the Commission infringed the legitimate expectations of the users concerned because the financing mechanism for the support of renewable energies in the Federal Republic of Germany has, in the past, been classified by the Commission as compatible with the law on State aid and has not been substantially modified since.

4. Fourth plea in law: Lack of powers of the defendant

   Lastly, the applicant claims that, by its decision, the Commission misused the powers conferred on it by unduly reducing the margin of discretion conferred upon the Federal Republic of Germany under primary and secondary law as regards the manner in which support for renewable energies is organised.

Action brought on 22 December 2015 — FH Scorpio v OHIM — Eckes-Granini Group (YO!)

(Case T-745/15)

(2016/C 059/52)

Language in which the application was lodged: Polish

Parties

Applicant: FH Scorpio (Łódź, Poland) (represented by: R. Rumpel, lawyer)

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

Other party to the proceedings before the Board of Appeal: Eckes-Granini Group GmbH (Nieder-Olm, Germany)

Details of the proceedings before OHIM

Applicant for the contested mark: Applicant

Trade mark at issue: Community figurative mark containing the word element 'YO!' — Application for registration No 11 208 436

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 2 October 2015 in Case R 1546/2014-2

Form of order sought

The applicant claims that the Court should:

— declare the action well founded;

— annul the contested decision in so far as it concerns registration of the mark 'YO!' 011208436;

— alter the contested decision in such a way that the mark may be registered for all goods and services claimed;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 22 December 2015 — Biofa v Commission

(Case T-746/15)

(2016/C 059/53)

Language of the case: German

Parties

Applicant: Biofa AG (Münsingen, Germany) (represented by: C. Stallberg and S. Knoblich, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Regulation (EU) 2015/2069 of 17 November 2015 approving the basic substance sodium hydrogen carbonate (OJ 2015 L 301, p. 42);

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

Pleas in law and main arguments

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

1. First plea in law: infringement of data protection

   The applicant's data on its plant protection product VitiSan® is eligible for data protection under Article 59 of Regulation (EC) No 1107/2009 ([1]). The use of that data for approving sodium hydrogen carbonate as a basic substance therefore infringes the applicant's data protection rights.

2. Second plea in law: infringement of the subsidiarity principle in the approval procedure for basic substances

   The approval of sodium hydrogen carbonate as a basic substance infringes the subsidiarity principle in matter of plant protection since, by means of the applicant's plant protection product VitiSan®, which contains the active ingredient potassium bicarbonate, an approved plant protection product with a similar active substance is available.

3. Third plea in law: infringement of the priority principle in the approval procedure for basic substances

   According to the priority principle, the approval of sodium hydrogen carbonate as an active ingredient applied for by the applicant precludes the approval of the substance as a basic substance.

4. Fourth plea in law: interference with the applicant's right of ownership

The unlawful use of the applicant's data for the approval of sodium hydrogen carbonate as a basic substance interferes with its intellectual property rights under Article 17(2) of the Charter of Fundamental Rights of the European Union ('the Charter').

5. Fifth plea in law: infringement of the protection of confidential commercial information

The unlawful use of the applicant's data for the approval of sodium hydrogen carbonate as a basic substance also infringes the protection of confidential commercial information under Article 7 of the Charter.

6. Sixth plea in law: infringement of the general principle of equal treatment

The unlawful use of the applicant's data for the approval of sodium hydrogen carbonate as a basic substance also infringes the principle of equal treatment. Whereas the applicant was obliged to lay out significant investments for the data necessary for approval, the defendant used that data to the benefit of third parties, who did not bear such costs.

7. Seventh plea in law: infringement of the general principle of the protection of legitimate expectations

Lastly, the unlawful use of the applicant's data for the approval of sodium hydrogen carbonate as a basic substance leads to an infringement of the principle of the protection of legitimate expectations. The applicant was entitled to expect that its data on the plant protection product VitiSan® would be used only in accordance with the principles of data protection.

([1]) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009 L 309, p. 1).

Action brought on 22 December 2015 — Mitteldeutsche Braunkohlengesellschaft and Others v Commission

(Case T-750/15)

(2016/C 059/54)

Language of the case: German

Parties

Applicants: Mitteldeutsche Braunkohlengesellschaft mbH (Zeitz, Germany), RWE Power AG (Essen, Germany), Vattenfall Europe Mining AG (Cottbus, Germany) (represented by: U. Karpenstein, K. Dingemann and M. Kottmann, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2014) 5081 final of 23 July 2014 in the case State aid SA. 38632 (2014/N) (ex 2013/NN) — Germany — EEG 2014 — Reform of the Renewable Energy Law, in so far as it classified the regime for existing installations relating to self-sufficiency in Article 61(3) and (4) of the EEG 2014 as State aid and declared it in the second indent of point 5 (p. 75) to be compatible with the internal market only until 31 December 2017;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a lack of selective favouring of certain undertakings

   By their first plea in law, the applicants claim that the contested decision wrongly defines the regime for existing installations relating to self-sufficiency in electricity (Art. 61(3) and (4) EEG 2014) as selective measures and therefore as State aid.

2. Second plea in law, alleging a lack of State resources

   By their second plea in law, the applicants claim that the support for renewable energy financed by the EEG-surcharge is not received from State funds, but rather from private funds. Neither the collection nor the use of the EEG-surcharge takes place under the control of the State, as is required by the case-law. Moreover, the regime at issue is not a burden on the State treasury, since the entire amount of the EEG-surcharge is not reduced by the fact that the provision of self-sufficiency by means of existing installations is exempt from surcharges.

Action brought on 30 December 2015 — Luxembourg v Commission

(Case T-755/15)

(2016/C 059/55)

Language of the case: French

Parties

Applicant: Grand Duchy of Luxembourg (represented by: D. Holderer, acting as Agent, and D. Waelbroeck, S. Naudin and A. Steichen, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— declare the present action admissible and well founded;

— primarily, annul the Commission decision of 21 October concerning State aid SA.38375 implemented by the Grand Duchy of Luxembourg in favour of FIAT;

— in the alternative, annul the Commission decision of 21 October concerning State aid SA.38375 implemented by the Grand Duchy of Luxembourg in favour of FIAT in so far as it orders the recovery of the aid;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 107 TFEU, in that the Commission has not adduced proof that the contested anticipatory decision was selective.

2. Second plea in law, alleging infringement of Article 107 TFEU and of the Commission's obligation to state reasons, in that the Commission did not adduce proof of an advantage or of a restriction of competition.

3. Third plea in law, relied on in the alternative, alleging infringement of Article 14(1) of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the implementation of Article 93 of the EC Treaty, in that the Commission required recovery of the aid in disregard of the principle of legal certainty and of the rights of the defence.

Action brought on 21 December 2015 — Tengelmann Warenhandelsgesellschaft v OHIM — Fédération Internationale des Logis (T)

(Case T-756/15)

(2016/C 059/56)

Language in which the application was lodged: English

Parties

Applicant: Tengelmann Warenhandelsgesellschaft KG (Mülheim an der Ruhr, Germany) (represented by: H. Prange, lawyer)

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

Other party to the proceedings before the Board of Appeal: Federation Internationale des Logis (Paris, France)

Details of the proceedings before OHIM

Applicant of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'T' — Application for registration No 11 623 022

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 31 August 2015 in Case R 2653/2014-5

Form of order sought

The applicant claims that the Court should:

— set aside the contested decision, and amend it to the effect that the opposition is rejected in its entirety;

— order of the defendant and, as the case may be, the other party to the proceedings before the Board of Appeal to pay the costs of the proceedings, including the costs of the appeal proceedings.

Plea in law

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

Action brought on 29 December 2015 — Fiat Chrysler Finance Europe v Commission

(Case T-759/15)

(2016/C 059/57)

Language of the case: English

Parties

Applicant: Fiat Chrysler Finance Europe (FCFE) (Luxembourg, Luxembourg) (represented by: J. Rodriguez, Solicitor, M. Engel and G. Maisto, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the action for annulment admissible;

— annul Articles 1-4 of the Commission's decision dated 21 October 2015 addressed to the Grand Duchy of Luxembourg ('Luxembourg') in case SA.38375 (2914/C ex 2014 NN) ('Contested Decision');

— order the Commission to pay FCFE's 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 contested decision breaches Article 107 TFEU because the Commission has misapplied the concept of 'selective advantage' and failed to show that the APA is liable to distort competition.

2. Second plea in law, alleging that the contested decision breaches Article 296(2) TFEU and its duty to state reasons through its failure to explain how it derives the arm's length principle from Union law, or even what the principle is and through its superficial description of the APA's effect on competition.

3. Third plea in law, alleging that the contested decision breaches the principle of legal certainty since the Commission's novel formulation of the arm's length principle introduces complete uncertainty and confusion as to when an advance pricing agreement, and indeed any transfer pricing analysis might breach EU state aid rules.

4. Fourth plea in law, alleging that the contested decision breaches the principle of legitimate expectations since the Commission has created a legitimate expectation that for state aid purposes it assesses transfer pricing arrangements on the basis of the OECD Guidelines and its sudden departure from this has breached the principle of legitimate expectations.

Action brought on 23 December 2015 — Netherlands v Commission

(Case T-760/15)

(2016/C 059/58)

Language of the case: Dutch

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Commission of 21 October 2015 with reference number C(2015) 7143 concerning State aid SA.38374 (2014/C ex 2014/NN) implemented by the Netherlands in favour of Starbucks;

— 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. First plea in law, alleging an incorrect application of Article 107(1) TFEU in so far as the Commission finds that the Advanced Pricing Agreement ('APA') is selective in nature.

   — First, the Commission did not adequately — and separately — demonstrate that the selectivity criterion was fulfilled.

   — Second, the Commission erroneously took the general Netherlands corporation tax system as a reference. The correct reference for the APA is Article 8b(1) of the Wet op de Vennootschapsbelasting (Law on Corporation Tax) and the Verrekenprijsbesluit (Settlement Price Decree). In the APA effect is simply given to that reference framework.

2. Second plea in law, alleging an incorrect application of Article 107(1) TFEU in so far as the Commission assesses the existence of an advantage by reference to an EU law arm's length principle. However, the applicant argues that there is no arm's length principle in EU law and that that principle is not part of a State aid assessment.

3. Third plea in law, alleging an incorrect application of Article 107(1) TFEU in so far as the Commission finds that the APA confers an advantage on Starbucks Manufacturing EMEA BV as a result of the selection of the 'Transactional Net Margin Method' as settlement price methodology.

   The Commission incorrectly states that the methodology agreed in the APA does not provide a reliable approach to a market outcome. Moreover, the Commission does not demonstrate that the remuneration to Alki and the surcharge on the cost price of the green beans have no business value.

4. Fourth plea in law, alleging an incorrect application of Article 107(1) TFEU in so far as the Commission states that the APA confers an advantage on Starbucks Manufacturing EMEA BV as a result of the manner of applying the 'Transactional Net Margin Method'.

   The Commission incorrectly proceeds on the assumption that the 'Transactional Net Margin Method' agreed in the APA was applied in an erroneous manner and results in an advantage for Starbucks Manufacturing EMEA BV. The Commission in no way demonstrates that the better — in its view — application of the 'Transactional Net Margin Method' leads to a higher taxable income and the absence of an advantage.

5. Fifth plea in law, alleging breach of the duty to exercise due care in so far as the Commission did not assess and include all the relevant information in the decision and also uses as a basis anonymous information, or at least information that has never been shared with the Netherlands Government.

Order of the General Court of 7 December 2015 — Ahrend Furniture v Commission

(Case T-482/15) ([1])

(2016/C 059/59)

Language of the case: French

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

([1]) OJ C 337, 12.10.2015.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 21 December 2015 — ZZ v Commission

(Case F-148/15)

(2016/C 059/60)

Language of the case: French

Parties

Applicant: ZZ (represented by: P. Vanden Casteele, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the decision of the selection board in Competition EPSO/AD/306/15 — French-language lawyer-linguists (AD 7) not to admit the applicant to the next stage of the competition on the ground that he did not have a level of education corresponding to a completed course of legal training from a Belgian, French or Luxemburgish institution of higher education.

Form of order sought

The applicant claims that the Tribunal should:

— Annul the selection and appointment decisions taken in connection with the 'Notice of Open Competition EPSO/AD/306/15 based on qualifications and tests' for 'French-language (FR) lawyer-linguists (AD 7)' (EU Official Journal, 21 May 2015), including the decision, referred to in an email of 24 September 2015 to the applicant, that 'following an examination of your application, … the selection board for the abovementioned competition cannot admit you to the next stage of the competition'.

Action brought on 23 December 2015 — ZZ v Commission

(Case F-151/15)

(2016/C 059/61)

Language of the case: French

Parties

Applicant: ZZ (represented by: S. Rodrigues and A. Tymen, lawyers)

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the Commission's decision refusing to grant the applicant entitlement to the survivor's pension and for compensation in respect of the material and non-material harm allegedly suffered.

Form of order sought

The applicant claims that the Tribunal should:

— Annul the decision of the Office for the Administration and Payment of Individual Entitlements of 13 or 14 April 2015 refusing to grant the applicant entitlement to the survivor's pension;

— So far as necessary, annul the Commission's decision of 15 September 2015 rejecting the applicant's complaint of 15 June 2015;

— Order the payment of compensation in respect of material harm suffered by the applicant;

— Order the payment of compensation in respect of the non-material harm suffered by the applicant, assessed on equitable principles at EUR 5 000;

— Order the Commission to pay all the costs.

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office of the European Union
2985 Luxembourg
LUXEMBOURG

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