Official Journal of the European Union

C 111

English edition

Information and Notices

Volume 59

29 March 2016

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These texts are available on:

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

GENERAL COURT

DECISION OF THE GENERAL COURT

of 27 January 2016

on judicial vacations

(2016/C 111/02)

THE GENERAL COURT

Having regard to Article 41(2) of the Rules of Procedure,

HAS ADOPTED THIS DECISION:

Article 1

For the judicial year beginning on 1 September 2016, the dates of the judicial vacations within the meaning of Article 41(2) and (6) of the Rules of Procedure are as follows:

— Christmas 2016: from Monday 19 December 2016 to Sunday 8 January 2017 inclusive,

— Easter 2017: from Monday 10 April 2017 to Sunday 23 April 2017 inclusive,

— Summer 2017: from Friday 21 July 2017 to Sunday 3 September 2017 inclusive.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Luxembourg, 27 January 2016.

Registrar	*President*
E. COULON	M. JAEGER

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Landesverwaltungsgericht Oberösterreich (Austria) lodged on 17 December 2014 — Manfred Naderhirn

(Case C-581/14)

(2016/C 111/03)

Language of the case: German

Referring court

Landesverwaltungsgericht Oberösterreich

Parties to the main proceedings

Applicant: Manfred Naderhirn

Interveners: Jungwirth und Fabian OHG, Krenn KG, Michael Weber, Übermaßer KG, Gunhild Mayr

By order of 15 October 2015, the Court ruled:

EU law must be interpreted as precluding a situation in national law which is characterised by, first, the lack of domestic legal provisions governing the manner in which a national court must take account of the fact that it follows from a judgment of the Court of Justice that a national provision must be held to be contrary to EU law when it is dealing with cases pending before it and, second, the existence of rules of domestic law which provide that the court in question is unconditionally bound by another national court's interpretation of EU law, in so far as, on account of such a rule of domestic law, the national court is precluded from ensuring that the primacy of EU law is duly guaranteed by taking, in the context of its jurisdiction, all the necessary measures to that effect.

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 14 December 2015 — Umweltverband WWF Österreich v Landeshauptmann von Tirol

(Case C-663/15)

(2016/C 111/04)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: Umweltverband WWF Österreich

Respondent authority: Landeshauptmann von Tirol

Intervener: Ötztaler Wasserkraft GmbH

Questions referred

1. Does Article 4 of Directive 2000/60/EC ([1]) establishing a framework for Community action in the field of water policy ('the Water Framework Directive') or the Water Framework Directive as a whole confer on an environmental organisation, in a procedure which is not subject to an environmental impact assessment under Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment ('the EIA Directive'), rights for the protection of which it has access to administrative or judicial procedures under Article 9(3) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, which was approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2015 ('the Aarhus Convention')?

   If question 1 is answered in the affirmative:

2. Is it necessary under the provisions of the Aarhus Convention to be able to assert those rights at the stage of the procedure before the administrative authority or is the possibility of being granted judicial protection against the decision of the administrative authority sufficient?

3. Is it permissible for national procedural law (Paragraph 42 of the AVG) to require the environmental organisation — like other parties — to raise its objections not only in an appeal to the Verwaltungsgericht, but in good time at the stage of the procedure before the administrative authorities, failing which it loses its status as a party and is also no longer able to bring an appeal at the Verwaltungsgericht?

([1]) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1).

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 14 December 2015 — Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation v Bezirkshauptmannschaft Gmünd

(Case C-664/15)

(2016/C 111/05)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation

Respondent authority: Bezirkshauptmannschaft Gmünd

Questions referred

1. Does Article 4 of Directive 2000/60/EC ([1]) establishing a framework for Community action in the field of water policy ('the Water Framework Directive') or the Water Framework Directive as a whole confer on an environmental organisation, in a procedure which is not subject to an environmental impact assessment under Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment ('the EIA Directive'), rights for the protection of which it has access to administrative or judicial procedures under Article 9(3) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, which was approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2015 ('the Aarhus Convention')?

   If question 1 is answered in the affirmative:

2. Is it necessary under the provisions of the Aarhus Convention to be able to assert those rights at the stage of the procedure before the administrative authority or is the possibility of being granted judicial protection against the decision of the administrative authority sufficient?

3. Is it permissible for national procedural law (Paragraph 42 of the AVG) to require the environmental organisation — like other parties — to raise its objections not only in an appeal to the Verwaltungsgericht, but in good time at the stage of the procedure before the administrative authorities, failing which it loses its status as a party and is also no longer able to bring an appeal at the Verwaltungsgericht?

([1]) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1).

Request for a preliminary ruling from the Finanzgericht Baden-Württemberg (Germany) lodged on 17 December 2015 — Ultra-Brag AG v Hauptzollamt Lörrach

(Case C-679/15)

(2016/C 111/06)

Language of the case: German

Referring court

Finanzgericht Baden-Württemberg

Parties to the main proceedings

Applicant: Ultra-Brag AG

Defendant: Hauptzollamt Lörrach

Questions referred

1. Is the first indent of Article 202(3) of the Customs Code (Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, 'the CC') ([1]) to be interpreted as meaning that a legal person becomes a customs debtor under the first indent of Article 202(3) of the CC as the person who introduced goods if one of its employees, who is not its statutory representative, brought about the unlawful introduction while acting within the scope of his responsibility?

2. If the answer to the first question is in the negative:

   Is the second indent of Article 202(3) of the CC to be interpreted as meaning that

   a) a legal person participates in an unlawful introduction (even) if one of its employees, who is not its statutory representative, was involved in that introduction while acting within the scope of his responsibility, and

b) in the case of legal persons who participate in an unlawful introduction, the subjective element that they 'were aware or should reasonably have been aware' is to be determined by reference to the natural person in the legal person's undertaking to whom the matter is entrusted, even if he is not the statutory representative of the legal person?

3. If the answer to the first or the second question is in the affirmative:

Is Article 212a of the CC to be interpreted as meaning that whether the conduct of a participant involves fraudulent dealing or obvious negligence is to be determined, in the case of a legal person, solely by reference to the conduct of the legal person or its organs, or is the conduct of a natural person employed by it and entrusted with the task within the scope of his responsibility to be attributed to it?

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

Request for a preliminary ruling from the Općinski sud u Velikoj Gorici (Croatia) lodged on 18 December 2015 — Vodoopskrba i odvodnja d.o.o. v Željka Klafurić

(Case C-686/15)

(2016/C 111/07)

Language of the case: Croatian

Referring court

Općinski sud u Velikoj Gorici

Parties to the main proceedings

Applicant: Vodoopskrba i odvodnja d.o.o.

Defendant: Željka Klafurić

Question referred

How is water supplied, which is invoiced by apartment in a residential building or by individual house, calculated under EU law? Do EU citizens pay the invoices concerning their water consumption by paying only for the consumption actually shown on the meter or do they pay other fees or charges in addition?

Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on 31 December 2015 — LEK Farmacevtska Družba d.d. v Republic of Slovenia

(Case C-700/15)

(2016/C 111/08)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Appellant: LEK Farmacevtska Družba d.d.

Respondent: Republic of Slovenia

Questions referred

1. May the provisions of Chapter 30 of the CN be interpreted as meaning that a product, whose main component is an active ingredient (probiotic bacteria) contained in food supplements classified under tariff heading 2106 90 98 CN, is not to be classified in that chapter?

2. For a product to be classified in Chapter 30 of the CN, is it sufficient that the manufacturer presents that product, which contains an active ingredient having beneficial effects on health in general which is often found in food supplements, as a medicinal product, and markets and sells it as such?

3. In the light of the evolution of EU law regulating the market for medicinal products, must the concept of 'clearly defined therapeutic or prophylactic characteristics' which, according to the settled case-law of the Court of Justice of the European Union, is a condition for classification in Chapter 30, be interpreted as corresponding to the definition of medicinal product within the meaning of the provisions of EU law relating to medicinal products for human use?

Request for a preliminary ruling from the Sąd Apelacyjny w Warszawie (Poland) lodged on 4 January 2016 — J.D. v Prezes Urzędu Regulacji Energetyki

(Case C-4/16)

(2016/C 111/09)

Language of the case: Polish

Referring court

Sąd Apelacyjny w Warszawie

Parties to the main proceedings

Appellant: J.D.

Respondent: Prezes Urzędu Regulacji Energetyki

Question referred

Is the term 'hydropower' as a renewable energy source, set out in Article 2(a) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, ([1]) in conjunction with Article 5(3) thereof and recital 30 in the preamble thereto, to be interpreted as relating only to energy produced by a hydroelectric power station using the downward flow of inland surface waters, including rivers, or as relating also to energy produced in a hydroelectric power station (which is not a pure pumped-storage or mixed-power station) sited at the point of discharge of industrial waste water from another plant?

([1]) OJ 2009 L 140, p. 16.

Request for a preliminary ruling from the Commissione tributaria provinciale di Genova (Italy) lodged on 7 January 2016 — Ignazio Messina & C. SpA v Ministero delle Infrastrutture e dei Trasporti

(Case C-10/16)

(2016/C 111/10)

Language of the case: Italian

Referring court

Commissione tributaria provinciale di Genova

Parties to the main proceedings

Applicant: Ignazio Messina & C. SpA

Defendant: Ministero delle Infrastrutture e dei Trasporti — Capitaneria di porto di Genova

Questions referred

1. Does Regulation EEC No 4055/1986, ([1]) as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to an Italian port?

2. Does Regulation EEC No 4055/1986, as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to a port within the EU, where that difference may be justified by the performance of public authority functions and/or duties and/or activities not expressly funded by that fee?

3. Does Regulation EEC No 4055/1986, as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to a port within the EU, where that difference may be justified by the performance of public authority functions by entities other than that which receives the fee?

4. Does Regulation EEC No 4055/1986, as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to a port within the EU, where that difference may be justified by the performance of public authority functions but no determination has been made of the individual costs to be covered, so that it is not possible to verify, either beforehand or afterwards, the costs of which services have in fact been covered [or] in what way and to what extent that fee has in fact funded those services?

([1]) Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries (OJ 1986 L 378, p. 1).

Request for a preliminary ruling from the Commissione tributaria provinciale di Genova (Italy) lodged on 7 January 2016 — Ignazio Messina & C. SpA v Agenzia delle Dogane e dei Monopoli

(Case C-11/16)

(2016/C 111/11)

Language of the case: Italian

Referring court

Commissione tributaria provinciale di Genova

Parties to the main proceedings

Applicant: Ignazio Messina & C. SpA

Defendant: Agenzia delle Dogane e dei Monopoli — Ufficio delle dogane di Genova

Questions referred

1. Does Regulation EEC No 4055/1986, ([1]) as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to an Italian port?

2. Does Regulation EEC No 4055/1986, as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to a port within the EU, where that difference may be justified by the performance of public authority functions and/or duties and/or activities not expressly funded by that fee?

3. Does Regulation EEC No 4055/1986, as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to a port within the EU, where that difference may be justified by the performance of public authority functions by entities other than that which receives the fee?

4. Does Regulation EEC No 4055/1986, as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to a port within the EU, where that difference may be justified by the performance of public authority functions but no determination has been made of the individual costs to be covered, so that it is not possible to verify, either beforehand or afterwards, the costs of which services have in fact been covered [or] in what way and to what extent that fee has in fact funded those services?

([1]) Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries (OJ 1986 L 378, p. 1).

Request for a preliminary ruling from the Commissione tributaria provinciale di Genova (Italy) lodged on 7 January 2016 — Ignazio Messina & C. SpA v Autorità portuale di Genova

(Case C-12/16)

(2016/C 111/12)

Language of the case: Italian

Referring court

Commissione tributaria provinciale di Genova

Parties to the main proceedings

Applicant: Ignazio Messina & C. SpA

Defendant: Autorità portuale di Genova

Questions referred

1. Does Regulation EEC No 4055/1986, ([1]) as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to an Italian port?

2. Does Regulation EEC No 4055/1986, as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to a port within the EU, where that difference may be justified by the performance of public authority functions and/or duties and/or activities not expressly funded by that fee?

3. Does Regulation EEC No 4055/1986, as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to a port within the EU, where that difference may be justified by the performance of public authority functions by entities other than that which receives the fee?

4. Does Regulation EEC No 4055/1986, as interpreted by the Court of Justice, preclude the application of national legislation, such as Decree No 107/2009 of the President of the Republic, which requires payment of a fee that differs according to whether it relates to vessels coming from or going to a State outside the EU or vessels coming from or going to a port within the EU, where that difference may be justified by the performance of public authority functions but no determination has been made of the individual costs to be covered, so that it is not possible to verify, either beforehand or afterwards, the costs of which services have in fact been covered [or] in what way and to what extent that fee has in fact funded those services?

([1]) Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries (OJ 1986 L 378, p. 1).

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 8 January 2016 — Valsts policijas Rīgas reģiona pārvaldes Kārtības policijas pārvalde v Rīgas pašvaldības SIA 'Rīgas satiksme'

(Case C-13/16)

(2016/C 111/13)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Appellant: Valsts policijas Rīgas reģiona pārvaldes Kārtības policijas pārvalde

Respondent: Rīgas pašvaldības SIA 'Rīgas satiksme'

Question referred

Must the phrase 'is necessary for the purposes of the legitimate interests pursued by the … third party or parties to whom the data are disclosed', in Article 7(f) of Directive 95/46/EC ([1]) of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, be interpreted as meaning that the National Police must disclose to Rīgas satiksme the personal data sought by the latter which are necessary in order for civil proceedings to be initiated? Is the fact that, as the documents in the case file indicate, the taxi passenger whose data is sought by the Rīgas satiksme was a minor at the time of the accident relevant to the answer to that question?

([1]) OJ 1995 L 281, p. 31.

Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 11 January 2016 — Bundesanstalt für Finanzdienstleistungsaufsicht v Ewald Baumeister

(Case C-15/16)

(2016/C 111/14)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Appellant on point of law and defendant: Bundesanstalt für Finanzdienstleistungsaufsicht

Respondent on point of law and applicant: Ewald Baumeister

Third Party: Frank Schmitt as administrator of the assets of Phoenix Kapitaldienst GmbH

Questions referred

1. a) Is all business information communicated to the supervisory authority by the supervised entity covered by the term 'confidential information' within the meaning of the second sentence of Article 54(1) of Directive 2004/39/EC ([1]) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ 2004 L 145, p. 1; 'Directive 2004/39/EC'), and therefore the obligation of professional secrecy in accordance with the first sentence of Article 54(1) of Directive 2004/39/EC, independently of any further conditions?

   b) Does 'prudential secrecy', as a component of professional secrecy within the meaning of the first sentence of Article 54(1) of Directive 2004/39/EC, independently of any further conditions, cover all statements by the supervisory authority contained in the files, including its correspondence with other entities?

   If questions a) or b) are answered in the negative:

   c) Must the provision on professional secrecy in Article 54(1) of Directive 2004/39/EC be interpreted as meaning that, as regards classification of information as confidential,

      aa) the relevant factor is whether the information is by its nature covered by the obligation of professional secrecy or access to the information could actually and specifically undermine the interest served by confidentiality, or

bb) account must be taken of other circumstances under which the information is covered by the obligation of professional secrecy, or

cc) in respect of business information of the supervised institution held in its files and related documentation of its own, the supervisory authority may rely on a rebuttable presumption that this information concerns business or prudential secrets?

2. Must the term 'confidential information' within the meaning of the second sentence of Article 54(1) of Directive 2004/39/EC be interpreted as meaning that for business information communicated by the supervisory authority to be classified as a business secret meriting protection or as information otherwise meriting protection, the relevant factor is solely the date of communication to the supervisory authority?

If the second question is answered in the negative:

3. Regarding the question of whether an item of business information is to be protected as a business secret regardless of changes in the economic climate and is therefore subject to the obligation of professional secrecy in accordance with the second sentence of Article 54(1) of Directive 2004/39/EC, must, in a general manner, a time limit — of five years, say — be assumed, following expiry of which it will be rebuttably presumed that the information has lost its economic value? Do analogous considerations apply as regards prudential secrecy?

(1) OJ 2004 L 145, p. 1.

Request for a preliminary ruling from the Administrativen sad — Sofia-grad (Bulgaria) lodged on 18 January 2016 — Angel Marinkov v Predsedatel na Darzhavna agentsia za balgarite v chuzhbina

(Case C-27/16)

(2016/C 111/15)

Language of the case: Bulgarian

Referring court

Administrativen sad — Sofia-grad

Parties to the main proceedings

Applicant: Angel Marinkov

Defendant: Predsedatel na Darzhavna agentsia za balgarite v chuzhbina

Questions referred

1. Must Article [14](1)(c) of Directive 2006/54/EC (1) of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) and Article 3(1)(c) of Council Directive 2000/78/EC (2) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation be interpreted as being sufficiently precise and clear and, accordingly, applicable to the legal position of a dismissed public-sector worker, employed under a civil-service employment relationship, in the case where:

(a) the dismissal took place because of a reduction in a number of identical posts (functions) occupied by the dismissed person and by other civil servants, including both men and women;

(b) the dismissal was based on a neutral provision of national law;

(c) under the circumstances of the dismissal in question, national legislation does not lay down any criteria and obligations for assessment in relation to every individual who might be affected by dismissal, nor does it lay down obligations to give reasons for the dismissal of a specific individual?

2. Must Article [14](1)(c) of Directive 2006/54/EC and Article 3(1)(c) of Directive 2000/78/EC, in conjunction with Articles 30, 47 and 52(1) of the Charter of Fundamental Rights, be interpreted as permitting, pursuant to Article 157(3) of the Treaty on the Functioning of the European Union, a national measure such as Article 21 of the Law on protection against discrimination (Zakon za zashtita ot diskriminatsia), read in conjunction with Article 106(1)(2) of the Civil Service Law (Zakon za darzhavnia sluzhitel), the provisions of which — in the circumstances described in the first question concerning the dismissal of a person employed in the public sector under a civil-service employment relationship (owing to abolition of a post on account of a reduction in a number of identical posts occupied by both men and women) — do not expressly lay down, as part of the right to dismiss staff, any selection obligations or criteria, which both administrative and legal practice permit only if the authority responsible for the dismissal made a discretionary decision to specify a procedure and criteria, in contrast to identical circumstances involving the dismissal of a public-sector worker employed under an employment-law relationship, for which selection obligations and criteria in respect of the dismissal are laid down by law as part of that authority's right to dismiss staff?

3. Must Article [14](1)(c) of Directive 2006/54/EC and Article 3(1)(c) of Directive 2000/78/EC, in conjunction with Articles 30, 47 and 52(1) of the Charter of Fundamental Rights, be interpreted as meaning that the dismissal of a person employed in the public sector under a civil-service employment relationship will be unjustified, and accordingly contrary to those provisions, only because the administrative authority did not carry out a selection and apply objective criteria, or give reasons for its choice to dismiss a particular person, where that person occupied a post identical to that occupied by other persons, both men and women, and the dismissal took place on the basis of a neutral provision?

4. Must Articles 18 and 25 of Directive 2006/54/EC, read in conjunction with Article 30 of the Charter of Fundamental Rights, be interpreted as meaning that the requirement of proportionality has been met and that those provisions allow for relevant national legislation which provides for compensation in the case of unlawful dismissal, applicable also in the event of infringement of the principle of equal treatment in matters of employment and occupation under EU law, specifying a maximum compensation period of six months and a fixed payment — based on the basic salary for the post occupied, but only in so far as the person remains unemployed or receives lower pay, where the right of that person to be reinstated in the post is separate and not part of his right to compensation under the national law of the Member State?

(1) OJ 2006 L 204, p. 23.
(2) OJ 2000 L 303, p. 16.

Request for a preliminary ruling from the Korkein hallinto-oikeus (Finland) lodged on 20 January 2016 — A Oy

(Case C-33/16)

(2016/C 111/16)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Applicant: A Oy

Other party: Veronsaajien oikeudenvalvontayksikkö

Questions referred

1. Is Article 148(d) of Council Directive 2006/112/EC ([1]) to be interpreted as meaning the loading and unloading of cargo onto and off a vessel are supplies of services made to meet the direct needs of the cargo of vessels for the purposes of Article 148(a)?

2. Given the findings of the Court of Justice in paragraph 24 of the judgment in Joined Cases C-181/04 to C-183/04 *Elmeka*, according to which the exemption provided for in those rules could not be extended to services supplied at an earlier stage in the commercial chain, is Article 148(d) of Directive 2006/112/EC to be interpreted as meaning that applies also to the services at issue in the case in main proceedings in which the service supplied by A Oy's subcontractor in the first phase of operations concerns a service which has a direct physical relationship to the cargo, which A Oy invoices to the forwarding or transport company?

3. In light of the findings of the Court of Justice in paragraph 24 of the judgment in *Elmeka*, according to which the exemption provided for by the rules in question apply only to services which are supplied to the ship owner, is Article 148(d) of VAT Directive 2006/112/EC to be interpreted as meaning that that exemption cannot apply if the service is supplied to the cargo owner such as the exporter or importer of the cargo concerned?

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

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 27 January 2016 — Valsts ieņēmumu dienests v SIA 'LS Customs Services'

(Case C-46/16)

(2016/C 111/17)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Applicant: Valsts ieņēmumu dienests

Defendant: SIA 'LS Customs Services'

Questions referred

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

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

3. Should it be deemed to be sufficient, to exclude the application of the method in Article 30(2)(a) of the Customs Code, that the customs authority declare that it does not have in its possession the appropriate information, or is the customs authority obliged to obtain information from the producer?

4. Must the customs authority state reasons why the methods established in Article 30(2)(c) and (d) of the Customs Code are not to be used, if it determines the price of similar goods on the basis of Article 151(3) of Regulation No 2454/93? ([2])

5. Must the decision of the customs authority contain a full statement of reasons as to what information is available in the Community, within the meaning of Article 31 of the Customs Code, or can it produce that statement of reasons subsequently, in legal proceedings, submitting more complete evidence?

([1]) OJ 1992 L 302, p. 1.
([2]) OJ 1993 L 253, p. 1.

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 27 January 2016 — Valsts ieņēmumu dienests v SIA 'Veloserviss'

(Case C-47/16)

(2016/C 111/18)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Applicant: Valsts ieņēmumu dienests

Defendant: SIA 'Veloserviss'

Questions referred

Should the importer's obligation to act in good faith, laid down in Article 220(2)(b) of Council Regulation No 2913/92 ([1]) of 12 October 1992 establishing the Community Customs Code, be defined as meaning that:

(a) it includes an obligation on the importer to verify the circumstances in which the Form A certificate granted to the exporter was issued (certificates regarding the parts which constitute the goods, the role of the exporter in the manufacture of the goods, etc.)?

(b) the importer acted in bad faith for no other reason than that the exporter acted in bad faith (for example, where the exporter failed to reveal the true origin of the costs, the value of the parts which constitute the goods, etc., to the customs authorities of the exporting country)?

(c) the obligation to act in good faith has not been fulfilled for no other reason than that the exporter submitted incorrect information to the customs authorities of the exporting country, and that is so even where the customs authorities themselves committed errors in issuing the certificate?

May the importer's obligation to act in good faith, laid down in Article 220(2)(b) of Council Regulation No 2913/92 of 12 October 1992 establishing the Community Customs Code be deemed to be sufficiently proved by virtue of the general description of the situation set out in the communication from OLAF and by virtue of OLAF's findings, or should the national customs authorities nevertheless obtain additional evidence regarding the conduct of the exporter?

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

Request for a preliminary ruling from the Kammarrätten i Stockholm — Migrationsöverdomstolen (Sweden) lodged on 3 February 2016 — Mohammad Khir Amayry v Migrationsverket

(Case C-60/16)

(2016/C 111/19)

Language of the case: Swedish

Referring court

Kammarrätten i Stockholm — Migrationsöverdomstolen

Parties to the main proceedings

Applicant: Mohammad Khir Amayry

Defendant: Migrationsverket

Questions referred

1. If an asylum seeker is not in detention at the time when the Member State responsible agrees to take charge of him but is detained at a later date — on the ground that only then is the assessment made that there is a significant risk that the person will abscond — may the time limit of six weeks in Article 28(3) of Regulation No 604/2013 ([1]) be calculated in such a situation from the day on which the person is detained or is it to be calculated from another time and if so, when?

2. Does Article 28 of the regulation preclude, in a situation where an asylum seeker is not in detention at the time when the Member State responsible agrees to take charge of him, the application of national rules which, in Sweden, mean that an alien may not be kept in detention pending implementation [of a transfer] for longer than two months, if there are no serious reasons for detaining him for a longer period, and if there are such serious reasons, the alien may be kept in detention for a maximum of three months or, if it is probable that implementation will take longer due to a lack of cooperation from the alien or it takes time to obtain the necessary documents, a maximum of twelve months?

3. If an implementation procedure is recommenced when an appeal or a review no longer has suspensive effect (c.f. Article 27(3)), does a new time limit of six weeks for implementation of the transfer start to run or is there a deduction to be made, for example, of the number of days the person has already spent in detention after the Member State responsible agreed to take charge of him or take him back?

4. Is it of any importance whether the asylum seeker who appealed against a transfer decision has not himself applied for the implementation of the transfer decision to be suspended pending the result of the appeal (c.f. Article 27(3)(c) and (4))?

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

Appeal brought on 19 February 2016 by the Council of the European Union against the judgment of the General Court (Eighth Chamber) delivered on 10 December 2015 in Case T-512/12 Polisario Front v Council

(Case C-104/16 P)

(2016/C 111/20)

Language of the case: French

Parties

Appellant: Council of the European Union (represented by: A. de Elera-San Miguel Hurtado and A. Westerhof Löfflerová, Agents)

Other parties to the proceedings: Popular Front for the liberation of Saguia-el-Hamra and Rio de Oro (Polisario Front), European Commission

Form of order sought

— set aside the judgment of the General Court in Case T-512/12;

— give final judgment in the matters which are the subject of the present appeal by dismissing the action for annulment brought by the Polisario Front (the 'applicant'); and

— order the applicant to pay the costs incurred by the Council at first instance and in the present appeal.

Pleas in law and main arguments

In support of its appeal, the Council raises several pleas alleging errors of law.

First, the Council takes the view that the General Court has erred in law by holding that the applicant had the capacity to bring proceedings before the Courts of the European Union.

Second, it submits that the General Court erred in law by holding that the applicant was direct and individually concerned by the decision annulled.

Third, it criticises the General Court for having erred in law by basing the annulment on a plea which had not been raised by the applicant and with regard to which the Council was unable to express its views.

Fourth, the Council complains that the General Court erred in law by holding that the Council was required to examine the possible impact of the production activities concerning the products covered by the agreement concluded by the decision annulled on the human rights of the population of Western Sahara before adopting the decision annulled.

Fifth, the General Court erred in law by holding that the Council was required to examine whether there was evidence, under the agreement concluded by that decision, of the exploitation of the natural resources of the territory of Western Sahara under Moroccan control which may be carried out to the detriment of its inhabitants and may infringe their fundamental rights, before adopting the decision annulled.

Finally, the Council claims that the General Court erred in law by partially annulling the contested decision which had the effect of altering its substance.

GENERAL COURT

Judgment of the General Court of 18 February 2016 — Harrys Pubar and Harry's New York Bar v OHIM — Harry's New York Bar and Harrys Pubar (HARRY'S BAR)

(Joined Cases T-711/13 and T-716/13) ([1])

(Community trade mark — Opposition proceedings — Application for the Community word mark HARRY'S BAR — Earlier national figurative mark PUB CASINO Harrys RESTAURANG — Partial refusal of registration — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2016/C 111/21)

Language of the case: English

Parties

Applicants: Harrys Pubar AB (Gothenburg, Sweden) (represented by: L.-E. Ström, lawyer) (Case T-711/13); and Harry's New York Bar SA (Paris, France) (represented by: S. Arnaud, lawyer) (Case T-716/13)

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

Other parties to the proceedings before the Board of Appeal of OHIM: Harry's New York Bar SA (Case T-711/13); and Harrys Pubar AB (intervener before the General Court in Case T-716/13)

Re:

Two actions brought against the decision of the First Board of Appeal of OHIM of 8 October 2013 (joined Cases R 946/2012-1 and R 995/2012-1), relating to opposition proceedings between Harrys Pubar AB and Harry's New York Bar SA.

Operative part of the judgment

The Court:

1. *Annuls, in Case T-711/13, points 1 of the operative part of the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 8 October 2013 (joined Cases R 946/2012-1 and R 995/2012-1), relating to opposition proceedings between Harrys Pubar AB and Harry's New York Bar SA;*

2. *Dismisses, in Case T-716/13, the action brought by Harry's New York Bar;*

3. *Orders Harry's New York Bar to bear its own costs, to pay half of the costs incurred by Harrys Pubar in the proceedings before the General Court and to pay the costs incurred by Harrys Pubar in the course of the proceedings before the Board of Appeal of OHIM. OHIM is ordered to bear its own costs and to pay half of the costs incurred by Harrys Pubar in the proceedings before the General Court.*

([1]) OJ C 112, 14.4.2014.

Judgment of the General Court of 19 February 2016 — Ludwig-Bölkow-Systemtechnik v Commission

(Case T-53/14) ([1])

(Arbitration clause — Sixth framework programme for research, technological development and demonstration activities — Reimbursement of a portion of the amounts paid and flat-rate compensation — No need to adjudicate in part — Costs eligible for EU funding — Penalty clause — Manifestly excessive character)

(2016/C 111/22)

Language of the case: German

Parties

Applicant: Ludwig-Bölkow-Systemtechnik GmbH (Ottobrunn, Germany) (represented by: initially, M. Núñez Müller and T. Becker, and, subsequently, M. Núñez Müller, lawyers)

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

Re:

Application for a declaration, first, that the Commission is not entitled to require the applicant to reimburse advances paid under three contracts and, secondly, that the applicant is not required to pay flat-rate compensation to the Commission.

Operative part of the judgment

The Court:

1. *Declares that there is no longer any need to adjudicate on the second and third heads of claim of the action;*

2. *Declares that the sums payable as flat-rate compensation by Ludwig-Bölkow-Systemtechnik GmbH are to be reduced by an amount equivalent to 10 % of the advances to be reimbursed under the contracts concerning the projects HyWays, HyApproval and HarmonHy;*

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

4. *Orders Ludwig-Bölkow-Systemtechnik and the European Commission to bear their own respective costs.*

([1]) OJ C 129, 28.4.2014.

Judgment of the General Court of 18 February 2016 — Harrys Pubar and Harry's New York Bar v OHIM — Harry's New York Bar and Harrys Pubar (HARRY'S NEW YORK BAR)

(Joined Cases T-84/14 and T-97/14) ([1])

(Community trade mark — Opposition proceedings — Application for the Community word mark HARRY'S NEW YORK BAR — Earlier national figurative mark PUB CASINO Harrys RESTAURANG — Partial refusal of registration — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2016/C 111/23)

Language of the case: English

Parties

Applicants: Harrys Pubar AB (Gothenburg, Sweden) (represented by: L.-E. Ström, lawyer) (Case T-84/14); and Harry's New York Bar SA (Paris, France) (represented by: S. Arnaud, lawyer) (Case T-97/14)

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

Other parties to the proceedings before the Board of Appeal of OHIM: Harry's New York Bar SA (Case T-84/14); and Harrys Pubar AB (intervener before the General Court in Case T-97/14)

Re:

Two actions brought against the decision of the First Board of Appeal of OHIM of 14 November 2013 (joined Cases R 1038/2012-1 and R 1045/2012-1), relating to opposition proceedings between Harrys Pubar AB and Harry's New York Bar SA.

Operative part of the judgment

The Court:

1. *Annuls, in Case T-84/14 points 1 of the operative part of the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 14 November 2013 (joined Cases R 1038/2012-1 and R 1045/2012-1), relating to opposition proceedings between Harrys Pubar AB and Harry's New York Bar SA;*

2. *Dismisses, in Case T-97/14, the action brought by Harry's New York Bar;*

3. *Orders Harry's New York Bar to bear its own costs, to pay two thirds of the costs incurred by Harrys Pubar in the proceedings before the General Court and to pay the costs incurred by Harrys Pubar in the course of the proceedings before the Board of Appeal of OHIM. OHIM is ordered to bear its own costs and to pay one third of the costs incurred by Harrys Pubar in the proceedings before the General Court.*

([1]) OJ C 135, 5.5.2014.

Judgment of the General Court of 18 February 2016 — Calberson GE v Commission

(Case T-164/14) ([1])

(Arbitration clause — Programme to supply agricultural products to Russia — Supply of beef — Non-performance of the contract by the intervention agency — Applicable law — Limitation — Late release of certain supply securities — Partial payment of a transport invoice — Underpayment in foreign currency of certain invoices — Default interest)

(2016/C 111/24)

Language of the case: French

Parties

Applicant: Calberson GE (Villeneuve-Garenne, France) (represented by: T. Gallois and E. Dereviankine, lawyers)

Defendant: European Commission (represented by: D. Bianchi and I. Galindo Martín, acting as Agents)

Intervener in support of the defendant: French Republic (represented by: D. Colas and C. Candat, acting as Agents)

Re:

Application under Article 272 TFEU for an order requiring the Commission to compensate the applicant for the loss which it claims to have suffered following acts of misconduct allegedly committed by the intervention agency in the performance of a contract relating to the transport of beef to Russia in accordance with Commission Regulation (EC) No 111/1999 of 18 January 1999 laying down general rules for the application of Council Regulation (EC) No 2802/98 on a programme to supply agricultural products to the Russian Federation (OJ 1999 L 14, p. 3), and Commission Regulation (EC) No 1799/1999 of 16 August 1999 on the supply of beef to Russia (OJ 1999 L 217, p. 20).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Calberson GE to pay the costs;*

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

([1]) OJ C 184, 16.6.2014.

Judgment of the General Court of 18 February 2016 — Jannatian v Council

(Case T-328/14) ([1])

(Common foreign and security policy — Restrictive measures adopted against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Admission restriction — Action for annulment — No need to adjudicate — Non-contractual liability — Sufficiently serious breach of a rule of law conferring rights on individuals — Non-material damage)

(2016/C 111/25)

Language of the case: English

Parties

Applicant: Mahmoud Jannatian (Tehran, Iran) (represented by: I. Smith Monnerville and S. Monnerville, lawyers)

Defendant: Council of the European Union (represented by: F. Naert and M. Bishop, acting as Agents)

Re:

Action for the annulment of Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39), Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413 (OJ 2010 L 281, p. 81), Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1), and 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), as well as Council Implementing Regulations (EU) No 350/2012 of 23 April 2012, No 709/2012 of 2 August 2012, No 945/2012 of 15 October 2012, No 1264/2012 of 21 December 2012, No 522/2013 of 6 June 2013, No 1203/2013 of 26 November 2013, and No 397/2014 of 16 April 2014 implementing Regulation (EU) No 267/2012 (OJ 2012 L 110, p. 17, OJ 2012 L 208, p. 2, OJ 2012 L 282, p. 16, OJ 2012 L 356, p. 55, OJ 2013 L 156, p. 3, OJ 2013 L 316, p. 1, and OJ 2014 L 119, p. 1, respectively), in so far as those acts concern the applicant, and a claim for compensation for the damage which he claims to have suffered.

Operative part of the judgment

The Court:

1. *Rules that there is no need to adjudicate on the action in so far as it seeks the annulment of Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP, Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413, Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007, and Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010, as well as Council Implementing Regulations (EU) No 350/2012 of 23 April 2012, No 709/2012 of 2 August 2012, No 945/2012 of 15 October 2012, No 1264/2012 of 21 December 2012, No 522/2013 of 6 June 2013, No 1203/2013 of 26 November 2013, and No 397/2014 of 16 April 2014 implementing Regulation (EU) No 267/2012;*

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

3. *Orders Mr Mahmoud Jannatian and the Council of the European Union to bear their own costs.*

(1) OJ C 212, 7.7.2014.

Judgment of the General Court of 18 February 2016 — Penny-Markt v OHIM — Boquoi Handels (B! O)

(Case T-364/14) (1)

(Community trade mark — Invalidity proceedings — Community figurative mark B! O — Earlier Community word mark bo — Relative ground for refusal — Article 53(1)(a) and Article 8(1)(b) of Regulation (EC) No 207/2009)

(2016/C 111/26)

Language of the case: German

Parties

Applicant: Penny-Markt GmbH (Cologne, Germany) (represented by: M. Kinkeldey, S. Brandstätter and A. Wagner, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Boquoi Handels OHG (Straelen, Germany) (represented by: P. Mels, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 21 March 2014 (R 1201/2013-4), relating to invalidity proceedings between Boquoi Handels OHG and Penny-Markt GmbH

Operative part of the judgment

The Court:

1. *dismisses the action;*

2. *orders Penny-Markt GmbH to pay the costs.*

(1) OJ C 261, 11.8.2014.

Judgment of the General Court of 19 February 2016 — Infinite Cycle Works v OHIM — Chance Good Ent. (INFINITY)

(Case T-30/15) ([1])

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

(2016/C 111/27)

Language of the case: English

Parties

Applicant: Infinite Cycle Works Ltd (Delta, Canada) (represented by: E. Manresa Medina and J.M. Manresa Medina, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Chance Good Ent. Co., Ltd (Changhua, Taiwan) (represented by: P. Rath and W. Festl-Wietek, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 30 October 2014 (Case R 2308/2013-2) relating to opposition proceedings between Chance Good Ent. Co., Ltd, and Infinite Cycle Works Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Infinite Cycle Works Ltd to pay the costs.*

([1]) OJ C 89, 16.3.2015.

Order of the General Court of 1 February 2016 — SolarWorld and Others v Council

(Case T-141/14) ([1])

(Actions for annulment — Dumping — Imports of crystalline silicon photovoltaic modules and key components (cells) originating in or consigned from China — Definitive anti-dumping duties — Exemption of imports covered by an accepted undertaking — Non-severability — Inadmissibility)

(2016/C 111/28)

Language of the case: English

Parties

Applicants: SolarWorld AG (Bonn, Germany); Brandoni solare SpA (Castelfidardo, Italy); and Solaria Energia y Medio Ambiente, SA (Madrid, Spain) (represented by: L. Ruessmann, lawyer, and J. Beck, Solicitor)

Defendant: Council of the European Union (represented by: B. Driessen, acting as Agent)

Intervening parties in support of the defendant: European Commission (represented by: J.-F. Brakeland, T. Maxian Rusche and A. Stobiecka-Kuik, acting as Agents); Canadian Solar Manufacturing (Changshu), Inc. (Changshu, China); Canadian Solar Manufacturing (Luoyang), Inc. (Luoyang, China); Csi Cells Co. Ltd (Suzhou, China); Csi Solar Power (China), Inc. (Suzhou) (represented by: A. Willems, S. De Knop, lawyers, and K. Daly, Solicitor); and China Chamber of Commerce for Import and Export of Machinery and Electronic Products (Beijing, China) (represented by: J.-F. Bellis, F. Di Gianni and A. Scalini, lawyers)

Re:

Application for annulment of Article 3 of Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013 L 325, p. 1).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Csi Cells Co. Ltd and Csi Solar Power (China), Inc. shall be removed from Case T-141/14 as interveners.*

3. *SolarWorld AG, Brandoni solare SpA and Solaria Energia y Medio Ambiente, SA shall pay their own costs and those incurred by the Council of the European Union, including those relating to the application for interim measures.*

4. *The European Commission, Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Csi Cells Co. Ltd, Csi Solar Power (China), Inc. and the China Chamber of Commerce for Import and Export of Machinery and Electronic Products shall pay their own costs.*

([1]) OJ C 142, 12.5.2014.

Order of the General Court of 1 February 2016 — SolarWorld and Others v Council

(Case T-142/14) ([1])

(Actions for annulment — Subsidies — Imports of crystalline silicon photovoltaic modules and key components (cells) originating in or consigned from China — Definitive countervailing duties — Exemption of imports covered by an accepted undertaking — Non-severability — Inadmissibility)

(2016/C 111/29)

Language of the case: English

Parties

Applicants: SolarWorld AG (Bonn, Germany); Brandoni solare SpA (Castelfidardo, Italy); and Solaria Energia y Medio Ambiente, SA (Madrid, Spain) (represented by: L. Ruessmann, lawyer, and J. Beck, Solicitor)

Defendant: Council of the European Union (represented by: B. Driessen, acting as Agent)

Intervening parties in support of the defendant: European Commission (represented by: J.-F. Brakeland, T. Maxian Rusche and A. Stobiecka-Kuik, acting as Agents); Canadian Solar Manufacturing (Changshu), Inc. (Changshu, China); Canadian Solar Manufacturing (Luoyang), Inc. (Luoyang, China); Csi Cells Co. Ltd (Suzhou, China); Csi Solar Power (China), Inc. (Suzhou) (represented by: A. Willems, S. De Knop, lawyers, and K. Daly, Solicitor); and China Chamber of Commerce for Import and Export of Machinery and Electronic Products (Beijing, China) (represented by: J.-F. Bellis, F. Di Gianni and A. Scalini, lawyers)

Re:

Application for annulment of Article 2 of Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013 L 325, p. 66).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Csi Cells Co. Ltd and Csi Solar Power (China), Inc. shall be removed from Case T-142/14 as interveners.*

3. *SolarWorld AG, Brandoni solare SpA and Solaria Energia y Medio Ambiente, SA shall pay their own costs and those incurred by the Council of the European Union, including those relating to the application for interim measures.*

4. *The European Commission, Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Csi Cells Co. Ltd, Csi Solar Power (China), Inc. and the China Chamber of Commerce for Import and Export of Machinery and Electronic Products shall pay their own costs.*

(1) OJ C 142, 12.5.2014.

Order of the General Court of 14 January 2016 — Hispasat v Commission

(Case T-36/15) (1)

(State aid — Digital television — Aid for the deployment of digital terrestrial television in remote and less-urbanised areas of Castilla-La Mancha — Decision declaring the aid incompatible with the internal market — Correction of that decision after the action had been brought — No need to adjudicate)

(2016/C 111/30)

Language of the case: Spanish

Parties

Applicant: Hispasat, SA (Madrid, Spain) (represented by: initially J. Buendía Sierra, A. Lamadrid de Pablo and A. Balcells Cartagena, and, subsequently, J. Buendía Sierra and A. Lamadrid de Pablo, lawyers)

Defendant: European Commission (represented by: É. Gippini Fournier, P. Němečková and B. Stromsky, acting as Agents)

Re:

Action for partial annulment of Commission Decision C (2014) 6846 final of 1 October 2014 concerning State aid SA.27408 (C 24/2010) (ex NN 37/2010, ex CP 19/2009) granted by the authorities of Castilla-La Mancha for the deployment of digital terrestrial television in remote and less urbanised areas of Castilla-La Mancha.

Operative part of the order

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

2. *There is no longer any need to adjudicate on SES Astra's application for leave to intervene.*

3. *The European Commission shall bear its own costs and pay those incurred by Hispasat, SA.*

(1) OJ C 89, 16.3.2015.

Action brought on 26 November 2015 — City Train v EUIPO (City Train)

(Case T-699/15)

(2016/C 111/31)

Language of the case: German

Parties

Applicant: City Train GmbH (Regensburg, Germany) (represented by: C. Adori, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: European Union figurative mark containing the word element 'City Train' — Application No 13 154 315

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 9 September 2015 in Case R 843/2015-4

Form of order sought

The applicant claims that the Court should:

— Annul the defendant's decision of 9 September 2015 and order it to register the figurative trade mark 'City Train' indicating the colours 'grey, light red' which was applied for under application No 13 154 315 on 8 August 2014 as a European Union trade mark in respect of the goods and services in Classes 12, 37 and 42 referred to the application.

Pleas in law

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

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

Appeal brought on 16 December 2015 by DD against the judgment of the Civil Service Tribunal of 8 October 2015 in Joined Cases F-106/13 and F-25/14 DD v FRA

(Case T-742/15 P)

(2016/C 111/32)

Language of the case: English

Parties

Appellant: DD (Vienna, Austria) (represented by: L. Levi and M. Vandenbussche, lawyers)

Other party to the proceedings: European Union Agency for Fundamental Rights (FRA)

Form of order sought by the appellant

The appellant claims that the Court should:

— partly set aside the judgment in joint cases F-106/13 and F-25/14 of 8 October 2015;

— consequently:

— annul both decisions of the FRA (the contested reprimand and termination of contract) not just on grounds of procedure, but also on the other grounds raised in the pleas submitted in the application at first instance;

— grant the appellant an adequate compensation for the moral damage caused by the gross illegality and irregularity of the administrative inquiry and of the decision to issue a reprimand. This moral damage is assessed *ex aequo et bono* at EUR 15 000;

— grant the appellant an adequate compensation for the moral damage caused by the irregular procedure and decision of termination of contract. This moral damage is assessed *ex aequo et bono* at EUR 50 000;

— order the FRA to pay all costs related to this appeal

Pleas in law and main arguments

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

1. First plea in law, alleging that the Civil Service Tribunal committed errors of law when examining only the procedural plea of absence of hearing which led to the annulment of both the decision of reprimand and of termination of contract, and refusing to examine all other pleas submitted in the application at first instance. The appellant submits that the Civil Service Tribunal committed an error of law and an incomplete examination of the facts, a violation of Article 47 of the Charter of fundamental rights and a violation of the duty to state reasons, a violation of the principle of a good administration of justice, a violation of the principle of legitimate expectations and a manifest error of assessment.

2. Second plea in law, alleging that the Civil Service Tribunal committed errors of law when rejecting the appellant's claims for non-material damages both with regard to the decision of reprimand and the decision of termination of contract.

— The Civil Service Tribunal committed errors of law regarding the rejection of the claim for non-material prejudice caused by the administrative inquiry, a distortion of evidence, an incomplete examination of facts, a manifest error of assessment, a violation of the notion of proof with respect to the existence of a damage as a condition for non-contractual liability, a misapplication of the principle of the rights of the defence and of Article 86(2) of the EU Staff Regulations, a violation of the duty to state reasons, a violation of the principle of legitimate expectation and a violation of Article 15 of Directive 2000/43/EC ([1]).

— The Civil Service Tribunal committed an error of law regarding the rejection of the claim for non-material prejudice caused by the decision of reprimand, a distortion of evidence, a manifest error of assessment, an incomplete examination of facts, a legal error in the assessment of the prejudice, a violation of the duty to state reasons, and a violation of Article 15 of Directive 2000/43/EC.

— The Civil Service Tribunal committed an error of law regarding the rejection of the claim for non-material prejudice caused by the termination decision, a distortion of evidence, an incomplete examination of the facts, a manifest error of assessment, a legal error in the assessment of the prejudice, a violation of the duty to state reasons, a violation of legitimate expectation, and a violation of Article 15 of Directive 2000/43/EC.

([1]) Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180, p. 22).

Action brought on 14 January 2016 — GABO:mi v Commission

(Case T-10/16)

(2016/C 111/33)

Language of the case: English

Parties

Applicant: GABO:mi Gesellschaft für Ablauforganisation:milliarium mbH & Co. KG (Munich, Germany) (represented by: M. Ahlhaus and C. Mayer, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the contested decisions to be void; and

— order the defendant to bear all costs including the applicant's cost

Pleas in law and main arguments

The applicant seeks the annulment of the defendant's decisions:

— of 2 December 2015 (ref. Ares (2015) 5513293) on FP 7 Grant Agreements and letter dated 02 December 2015 (ref. Ares (2015) 5513293) on FP 6 Grant Agreement regarding the defendant's decision to proceed with the recovery further to the audit (RAIA000024) on FP7 closed grant agreements and the audit (RAIA000027) on FP6 contracts;

— according to debit note No 3241514917 (ref. Ares (2015) 5513293) ordering the applicant to pay a total of EUR 1 770 417,29 by 15 January 2016 to the defendant's bank account; and

— according to letters dated 16 December 2015 (ref. Ares (2015)5894346, ref. Ares (2015)5898040, ref. Ares (2015) 5899627), 21 December 2015 (BUDG/DGA/C4/DB — 025798.4) and 14 January 2016 (BUDG/DGA/C4/DB — 025798.1) to offset each respective payment against the assumed debt of the applicant resulting from debit note No. 3241514917 (ref. Ares (2015) 5513293).

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

1. First plea in law, alleging that the contested decisions are unlawful because all claimed costs fulfil the eligibility criterion stipulated in Article II.14.1 of the Grant Agreement.

2. Second plea in law, alleging that the contested decisions do not meet the applicable formal and procedural requirements and are vitiated by infringement of principles of good governance.

3. Third plea in law, alleging that the contested decisions are vitiated on violations of the principle of proportionality.

4. Fourth plea in law, alleging that that the imposition of liquidated damages in the contested decisions are unlawful as well because no unjustified financial contributions were made to the applicant.

Action brought on 25 January 2016 — Biernacka-Hoba v EUIPO — Formata Bogusław Hoba (Formata)

(Case T-23/16)

(2016/C 111/34)

Language of the case: Polish

Parties

Applicant: Ilona Biernacka-Hoba (Aleksandrów Łódzki, Poland) (represented by: R. Rumpel, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Formata Bogusław Hoba (Aleksandrów Łódzki, Poland)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark containing the word element 'Formata' — Community trade mark No 11 529 427

Procedure before EUIPO: Invalidity proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 4 November 2015 in Case R 102/2015-2

Form of order sought

The applicant claims that the Court should:

— declare the action to be well founded;

— annul the contested decision insofar as it dismisses the application for cancellation of Trade Mark No 011529427 'Formata';

— amend the contested decision by cancelling Trade Mark No 011529427 'Formata';

— amend the contested decision with regard to the costs;

— order EUIPO to pay the costs of the proceedings.

Pleas in law

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

Action brought on 22 January 2016 — Greece v Commission

(Case T-26/16)

(2016/C 111/35)

Language of the case: Greek

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested Commission implementing decision of 13 November 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), notified under document C(2015) 7716 and published in the Official Journal of the EU on 20 November 2015 at OJ L 303, p. 35, as regards the parts thereof by which, following investigations IR/2009/004/GR and IR/2009/0017/GR, one-off and flat-rate financial corrections totalling EUR 11 534 827,97 were imposed on the Hellenic Republic for delays in recovery procedures, non-reporting and weaknesses generally in the debt management procedures, by the list in the annexes thereto;

— 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.

More specifically, the Hellenic Republic puts forward four pleas in respect of the flat-rate financial correction of 10 % which is imposed for the 2011 financial year.

1. The first plea is derived from the lack of a legal basis for imposing a flat-rate financial correction.

2. By the second plea, regarding the supposed delays in the recovery procedure, it is submitted that the imposition of corrections in 2015 for weaknesses in the control system, which relate to cases even before 2000 — following findings which were surmised for the first time in 2011, in breach of the rights of defence of the Greek authorities, upon which the Commission placed a disproportionate burden — infringes the general principle of legal certainty and that the European Union should act timeously and in any event within a reasonable period.

3. By the third plea, regarding the supposed failures in the procedure of recovery by offsetting, it is submitted that the Commission decision lacks entirely a sufficient and definite statement of reasons and in any event was adopted with a clear error of assessment on its part.

4. By the fourth plea, regarding what the Commission considers to be the incorrect calculation of the interest paid under the 50/50 rule in Article 32(5) of Regulation (EC) No 1290/2005, ([1]) and the consequent failure to refer thereto in the table under Annex III, it is submitted that the Commission misinterpreted and misapplied Article 32(1) and (5) of Regulation (EC) No 1290/2005.

Furthermore, in respect of the remaining contested parts of the Commission implementing decision, concerning the imposition of one-off corrections in individual instances of cases that were checked, the fifth plea is put forward, which, after the necessary preliminary observations on all the cases, refers separately to each of the corrections imposed, relying on infringement of Article 32 of Regulation (EC) No 1290/2005, indefiniteness, a complete lack of a sufficient and definite statement of reasons, clear and manifold error of assessment on the part of the Commission, infringement of the principles of good administration and proportionality, and the exceeding by the Commission of the limits of its discretion when charging the amounts at issue to the Hellenic Republic.

([1]) Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1).

Action brought on 25 January 2016 — United Kingdom v Commission

(Case T-27/16)

(2016/C 111/36)

Language of the case: English

Parties

Applicant: United Kingdom of Great Britain and Northern Ireland (represented by: J. Kraehling, Agent, and S. Lee and M. Gray, Barristers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul part of Article 1 of the Implementing Decision (EU) 2015/2098 of the European Commission of 13 November 2015 ([1]) which held *inter alia* that part of the agricultural expenditure concerning the calculation of the Value of Marketed Production declared by the United Kingdom was incurred contrary to Union Law, and cannot be financed under the EAGF and the EAFRD, requiring the annulment of five entries (the last entry on p. 42 and first four entries on p. 43) in the Annex to that Decision, which amount to a total financial correction of 1 849 194,86 euros; and

— order the Commission to pay the United Kingdom's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission has erred in law in its interpretation of the requirement that, when calculating the VMP of a Producer Organisation, for the purposes of establishing the ceiling on aid, a Member State may take into account the production of growers joining the organisation. In so holding, the Commission has ignored the clear provisions of, firstly Articles 3(1) and 3(3) of Commission Regulation 1433/2003 ([2]), and, second, Articles 52(1) and 52(2) of Commission Regulation 1580/2007 ([3]).

2. Second plea in law, alleging that, in its interpretation of the value of production of joiners, the Commission has acted in breach of the principles of legality and legal certainty, which apply with particular force where a measure leads to financial consequences and/or the imposition of a penalty.

([1]) Commission Implementing Decision (EU) 2015/2098 of 13 November 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (notified under document C(2015) 7716) (OJ L 303, 2015, p. 35).

([2]) Commission Regulation (EC) No 1433/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational funds, operational programmes and financial assistance (OJ L 203, 2003, p. 25).

([3]) Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector (OJ L 350, p. 1).

Action brought on 26 January 2016 — Enercon v EUIPO — Gamesa Eólica (Shades of green)

(Case T-36/16)

(2016/C 111/37)

Language in which the application was lodged: English

Parties

Applicant: Enercon GmbH (Aurich, Germany) (represented by: S. Overhage, Lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Gamesa Eólica, SL (Sarriguren, Spain)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU colour mark consisting of different shades of green. EU trade mark No 2 346 542.

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Second Board of Appeal of EUIPO of 28 October 2015 in Case R 597/2015-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 26 January 2016 — Novartis v EUIPO — SK Chemicals (Representation of a patch)

(Case T-44/16)

(2016/C 111/38)

Language in which the application was lodged: English

Parties

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

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: SK Chemicals GmbH (Eschborn, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark (Representation of a patch) — EU trade mark registration No 11 293 362

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 27 November 2015 in Case R 2342/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

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

— Infringement of Article 80(2) of Regulation No 207/2009;

— Infringement of the principle of fair trial by the Board of Appeal of EUIPO.

Action brought on 1 February 2016 — Alfonso Egüed v EUIPO — Jackson Family Farms (BYRON)

(Case T-45/16)

(2016/C 111/39)

Language in which the application was lodged: English

Parties

Applicant: Nelson Alfonso Egüed (Madrid, Spain) (represented by: N. Fernández Fernández-Pacheco, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Jackson Family Farms LLC (Santa Rosa, United States)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark containing the word element 'BYRON' — Application for registration No 10 581 619

Procedure before EUIPO: Opposition proceedings/Proceedings for a declaration of invalidity

Contested decision: Decision of the Second Board of Appeal of EUIPO of 16 November 2015 in Case R 822/2015-2

Form of order sought

The applicant claims that the Court should:

— set aside the contested decision;

— grant the application for registration of the EU trademark No 10581619 'BYRON' for all goods covered in classes 18, 25 and 33 (being the latter the contested class in the present proceedings);

— order the intervener to bear the costs of the procedure.

Plea in law

— Infringement of Article 8(4) of Regulation No 207/2009 with respect to the common law tort of passing off.

Action brought on 3 February 2016 — Crédit Mutuel Arkéa v ECB

(Case T-52/16)

(2016/C 111/40)

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 4 December 2015 (ECB/SSM/2015 — 9695000CG7B84NLR5984/40) 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 which are essentially identical or similar to those relied on in Case T-712/15, *Crédit Mutuel Arkéa* v *ECB*.

Action brought on 5 February 2016 — Netguru v EUIPO (NETGURU)

(Case T-54/16)

(2016/C 111/41)

Language in which the application was lodged: Polish

Parties

Applicant: Netguru sp. z o.o. (Poznań, Poland) (represented by: K. Jarosiński, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: European Union word mark 'NETGURU' — Application for registration No 12 994 166

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 18 December 2015 in Case R 144/2015-5

Form of order sought

The applicant claims that the Court should:

— set aside in its entirety the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office of 18 December 2015 in Case R 144/2015-5;

— order EUIPO to pay the costs, including the costs of the proceedings before the Board of Appeal.

Pleas in law

— Breach of Article 41(2)(c) of the Charter of Fundamental Rights of the European Union and of Article 75 of Regulation No 207/2009;

— Breach of Article 76(2) of Regulation No 207/2009;

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

Action brought on 10 February 2016 — Oil Pension Fund Investment Company v Council

(Case T-56/16)

(2016/C 111/42)

Language of the case: German

Parties

Applicant: Oil Pension Fund Investment Company (Tehran, Iran) (represented by: K. Kleinschmidt, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul, with immediate effect, Council Decision (CFSP) 2015/2216 of 30 November 2015 amending Decision 2010/413/CFSP concerning restrictive measures against Iran and Implementing Regulation (EU) 2015/2204 of 30 November 2015 implementing Regulation (EU) No 267/2012, in so far as these acts concern the applicant;

— adopt a measure of organisation of procedure, under Article 89 of the Rules of Procedure, ordering the defendant to produce all the documents in connection with the contested decision in so far as they concern the applicant;

— provide access to the case file in *Oil Pension Fund Investment Company* v *Council* (T-121/13, ECLI:EU:T:2015:645);

— order the Council 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: Infringement of Article 266 TFEU

   The applicant takes the view that, in accordance with Article 266 TFEU, the Council is prohibited from adopting acts which have the same content as the acts of 21 December 2012 annulled by the judgment of the Court in *Oil Pension Fund Investment Company* v *Council* (T-121/13, ECLI:EU:T:2015:645).

2. Second plea in law: Infringement of the applicant's rights of defence, its right to effective legal protection and the duty to state reasons

   In that regard, the applicant complains that due consultation did not take place and that it was not granted access to the file. The reasoning contained in the contested acts is not comprehensible to the applicant. As a result the applicant's rights of defence and its right to effective legal protection have been infringed. There has also been a breach of the principle of the right to be heard. The applicant also submits that the Council did not correctly assess the circumstances relating to the applicant. The applicant takes the view that it was deprived of a fair trial based on the rule of law, having been unable, in the absence of adequate knowledge, to comment specifically on the relevant allegations and alleged evidence of the Council, or to put forward any contrary evidence in the proceedings.

3. Third plea in law: Manifest errors of assessment, lack of or erroneous exercise of discretion and infringement of the principle of proportionality

In the applicant's view, the Council made manifest errors of assessment when it adopted the contested acts. The Council failed adequately and/or correctly to investigate the facts underlying the contested acts. In that context, it is submitted, inter alia, that, so far as concerns the applicant, the grounds for adoption of the restrictive measures that are stated in the contested acts are inapplicable. The contested acts also breach the principle of proportionality.

4. Fourth plea in law: Infringement of the rights guaranteed under the Charter of Fundamental Rights of the European Union

Here, the applicant claims that its fundamental rights as guaranteed by the Charter of Fundamental Rights of the European Union ('the Charter') have been infringed by the contested acts. It invokes, in that regard, breach of the freedom to conduct a business in the European Union (Article 16 of the Charter) and of the right to use its lawfully acquired possessions in the European Union and, in particular, to dispose of them freely (Article 17 of the Charter). Furthermore, the applicant claims breach of the principle of equal treatment (Article 20 of the Charter) and of the principle of non-discrimination (Article 21 of the Charter).

Action brought on 11 February 2016 — Apax Partners v EUIPO — Apax Partners Midmarket (APAX)

(Case T-58/16)

(2016/C 111/43)

Language in which the application was lodged: English

Parties

Applicant: Apax Partners LLP (London, United Kingdom) (represented by: D. Rose, J. Curry and J. Warner, Solicitors)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Apax Partners Midmarket (Paris, France)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'APAX' — Application for registration No 3 538 981

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 26 November 2015 in Case R 1441/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in its entirety and remit the application for the Contested Mark to EUIPO to allow it to proceed and;

— order EUIPO and any party involved in these proceedings before the Board to bear their own costs and pay the Applicant's costs of these proceedings and those of the Appeal before the Board and the Opposition B 764 029 before the Opposition Division.

Plea in law

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

Appeal brought on 13 February 2016 by Carlo de Nicola against the judgment of the Civil Service Tribunal of 18 December 2015 in Case F-9/14 De Nicola v EIB

(Case T-59/16 P)

(2016/C 111/44)

Language of the case: Italian

Parties

Appellant: Carlo de Nicola (Strassen, Luxembourg) (represented by: G. Ferabecoli, lawyer)

Other party to the proceedings: European Investment Bank

Form of order sought by the appellant

The appellant claims that the Court should:

— Uphold the present appeal and, partially reversing the judgment under appeal, annul points 2 and 3 of the operative part, together with paragraphs 58 to 63 of the judgment itself;

— Consequently, annul the guidelines established for the year 2012 or declare that they are no longer applicable; order the EIB to compensate Dr De Nicola for the damage suffered, as requested in the application initiating proceedings or, in the alternative, refer the case to another Chamber of the Civil Service Tribunal in order that it may, in a different formation, give a fresh decision on the annulled paragraphs;

— Order the European Investment Bank to pay the costs.

Grounds of appeal and main arguments

The present appeal is brought against the judgment of the Civil Service Tribunal (single Judge) of 18 December 2015 in *De Nicola* v *European Investment Bank* (F-9/14).

The grounds of appeal and main arguments are those relied on in Case T-55/16 P *De Nicola* v *European Investment Bank*.

Appeal brought on 13 February 2016 by Carlo de Nicola against the judgment of the Civil Service Tribunal of 18 December 2015 in Case F-55/13 De Nicola v EIB

(Case T-60/16 P)

(2016/C 111/45)

Language of the case: Italian

Parties

Appellant: Carlo de Nicola (Strassen, Luxembourg) (represented by: G. Ferabecoli, lawyer)

Other party to the proceedings: European Investment Bank

Form of order sought by the appellant

The appellant claims that the Court should:

— Uphold the present appeal and, partially reversing the judgment under appeal, annul points 2 and 3 of the operative part, together with paragraphs 59 to 64 of the judgment itself;

— Consequently, annul the guidelines established for the year 2011 or declare that they are no longer applicable; order the EIB to compensate Dr De Nicola for the damage suffered, as requested in the application initiating proceedings or, in the alternative, refer the case to another Chamber of the Civil Service Tribunal in order that it may, in a different formation, give a fresh decision on the annulled paragraphs;

— Order the European Investment Bank to pay the costs.

Grounds of appeal and main arguments

The present appeal is brought against the judgment of the Civil Service Tribunal (single Judge) of 18 December 2015 in *De Nicola* v *European Investment Bank* (F-55/13).

The grounds of appeal and main arguments are those relied on in Case T-55/16 P *De Nicola* v *European Investment Bank*.

Action brought on 12 February 2016 — Coca-Cola v EUIPO — Mitico (Master)

(Case T-61/16)

(2016/C 111/46)

Language in which the application was lodged: English

Parties

Applicant: The Coca-Cola Company (Atlanta, United States) (represented by: S. Malynicz and S. Baran, Barristers; D. Stone and A. Dykes, Solicitors)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Modern Industrial & Trading Investment Co. Ltd (Mitico) (Damascus, Syria)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU figurative mark containing the word element 'Master' — Application for registration No 9 091 612

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 2 December 2015 in Case R 1251/2015-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the EU trade mark Applicant to bear their own costs and pay those costs of the Applicant for Annulment at every stage of the opposition and appeal process, including the costs of these proceedings.

Pleas in law

— Infringement of Article 8(5)(b) of Regulation No 207/2009;

— Infringement of Article 65(6) of Regulation No 207/2009.

Action brought on 15 February 2016 — Michał Wieromiejczyk v EUIPO (Tasty Puff)

(Case T-64/16)

(2016/C 111/47)

Language of the case: Polish

Parties

Applicant: Michał Wieromiejczyk (Pabianice, Poland) (represented by: R. Rumpel, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: European Union figurative mark containing the word elements 'Tasty Puff' — Application for registration No 13 072 061

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 5 November 2015 in Case R 3058/2014-5

Form of order sought

The applicant claims that the Court should:

— declare the action to be well founded;

— annul the contested decision;

— amend the contested decision by requiring EUIPO to grant the right to Trade Mark No 13072061 'Tasty Puff';

— order EUIPO to pay the costs of the proceedings.

Pleas in law

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

Breach of Article 7(2) of Regulation No 207/2009.

Action brought on 15 February 2016 — fleur ami v EUIPO — 8 Seasons Design (Lamps)

(Case T-67/16)

(2016/C 111/48)

Language in which the application was lodged: German

Parties

Applicant: fleur ami GmbH (Willich, Germany) (represented by: B. Potthoff, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: 8 Seasons Design GmbH (Eschweiler, Germany)

Details of the proceedings before EUIPO

Proprietor of the design at issue: Applicant

Design at issue: Community design 'Lamps' — Application No 2 252 213-0002

Contested decision: Decision of the Third Board of Appeal of EUIPO of 1 December 2015 in Case R 2164/2014-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— in the alternative arrange a hearing;

— order EUIPO to bear its own costs and to pay those incurred by the applicant.

Plea in law

— Infringement of Article 6 of Regulation No 6/2002.

Action brought on 15 February 2016 — Deichmann v EUIPO — Munich (Representation of a cross on the side of a sports shoe)

(Case T-68/16)

(2016/C 111/49)

Language in which the application was lodged: English

Parties

Applicant: Deichmann SE (Essen, Germany) (represented by: C. Onken, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Munich, SL (Capellades, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU figurative mark (Representation of a cross on the side of a sports shoe — EU trade mark No 2 923 852

Procedure before EUIPO: Revocation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 4 December 2015 in Case R 2345/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the other party to the proceedings before EUIPO to bear the costs.

Pleas in law

— Infringement of Article 15(1)(a) of Regulation No 207/2009;

— Infringement of Article 51(1)(a) of Regulation No 207/2009.

Appeal brought on 17 February 2016 by Carlo de Nicola against the judgment of the Civil Service Tribunal of 18 December 2015 in Case F-104/13 De Nicola v EIB

(Case T-70/16 P)

(2016/C 111/50)

Language of the case: Italian

Parties

Appellant: Carlo de Nicola (Strassen, Luxembourg) (represented by: G. Ferabecoli, lawyer)

Other party to the proceedings: European Investment Bank

Form of order sought by the appellant

The appellant claims that the Court should:

— Uphold the present appeal and, partially reversing the judgment under appeal, annul point 2 of the operative part, together with paragraphs 13 to 17, 57 to 60 and 62 to 68 of the judgment itself;

— Consequently, declare that bullying was committed by the EIB against Dr De Nicola, and order the EIB to compensate Dr De Nicola for the damage suffered or, in the alternative, refer the case to another Chamber of the Civil Service Tribunal in order that it may, in a different formation, give a fresh decision on the annulled paragraphs. Subject to completion of the requested medical examination;

— Order the European Investment Bank to pay the costs.

Grounds of appeal and main arguments

The present appeal is brought against the judgment of the Civil Service Tribunal (single Judge) of 18 December 2015 in *De Nicola* v *European Investment Bank* (F-104/13).

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

1. First ground of appeal, relating to the contractual nature of the relationship between the appellant and the EIB.

   — In that regard, the appellant argues that he sought compensation for damage in respect of the contractual liability of the EIB, and not the non-contractual liability of the European Union.

2. Second ground of appeal, relating to the request for a declaration of bullying.

   — In that regard, the appellant argues, in particular, that the Civil Service Tribunal could not evade its duty to investigate an accusation of bullying, and, therefore, that it entirely unlawfully declared that the head of claim seeking a declaration that that bullying had taken place was inadmissible. The verification and legal characterisation of the facts is, inter alia, an essential 'precondition' in order subsequently to determine the compensation for the alleged damage.

3. Third ground of appeal, relating to the request that the EIB be ordered to pay compensation for the damage from bullying.

   — In that regard, the appellant argues that the conditions are satisfied in the present case for the Court to examine the information and recognise the right to compensation for the damage suffered.

Order of the General Court of 3 February 2016 — Experience Hendrix v OHIM — JH Licence (Jimi Hendrix)

(Case T-357/14) ([1])

(2016/C 111/51)

Language of the case: German

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

([1]) OJ C 253, 4.8.2014.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (Second Chamber) of 17 February 2016 — DE v EMA

(Case F-58/14) ([1])

(Civil service — Temporary staff member — Non-renewal of a fixed-term contract — First paragraph of Article 8 of the CEOS — Material change in the nature of the duties performed by the staff member — Interruption of the career path — Reclassification of a fixed-term contract as a contract of indefinite duration — Excluded)

(2016/C 111/52)

Language of the case: English

Parties

Applicant: DE (represented by: S. Rodrigues and A. Blot, lawyers)

Defendant: European Medicines Agency (EMA) (represented initially by S. Marino, T. Jabłoński and N. Rampal Olmedo, acting as Agents, assisted by D. Waelbroeck and A. Duron, lawyers, and subsequently by S. Marino, T. Jabłoński, F. Cooney and N. Rampal Olmedo, acting as Agents, assisted by D. Waelbroeck and A. Duron, lawyers)

Re:

Application for annulment of the decision not to renew the applicant's temporary staff contract, and a claim for compensation for the damage which the applicant claims to have suffered.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders DE to bear his own costs and to pay the costs incurred by the European Medicines Agency.*

([1]) OJ C 292, 1.9.2014, p. 63.

Action brought on 13 November 2015 — ZZ and Others v Commission

(Case F-140/15)

(2016/C 111/53)

Language of the case: Italian

Parties

Applicants: ZZ and Others (represented by: C. Cortese, lawyer)

Defendant: European Commission

Subject matter and description of the proceedings

Annulment of the Commission decision amending the amount of the survivor's pension granted to the applicant and of the orphans' pensions granted to the applicant's three children.

Form of order sought

The applicants claim that the Tribunal should:

— annul amendment decision No 3 of the Head of Unit PMO.4 of the European Commission setting out new amounts of the survivor's pension granted to the complainant and of the orphans' pensions granted to the complainant's three children, communicated to the applicant on 6 February 2015, as supplemented by the grounds for the decision rejecting the complaint of the appointing authority of 3 August 2015;

— order the defendant to pay the costs.

Action brought on 26 November 2015 — ZZ v EIB

(Case F-145/15)

(2016/C 111/54)

Language of the case: Swedish

Parties

Applicant: ZZ (represented by: E. Nordh, lawyer)

Defendant: European Investment Bank (EIB)

Subject-matter and description of the proceedings

Annulment of the applicant's staff report for 2014 and a claim for compensation for the non-pecuniary harm allegedly suffered.

Form of order sought

— Annul the defendant's decision concerning the marks received by the applicant for 2014, including the decision concerning the increase in remuneration, the payment of a bonus and the promotion relating to those marks, and the staff report for 2014 based thereon, including both the part concerning the applicant's performance in 2014 and the part concerning the objectives set for him for 2015;

— Order the defendant to pay the applicant the amount of EUR 150 000 together with interest, as compensation for the non-pecuniary harm;

— Order the defendant to pay the costs.

Action brought on 28 December 2015 — ZZ and Others v EEAS

(Case F-153/15)

(2016/C 111/55)

Language of the case: French

Parties

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

Defendant: European External Action Service (EEAS)

Subject-matter and description of the proceedings

Annulment of the decision of the EEAS, in the applicants' salary slips, in so far as it constitutes the first application of the reduction from 25 % to 20 % of the allowance for living conditions, applying a decision of the Chief Operating Officer.

Form of order sought

— Declare the decision of 23 February 2015 of the Chief Operating Officer of the EEAS inapplicable to the applicants;

— Consequently, annul their salary slips for March 2015 and those issued subsequently, in so far as they apply an ALC of 20 %;

— Order the EEAS to pay the costs.

Action brought on 6 January 2015 — ZZ v Parliament

(Case F-1/16)

(2016/C 111/56)

Language of the case: French

Parties

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

Defendant: European Parliament

Subject-matter and description of the proceedings

Annulment of the decision of the European Parliament not to include the applicant's name in the list of officials selected to participate in the training programme for the certification exercise of 2014.

Form of order sought

— Annul the decision of 27 March 2015 of the Appointing Authority not to include the applicant's name in the list of officials selected to participate in the training programme for the certification exercise of 2014;

— Order the European Parliament to pay the costs.

Order of the Civil Service Tribunal of 18 February 2016 — Sesma Merino v OHIM

(Case F-125/13) ([1])

(2016/C 111/57)

Language of the case: French

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

([1]) OJ C 129, 28/4/2014, p. 37.

CORRIGENDA

Corrigendum to the Order of the General Court of 21 January 2016 — BR IP Holder v OHIM — Greyleg Investments (HOKEY POKEY)

(Case T-62/14)

(Community trade mark — Opposition proceedings — Application for Community word mark HOKEY POKEY — Unregistered earlier national word mark — Proof of use — Right to prohibit use of the mark sought — Article 8(4) of Regulation (EC) No 207/2009 — Right of a Member State — Obligation to state reasons — Raised by the Court of its own motion)

(Official Journal of the European Union C 90 of 7.3.2016, p. 15)

(2016/C 111/58)

The OJ Communication in Case T-62/14, BR IP Holder v OHIM — Greyleg Investments (HOKEY POKEY) should read as follows:

'Judgment of the General Court of 21 January 2016 — BR IP Holder v OHIM — Greyleg Investments (HOKEY POKEY)

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

(Community trade mark — Opposition proceedings — Application for Community word mark HOKEY POKEY — Unregistered earlier national word mark — Proof of use — Right to prohibit use of the mark sought — Article 8(4) of Regulation (EC) No 207/2009 — Right of a Member State — Obligation to state reasons — Raised by the Court of its own motion)

(2016/C 090/20)

Language of the case: English

Parties

Applicant: BR IP Holder LLC (Canton, Massachusetts, United States) (represented by: F. Traub, lawyer and C. Rohsler, Solicitor)

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

Other party to the proceedings before the Board of Appeal of OHIM: Greyleg Investments Ltd (Baltonsborough, United Kingdom)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 22 November 2013 (Case R 1091/2012-4) relating to opposition proceedings between BR IP Holder LLC and Greyleg Investments Ltd.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 22 November 2013 (Case R 1091/2012-4);*

2. *Orders OHIM to bear its own costs and to pay those incurred by BR IP Holder LLC.'*

([1]) OJ C 142, 12.5.2014.

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

Publications Office of the European Union
2985 Luxembourg
LUXEMBOURG

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