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These texts are available on:

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

COURT OF JUSTICE

Decision of the Court of Justice

of 9 March 2016

on official holidays and judicial vacations

(2016/C 145/02)

THE COURT

having regard to Article 24(2), (4) and (6) of the Rules of Procedure,

whereas it is necessary, in accordance with that provision, to establish the list of official holidays and to set the dates of the judicial vacations,

HAS ADOPTED THIS DECISION:

Article 1

The list of official holidays within the meaning of Article 24(4) and (6) of the Rules of Procedure is established as follows:

— New Year's Day,

— Easter Monday,

— 1 May,

— Ascension,

— Whit Monday,

— 23 June,

— 15 August,

— 1 November,

— 25 December,

— 26 December.

Article 2

For the period from 1 November 2016 to 31 October 2017, the dates of the judicial vacations within the meaning of Article 24(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 3

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

Luxembourg, 9 March 2016.

Registrar	*President*
A. CALOT ESCOBAR	K. LENAERTS

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fifth Chamber) of 18 February 2016 — Council of the European Union v Bank Mellat, European Commission

(Case C-176/13 P) ([1])

(Appeal — Common foreign and security policy — Combating nuclear proliferation — Restrictive measures taken against the Islamic Republic of Iran — Freezing of funds of an Iranian bank — Obligation to state reasons — Procedure for the adoption of the act — Manifest error of assessment)

(2016/C 145/03)

Language of the case: English

Parties

Appellant: Council of the European Union (represented by: S. Boelaert and M. Bishop, acting as Agents)

Other parties to the proceedings: Bank Mellat (represented by: M. Brindle QC, R. Blakeley and V. Zaiwalla, Barristers, and by Z. Burbeza, P. Reddy, S. Zaiwalla and F. Zaiwalla, Solicitors), European Commission (represented by: D. Gauci and M. Konstantinidis, acting as Agents)

Intervener in support of the appellant: United Kingdom of Great Britain and Northern Ireland (represented by: L. Christie and S. Behzadi-Spencer, acting as Agents, and by S. Lee, Barrister)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders the Council of the European Union to bear its own costs and to pay the costs incurred by Bank Mellat in both sets of proceedings;*

3. *Orders the United Kingdom of Great Britain and Northern Ireland and the European Commission to bear their own costs in both sets of proceedings.*

([1]) OJ C 171, 15.6.2013.

Judgment of the Court (First Chamber) of 18 February 2016 (request for a preliminary ruling from the Juzgado de Primera Instancia de Cartagena (Spain)) — Finanmadrid EFC SA v Jesús Vicente Albán Zambrano, María Josefa García Zapata, Jorge Luis Albán Zambrano and Miriam Elisabeth Caicedo Merino

(Case C-49/14) ([1])

(Reference for a preliminary ruling — Directive 93/13/EEC — Unfair terms — Order for payment procedure — Enforcement proceedings — Powers of the national court responsible for enforcement to raise of its own motion the fact that the unfair term is invalid — Principle of res judicata — Principle of effectiveness — Charter of Fundamental Rights of the European Union — Judicial protection)

(2016/C 145/04)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia de Cartagena

Parties to the main proceedings

Applicant: Finanmadrid EFC SA

Defendants: Jesús Vicente Albán Zambrano, María Josefa García Zapata, Jorge Luis Albán Zambrano and Miriam Elisabeth Caicedo Merino

Operative part of the judgment

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts precludes national legislation, such as that at issue in the main proceedings, which does not permit the court ruling on the enforcement of an order for payment to assess of its own motion whether a term in a contract concluded between a seller or supplier and a consumer is unfair, when the authority hearing the application for an order for payment does not have the power to make such an assessment.

([1]) OJ C 135, 5.5.2014.

Judgment of the Court (Grand Chamber) of 23 February 2016 — European Commission v Hungary

(Case C-179/14) ([1])

(Failure of a Member State to fulfil obligations — Directive 2006/123/EC — Articles 14 to 16 — Article 49 TFEU — Freedom of establishment — Article 56 TFEU — Freedom to provide services — Conditions for issuing vouchers entailing a tax advantage which are provided by employers to their employees and may be used for accommodation, leisure and/or meals — Restrictions — Monopoly)

(2016/C 145/05)

Language of the case: Hungarian

Parties

Applicant: European Commission (represented by: A. Tokár and E. Montaguti, acting as Agents)

Defendant: Hungary (represented by: M.Z. Fehér and G. Koós, acting as Agents)

Operative part of the judgment

The Court:

1. *Declares that by introducing and retaining the Széchenyi leisure card scheme provided for by Government Decree No 55/2011 of 12 April 2011 regulating the issue and use of the Széchenyi leisure card, and amended by Law No CLVI of 21 November 2011 amending certain tax laws and other related measures, Hungary has infringed Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, in so far as:*

   — *Paragraph 13 of Government Decree No 55/2011, read in conjunction with Paragraph 2(2)(d) of Law No XCVI of 1993 on voluntary mutual insurance funds, Paragraph 2(b) of Law No CXXXII of 1997 on branches and commercial agencies of undertakings which have their registered office abroad and Paragraphs 1, 2(1) and (2), 55(1) and (3) and 64(1) of Law No IV of 2006 on companies and firms governed by commercial law, precludes the issue of the Széchenyi leisure card by branches and thereby infringes Article 14, point (3), of Directive 2006/123;*

   — *Paragraph 13 of Government Decree No 55/2011, read in conjunction with the above-mentioned national provisions, which does not recognise, for the purposes of the conditions laid down in Paragraph 13(a) to (c) of that decree, the activity of groups whose parent company is not a company formed in accordance with Hungarian law and whose members do not operate in the forms of company provided for by Hungarian law, infringes Article 15(1), (2)(b) and (3) of Directive 2006/123;*

   — *Paragraph 13 of Government Decree No 55/2011, read in conjunction with the above-mentioned national provisions, which restricts to banks and financial institutions the possibility of issuing the Széchenyi leisure card as they are the only entities able to meet the conditions laid down by Paragraph 13 of the decree, infringes Article 15(1), (2)(d) and (3) of Directive 2006/123;*

   — *Paragraph 13 of Government Decree No 55/2011 infringes Article 16 of Directive 2006/123 inasmuch as it requires, for the issue of the Széchenyi leisure card, the existence of an establishment in Hungary;*

2. *Declares that the system of Erzsébet vouchers governed by Law No CLVI of 21 November 2011 and Law No CIII of 6 July 2012 on the Erzsébet programme infringes Articles 49 TFEU and 56 TFEU inasmuch as that national legislation establishes a monopoly in favour of public bodies for the issue of vouchers which may be used to obtain cold meals and may be provided by employers to their employees, under advantageous tax conditions, as benefits in kind;*

3. *Orders Hungary to pay the costs.*

([1]) OJ C 202, 30.6.2014.

Judgment of the Court (Fourth Chamber) of 25 February 2016 (request for a preliminary ruling from the Simvoulio tis Epikratias — Greece) — Elliniko Dimosio v Stefanos Stroumpoulis and Others

(Case C-292/14) ([1])

(Reference for a preliminary ruling — Directive 80/987/EEC — Approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer — Scope — Outstanding wage claims of seamen working on board a vessel flying the flag of a non-member country — Employer whose registered office is located in the non-member country — Employment contract subject to the law of the non-member country — Employer declared insolvent in a Member State in which its actual head office is located — Article 1(2) — Annex, Section II, A — National legislation providing a guarantee in respect of the outstanding wage claims of seaman only if they are abandoned abroad — Level of protection not equivalent to that provided by Directive 80/987)

(2016/C 145/06)

Language of the case: Greek

Referring court

Simvoulio tis Epikratias

Parties to the main proceedings

Applicant: Elliniko Dimosio

Defendants: Stefanos Stroumpoulis, Nikolaos Koumpanos, Panagiotis Renieris, Charalampos Renieris, Ioannis Zacharias, Dimitrios Lazarou, Apostolos Chatzisotiriou

Operative part of the judgment

1. *Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer must be interpreted as meaning that, subject to the possible application of Article 1(2) of the directive, seamen living in a Member State who were engaged in that State by a company with its registered office in a non-member country but its actual head office in that Member State to work as employees on board a cruise ship owned by the company and flying the flag of the non-member country under an employment contract designating the law of the non-member country as the law applicable must, after the company has been declared insolvent by a court of the Member State concerned in accordance with the law of that State, be eligible for the protection conferred by the directive as regards their outstanding wage claims against the company.*

2. *Article 1(2) of Directive 80/987 must be interpreted as meaning that, as regards employees in a situation such as that of the defendants in the main proceedings, protection such as that provided in Article 29 of Law 1220/1981 supplementing and amending the legislation relating to the Piraeus port authority in the event that seamen are abandoned abroad does not constitute 'protection equivalent to that resulting from [the] Directive' within the meaning of that provision.*

(1) OJ C 282, 25.8.2014.

Judgment of the Court (First Chamber) of 25 February 2016 (request for a preliminary ruling from the Landessozialgericht Nordrhein-Westfalen — Germany) — Vestische Arbeit Jobcenter Kreis Recklinghausen v Jovanna García-Nieto, Joel Peña Cuevas, Jovanlis Peña García, Joel Luis Peña Cruz

(Case C-299/14) (1)

(Reference for a preliminary ruling — Freedom of movement of persons — Citizenship of the Union — Equal treatment — Directive 2004/38/EC — Article 24(2) — Social Assistance — Regulation (EC) No 883/2004 — Articles 4 and 70 — Special non-contributory cash benefits — Exclusion of nationals of a Member State during the first three months of residence in the host Member State)

(2016/C 145/07)

Language of the case: German

Referring court

Landessozialgericht Nordrhein-Westfalen

Parties to the main proceedings

Appellant: Vestische Arbeit Jobcenter Kreis Recklinghausen

Respondents: Jovanna García-Nieto, Joel Peña Cuevas, Jovanlis Peña García, Joel Luis Peña Cruz

Operative part of the judgment

Article 24 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, and Article 4 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as amended by Commission Regulation (EU) No 1244/2010 of 9 December 2010, must be interpreted as not precluding legislation of a Member State under which nationals of other Member States who are in a situation such as that referred to in Article 6(1) of that directive are excluded from entitlement to certain 'special non-contributory cash benefits' within the meaning of Article 70(2) of Regulation No 883/2004, which also constitute 'social assistance' within the meaning of Article 24(2) of Directive 2004/38.

(1) OJ C 315, 19.9.2014.

Judgment of the Court (Fourth Chamber) of 17 February 2016 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — Sanoma Media Finland Oy — Nelonen Media v Viestintävirasto

(Case C-314/14) (1)

(Reference for a preliminary ruling — Directive 2010/13/EU — Article 19(1) — Separation of television advertising and programmes — Split screen — Article 23(1) and (2) — Limit of 20 % per clock hour on the broadcasting time for television advertising spots — Sponsorship announcements — Other references to a sponsor — 'Black seconds')

(2016/C 145/08)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Appellant: Sanoma Media Finland Oy–Nelonen Media

Respondent: Viestintävirasto

Operative part of the judgment

1. *Article 19(1) of Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, under which a split screen that shows the closing credits of a television programme in one column and a list presenting the supplier's upcoming programmes in the other, in order to separate the programme which is ending from the television advertising break that follows it, does not necessarily have to be combined with, or followed by, an acoustic or optical signal, provided that such a means of separation meets, in itself, the requirements set out in the first sentence of Article 19(1), a matter which is for the referring court to establish.*

2. *Article 23(2) of Directive 2010/13 must be interpreted as meaning that sponsorship signs shown in programmes other than the sponsored programme, such as those at issue in the main proceedings, must be included in the maximum time for the broadcasting of advertising per clock hour, set in Article 23(1) of that directive.*

3. *Article 23(1) of Directive 2010/13 must be interpreted, where a Member State has not made use of the power to lay down a stricter rule than that established by that article, as not only not precluding 'black seconds' which are inserted between the various spots of a television advertising break or between that break and the television programme which follows it from being included in the maximum time for the broadcasting of television advertising per clock hour which that article sets at 20 %, but also as requiring their inclusion.*

(1) OJ C 292, 1.9.2014.

Judgment of the Court (Third Chamber) of 17 February 2016 (request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas — Lithuania) — Air Baltic Corporation AS v Lietuvos Respublikos specialiųjų tyrimų tarnyba

(Case C-429/14) (1)

(Reference for a preliminary ruling — Air transport — Montreal Convention — Articles 19, 22 and 29 — Liability of air carrier in the event of delay in the international carriage of passengers — Contract of carriage concluded by the passengers' employer — Damage caused by delay — Damage suffered by the employer)

(2016/C 145/09)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

Applicant: Air Baltic Corporation AS

Defendant: Lietuvos Respublikos specialiųjų tyrimų tarnyba

Operative part of the judgment

The Convention for the Unification of Certain Rules for International Carriage by Air, concluded at Montreal on 28 May 1999, in particular Articles 19, 22 and 29 thereof, must be interpreted as meaning that an air carrier which has concluded a contract of international carriage with an employer of persons carried as passengers, such as the employer at issue in the main proceedings, is liable to that employer for damage occasioned by a delay in flights on which its employees were passengers pursuant to that contract, on account of which the employer incurred additional expenditure.

(1) OJ C 421, 24.11.2014.

Judgment of the Court (Sixth Chamber) of 18 February 2016 — Federal Republic of Germany v European Commission

(Case C-446/14 P) (1)

(Appeal — State aid — Services for the removal of animal carcasses and waste from abattoirs — Maintenance of reserve capacity in the event of an outbreak — Decision declaring the aid incompatible with the common market — Service of general economic interest — Manifest error of assessment — Compensation for the public service obligation — Obligation to state reasons)

(2016/C 145/10)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: T. Henze and J. Möller, acting as Agents, T. Lübbig and M. Klasse, lawyers)

Other party to the proceedings: European Commission (represented by: T. Maxian Rusche and C. Egerer, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders the Federal Republic of Germany to pay the costs.*

([1]) OJ C 409, 17.11.2014.

Judgment of the Court (Eighth Chamber) of 25 February 2016 — European Commission v Kingdom of Spain

(Case C-454/14) ([1])

(Failure of a Member State to fulfil obligations — Environment — Directive 1999/31/EC — Article 14 — Landfill of waste — Non-conformity of existing landfills — Closure and after-care procedures)

(2016/C 145/11)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: L. Pignataro-Nolin, E. Sanfrutos Cano and D. Loma-Osorio Lerena, acting as Agents)

Defendant: Kingdom of Spain (represented by: L. Banciella Rodríguez-Miñón, acting as Agent)

Operative part of the judgment

The Court:

1) *Declares that, by failing to adopt, for each of the landfill sites at issue, namely those in Urtuella (Basque Country) and in Zurita and Juan Grande (Canary Islands), the measures necessary to request the operator to prepare a conditioning plan and ensure full implementation of that plan in accordance with the requirements of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, with the exception of those listed in Annex I, point 1, of that directive, within eight years after the date laid down in Article 18(1) of that directive, the Kingdom of Spain has failed to fulfil its obligations under Article 14(c) of that directive in relation to each of those landfill sites;*

2) *Declares that, by failing to adopt, for each of the landfill sites at issue, namely those in Vélez Rubio (Almería), Alcolea de Cinca (Huesca), Sariñena (Huesca), Tamarite de Litera (Huesca), Somontano — Barbastro (Huesca), Barranco de Sedases (Fraga, Huesca), Barranco Seco (Puntallana, La Palma), Jumilla (Murcia), y Legazpia (Guipuzkoa), Sierra Valleja (Arcos de la Frontera, Cádiz), Carretera Pantano del Rumblar (Baños de la Encina, Jaén), Barranco de la Cueva (Bélmez de la Moraleda, Jaén), Cerrajón (Castillo de Locution, Jaén), Las Canters (Jimena y Bed mar, Jaén), Hoya del Pine (Siles, Jaén), Bellavista (Finca El Coronel, Alcalá de Guadaira, Sevilla), El Patarín (Alcalá de Guadaira, Sevilla), Carretera de Arahal-Morón de la Frontera (Arahal, Sevilla), Carretera de Almadén de la Plata (Cazalla de la Sierra, Sevilla), El Chaparral (Écija, Sevilla), Carretera A-92, KM 57,5 (Morón de la Frontera, Sevilla), Carretera 3118 Fuente Leona — Cumbres mayores (Colina Barragona, Huelva), Llanos del Campo (Grazalema — Benamahoma, Cádiz), Andrada Baja (Alcalá de Guadaira, Sevilla), Carretera de los Villares (Andújar, Jaén), La Chacona (Cabra, Córdoba) and el Chaparral — La Sombrerera (Puerto Serrano, Cádiz), the measures necessary to close as soon as possible, pursuant to the first line of Article 7(g) and Article 13 of Directive 1999/31, the sites which had not been granted, under Article 8 of that directive, a permit to continue to operate, the Kingdom of Spain has failed to fulfil its obligations, in respect of each of those landfills, under Article 14(b) of that directive;*

3) *Orders the Kingdom of Spain to pay the costs.*

(1) OJ C 448, 15.12.2014.

Judgment of the Court (Fourth Chamber) of 25 February 2016 — European Commission v Kingdom of the Netherlands

(Case C-22/15) (1)

(Failure of a Member State to fulfil obligations — Value added tax — Directive 2006/112/EC — Exemptions — Article 132(1)(m) — Supply of services closely linked to sport or physical education — Exemption for the hiring out of berths and sites for the storage of boats to the members of water sports associations in the context of sailing or leisure activities which cannot be equated with the practice of sport or physical education — Exemption limited to the members of water sports associations which have no employees for delivery of their services — Excluded — Point (d) of the first paragraph of Article 133)

(2016/C 145/12)

Language of the case: Dutch

Parties

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

Defendant: Kingdom of the Netherlands (represented by: M. Bulterman and M. Noort, acting as Agents)

Operative part of the judgment

The Court:

1. *Declares that:*

— *by exempting from value added tax, in the context of sailing or leisure activities which cannot be equated with the practice of sport or physical education, the hiring out of berths and sites for the storage of boats to the members of water sports associations which have no employees for delivery of their services, and*

— *by limiting, in cases where the berths and sites for the storage of boats are hired out to persons taking part in sport and that hiring-out is closely linked to and essential for the practice of that sport, the exemption for hiring-out to water sports associations which have no employees for delivery of their services,*

the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 2(1), 24(1) and 133 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, in conjunction with Article 132(1)(m) thereof;

2. *Orders the Kingdom of the Netherlands to pay the costs.*

(1) OJ C 228, 13.7.2015.

Judgment of the Court (First Chamber) of 17 February 2016 (request for a preliminary ruling from the Finanzgericht Hamburg — Germany) — Salutas Pharma GmbH v Hauptzollamt Hanover

(Case C-124/15) ([1])

(Reference for a preliminary ruling — Common Customs Tariff — Tariff classification — Combined Nomenclature — Heading 3004 — Effervescent tablets containing 500 mg of calcium — Level of substance per recommended daily dose significantly higher than the recommended daily allowance to maintain general health or well-being)

(2016/C 145/13)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Salutas Pharma GmbH

Defendant: Hauptzollamt Hanover

Operative part of the judgment

The Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and the statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1006/2011 of 27 September 2011 must be interpreted as meaning that a product, such as effervescent tablets with a calcium content of 500 mg per tablet that is used for the prevention and treatment of a calcium deficiency and to support a special therapy for the prevention and treatment of osteoporosis, and for which the maximum recommended daily dose for adults indicated on the label is 1 500 mg, falls within heading 3004 of that nomenclature.

([1]) OJ C 178, 1.6.2015.

Judgment of the Court (Tenth Chamber) of 25 February 2016 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — G.E. Security BV v Staatssecretaris van Financiën

(Case C-143/15) ([1])

(Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — Common Customs Tariff — Combined Nomenclature — Classification of goods — Headings 8517, 8521, 8531 and 8543 — Product known as a 'video multiplexer')

(2016/C 145/14)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: G.E. Security BV

Defendant: Staatssecretaris van Financiën

Operative part of the judgment

The Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1214/2007 of 20 September 2007, must be interpreted as meaning that a product such as the 'video multiplexer' at issue in the main proceedings must, subject to the referring court's assessment of all the facts before it, be classified in heading 8521 of that nomenclature.

(1) OJ C 198, 15.6.2015.

Judgment of the Court (Grand Chamber) of 15 February 2016 (request for a preliminary ruling from the Raad van State — Netherlands) — J. N. v Staatssecretaris voor Veiligheid en Justitie

(Case C-601/15 PPU) (1)

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Standards for the reception of applicants for international protection — Directive 2008/115/EC — Lawful residence — Directive 2013/32/EU — Article 9 — Right to remain in a Member State — Directive 2013/33/EU — Point (e) of the first subparagraph of Article 8(3) — Detention — Protection of national security or public order — Validity — Charter of Fundamental Rights of the European Union — Articles 6 and 52 — Limitation — Proportionality)

(2016/C 145/15)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Appellant: J. N.

Respondent: Staatssecretaris voor Veiligheid en Justitie

Operative part of the judgment

Consideration of point (e) of the first subparagraph of Article 8(3) of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection has disclosed no factor of such a kind as to affect the validity of that provision in the light of Articles 6 and 52(1) and (3) of the Charter of Fundamental Rights of the European Union.

(1) OJ C 38, 1.2.2016.

Request for a preliminary ruling from the Sąd Rejonowy we Wrocławiu (Poland) lodged on 1 July 2015 — Z.Ś., Z.M., M.P. v X w G.

(Case C-325/15)

(2016/C 145/16)

Language of the case: Polish

Referring court

Sąd Rejonowy we Wrocławiu

Parties to the main proceedings

Applicants: Z.Ś., Z.M., M.P.

Defendant: X w G.

The Court of Justice (Tenth Chamber) made an order on 18 February 2016 in which it answered the first question submitted for a preliminary ruling by the referring court. The second question was found to be manifestly inadmissible.

Appeal brought on 15 July 2015 by Harper Hygienics S.A. against the judgment of the General Court delivered on 13 May 2015 in Case T-363/12 Harper Hygienics v OHIM — Clinique Laboratories (CLEANIC natural beauty)

(Case C-374/15 P)

(2016/C 145/17)

Language of the case: Polish

Parties

Appellant: Harper Hygienics S.A. (represented by: D. Rzążewska)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Clinique Laboratories, LLC

By order of the Court (Tenth Chamber) of 28 January 2016 the appeal was dismissed in its entirety.

Appeal brought on 11 January 2016 by the Kingdom of Belgium against the order of the General Court (Second Chamber) of 27 October 2015 in Case T-721/14 *Kingdom of Belgium* v *European Commission*

(Case C-16/16 P)

(2016/C 145/18)

Language of the case: Dutch

Parties

Appellant: Kingdom of Belgium (represented by: L. Van den Broeck, M. Jacobs and J. Van Holm, acting as Agents, and P. Vlaemminck and B. Van Vooren, advocaten)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the order of the General Court in Case T-721/14 in its entirety;

— declare the action for annulment to be admissible;

— rule on the merits;

— declare the applications to intervene lodged by the Hellenic Republic and the Portuguese Republic to be admissible; and

— order the Commission to pay the costs.

Grounds of appeal and main arguments

First ground of appeal: infringement of the principles of allocation of powers, loyalty and institutional balance, and misapplication of the conditions set out in Article 263 TFEU.

Second ground of appeal: infringement of the reciprocity of the principle of loyalty and undermining of the position of the Member State as a privileged applicant with a view to safeguarding its prerogatives.

Third ground of appeal: incorrect interpretation of the legal consequences of the recommendation with respect to Belgium.

Request for a preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) lodged on 18 January 2016 — Nintendo Co. Ltd v BigBen Interactive GmbH, BigBen Interactive S.A.

(Case C-24/16)

(2016/C 145/19)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Applicant: Nintendo Co. Ltd

Defendants: BigBen Interactive GmbH, BigBen Interactive S.A.

Questions referred

1. In connection with a trial to enforce claims under a Community design, can the court of a Member State whose jurisdiction with respect to a defendant is based solely on Article 79(1) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs ([1]) in conjunction with Article 6(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, ([2]) on the basis that this defendant, which is domiciled in another Member State, supplied the defendant domiciled in the pertinent Member State with goods that may infringe intellectual property rights, adopt measures against the first mentioned defendant that are applicable throughout the EU and extend beyond the supply relationships on which jurisdiction is based?

2. Is Regulation No 6/2002, particularly Article 20(1)(c), to be interpreted as meaning that a third party may depict a Community design for commercial purposes if it intends to sell accessory items for the right holder's goods corresponding to the Community design? If so, what criteria apply to this?

3. For the purposes of Article 8(2) of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations, ([3]) how is the place 'in which the act of infringement was committed' to be determined in cases in which the infringer

   a) offers goods that infringe a Community design on a website and that website is also directed at Member States other than the one in which the person damaged by the infringement is domiciled, and/or

b) has goods that infringe a Community design shipped to a Member State other than the one in which it is domiciled?

Is Article 15(a) and (g) of Regulation No 864/2007 to be interpreted as meaning that the law determined in this manner is also applicable to participatory acts of other persons?

(1) OJ 2002 L 3, p. 1.
(2) OJ 2001 L 12, p. 1.
(3) OJ 2007 L 199, p. 40.

Request for a preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) lodged on 18 January 2016 — Nintendo Co. Ltd v BigBen Interactive GmbH, BigBen Interactive S.A.

(Case C-25/16)

(2016/C 145/20)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Applicant: Nintendo Co. Ltd

Defendants: BigBen Interactive GmbH, BigBen Interactive S.A.

Questions referred

1. In connection with a trial to enforce claims under a Community design, can the court of a Member State whose jurisdiction with respect to a defendant is based solely on Article 79(1) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (1) in conjunction with Article 6(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, (2) on the basis that this defendant, which is domiciled in another Member State, supplied the defendant domiciled in the pertinent Member State with goods that may infringe intellectual property rights, adopt measures against the first mentioned defendant that are applicable throughout the EU and extend beyond the supply relationships on which jurisdiction is based?

2. Is Regulation No 6/2002, particularly Article 20(1)(c), to be interpreted as meaning that a third party may depict a Community design for commercial purposes if it intends to sell accessory items for the right holder's goods corresponding to the Community design? If so, what criteria apply to this?

3. For the purposes of Article 8(2) of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations, (3) how is the place 'in which the act of infringement was committed' to be determined in cases in which the infringer

   a) offers goods that infringe a Community design on a website and that website is also directed at Member States other than the one in which the person damaged by the infringement is domiciled, and/or

   b) has goods that infringe a Community design shipped to a Member State other than the one in which it is domiciled?

Is Article 15(a) and (g) of Regulation No 864/2007 to be interpreted as meaning that the law determined in this manner is also applicable to participatory acts of other persons?

(1) OJ 2002 L 3, p. 1.
(2) OJ 2001 L 12, p. 1.
(3) OJ 2007 L 199, p. 40.

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 22 January 2016 — Minister Finansów v Posnania Investment SA

(Case C-36/16)

(2016/C 145/21)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: Minister Finansów

Respondent: Posnania Investment SA

Question referred

Does the transfer of ownership of land (tangible property) by a person taxable for VAT purposes to: (a) the State Treasury — in settlement of tax arrears in respect of taxes constituting State budget revenues; or (b) a municipality, district or regional authority — in settlement of tax arrears in respect of taxes constituting their budget revenues, resulting in the discharge of tax liabilities, constitute a transaction that is subject to tax (supply of goods for consideration) within the meaning of Article 2(1)(a) and Article 14(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax? (1)

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

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 22 January 2016 — Minister Finansów v Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych SAWP, established in Warsaw (SAWP)

(Case C-37/16)

(2016/C 145/22)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: Minister Finansów

Respondent: Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych SAWP, established in Warsaw (SAWP)

Questions referred

1. Do authors, performers and other rightholders supply services, within the meaning of Articles 24(1) and 25(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, ([1]) to producers and importers of audio recorders and similar devices and blank media, on whom collective management organisations levy on behalf of those authors, performers and other rightholders, but in their own name, fees on those devices and media by virtue of their sale?

2. If the answer to Question 1 is in the affirmative, are collective management organisations, in levying a fee on devices and media by virtue of their sale by producers and importers, acting as taxable persons, within the meaning of Article 28 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1), who are required to document those activities by means of an invoice for the purposes of Article 220(1)(1) of that directive, issued to producers and importers of audio recorders and similar devices and blank media, showing VAT as due by virtue of the fees, and, at the time at which the fees levied on behalf of the authors, performers and other rightholders are distributed to them, are the latter required to document receipt of the fees by means of an invoice indicating that VAT issued to the collective management organisation levying the fee?

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

Appeal brought on 25 January 2016 by Dyson Ltd against the judgment of the General Court (Fourth Chamber) delivered on 11 November 2015 in Case T-544/13: Dyson Ltd v European Commission

(Case C-44/16 P)

(2016/C 145/23)

Language of the case: English

Parties

Appellant: Dyson Ltd (represented by: E. Batchelor, M. Healy, solicitors, F. Carlin, barrister, A. Patsa, advocate)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— Annul the contested judgment in its entirety;

— Annul the contested Regulation ([1]) in its entirety; and

— Order the Commission to pay its own costs and Dyson's costs in connection with these proceedings and the proceedings before the General Court.

Pleas in law and main arguments

Dyson submits the General Court erred in law:

i. First, the General Court mischaracterised Dyson's plea as manifest error rather than lack of legal competence under Art.10(1) of Directive 2010/30/EU ([2]);

ii. Second, the General Court misinterpreted the scope of the Commission's delegated power under Art. 10(1) of Directive 2010/30/EU;

iii. Third, the General Court infringed Dyson's rights of defence as to facts on which Dyson had no opportunity to provide its views;

iv. Fourth, the General Court distorted and/or disregarded relevant evidence;

v. Fifth, the General Court infringed Art. 36 of the Statute of the Court of Justice by not stating reasons for: (i) characterising the applicable legal test as one of manifest error; (ii) concluding Dyson's data was 'extremely speculative'; (iii) purporting to rely on an unspecified part of an unidentified 'impact study'; and (iv) disregarding Dyson's reproducibility evidence; and

vi. Sixth, the General Court misapplied the legal test for equal treatment.

Dyson respectfully requests that the Court annul the contested judgment and grant the order sought before the General Court, annulling Commission Regulation (EU) No 665/2013 ('Contested Regulation') as it has sufficient information before it to rule on the substance of the issues raised at first instance.

([1]) Commission Delegated Regulation (EU) No 665/2013 of 3 May 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of vacuum cleaners OJ L 192, p. 1

([2]) Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products OJ L 153, p. 1

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 1 February 2016 — Evo Bus GmbH v Direcția Generală Regională a Finanțelor Publice Ploiești — Administrația Județeană a Finanțelor Publice Argeș

(Case C-55/16)

(2016/C 145/24)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Applicant: Evo Bus GmbH

Defendant: Direcția Generală Regională a Finanțelor Publice Ploiești — Administrația Județeană a Finanțelor Publice Argeș

Question referred

Are the Eighth Directive (79/1072/EEC) ([1]) and the principle of fiscal neutrality to be interpreted as precluding/having precluded the legislation of a Member State which regulates/regulated, in the light of the principle that there should be certainty in tax matters, the conditions for eligibility for reimbursement of value added tax, such as, in the present case, the condition requiring proof of payment of the tax by suppliers?

([1]) Eighth Council Directive 79/1072/EEC of 6 December 1979 on the harmonization of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in the territory of the country (OJ 1979 L 331, p. 11).

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 3 February 2016 — The Shirtmakers BV v Staatssecretaris van Financiën

(Case C-59/16)

(2016/C 145/25)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: The Shirtmakers BV

Other party: Staatssecretaris van Financiën

Question referred

Should Article 32(1)(e)(i) of the Community Customs Code be interpreted as meaning that the term 'cost of transport' should be understood to mean the amounts charged by the actual carriers of the imported goods, even where those carriers have not charged those amounts directly to the buyer of the imported goods but to another operator who has concluded the contracts of carriage with actual carriers on behalf of the buyer of the imported goods, and who has charged the buyer higher amounts in connection with his efforts in arranging the transport?

Action brought on 3 February 2016 — European Commission v Romania

(Case C-62/16)

(2016/C 145/26)

Language of the case: Romanian

Parties

Applicant: European Commission (represented by: S. Petrova, M. Heller and A. Biolan, acting as Agents)

Defendant: Romania

Form of order sought

The applicant claims that the Court should:

— declare that, by failing to adopt the laws, regulations and administrative provisions necessary to ensure compliance with the provisions of Directive 2012/33/EU ([1]) or, in any event, by failing to communicate those measures to the Commission, Romania has failed to fulfil its obligations under Article 2(1) of that directive;

— order Romania, in accordance with Article 260(3) TFEU, to pay a penalty of EUR 38 042,60 for each day of delay in complying with its obligation to communicate the measures necessary to ensure full transposition of Directive 2012/33/EU, with effect from the day on which judgment is delivered in the present case;

— order Romania to pay the costs of the proceedings.

Pleas in law and main arguments

The period for transposition of the directive into national law expired on 18 June 2014.

(1) Directive 2012/33/EU of the European Parliament and of the Council of 21 November 2012 amending Council Directive 1999/32/EC as regards the sulphur content of marine fuels (OJ 2012 L 327, p. 1).

Request for a preliminary ruling from the Juzgado Contencioso-Administrativo No 4 de Madrid (Spain) lodged on 10 February 2016 — Congregación de Escuelas Pías Provincia Betania v Ayuntamiento de Getafe

(Case C-74/16)

(2016/C 145/27)

Language of the case: Spanish

Referring court

Juzgado Contencioso-Administrativo No 4 de Madrid

Parties to the main proceedings

Applicant: Congregación de Escuelas Pías Provincia Betania

Defendant: Ayuntamiento de Getafe

Question referred

Is the exemption of the Catholic Church from the Tax on Constructions, Installations and Works in respect of work to buildings intended to be used for economic activities that do not have a strictly religious purpose contrary to Article 107(1) of the Treaty on the Functioning of the European Union?

Request for a preliminary ruling from the Raad voor Vreemdelingenbetwistingen (Belgium) lodged on 12 February 2016 — K. and Others v Belgische Staat

(Case C-82/16)

(2016/C 145/28)

Language of the case: Dutch

Referring court

Raad voor Vreemdelingenbetwistingen

Parties to the main proceedings

Applicants: A. K., Z. M., J. M., N. N. N., I. O. O., I. R., A. B.

Defendant: Belgische Staat

Questions referred

1. Should Union law, in particular Article 20 TFEU, Articles 5 and 11 of Directive 2008/115/EC ([1]) together with Articles 7 and 24 of the Charter, ([2]) be interpreted as precluding in certain circumstances a national practice whereby a residence application, lodged by a family member/third-country national in the context of family reunification with a Union citizen in the Member State where the Union citizen concerned lives and of which he is a national and who has not made use of his right of freedom of movement and establishment ('static Union citizen'), is not considered — whether or not accompanied by a removal decision — for the sole reason that the family member concerned is a third-country national subject to a valid entry ban with a European dimension?

   (a) Is it important when assessing such circumstances that there is a relationship of dependence between the family member/third-country national and the static Union citizen which goes further than a mere family tie? If so, what factors play a role in determining the existence of a relationship of dependence? Would it be useful in that regard to refer to case-law relating to the existence of a family life under Article 8 ECHR and Article 7 of the Charter?

   (b) With reference to minor children in particular, does Article 20 TFEU require more than a biological tie between the parent/third-country national and the child/Union citizen? Is it important in that regard that cohabitation is demonstrated, or do emotional and financial ties suffice, like a residential or visiting arrangement and the payment of maintenance? Would it be useful in that regard to refer to what was stated in the Court of Justice judgments of 10 July 2014 in Case C-244/13 *Ogieriakhi*, paragraphs 38 and 39; 16 July 2015 in Case C-218/14 *Singh and Others*, paragraph 54; and 6 December 2012 in Joined Cases C-356/11 and C-357/11 O. and S., paragraph 56? See in that regard also the pending request for a preliminary ruling in Case C-133/15.

   (c) Is the fact that the family life was created at a moment that the third-country national was already subject to an entry ban and thus aware of the fact that his stay in the Member State was illegal, important for the assessment of such circumstances? Could that fact be of relevance to combat the possible abuse of residence procedures in the context of family reunification?

   (d) Is the fact that no legal remedy within the meaning of Article 13(1) of Directive 2008/115/EC was applied for against the decision to impose an entry ban or the fact that the appeal against the decision to impose an entry ban was rejected important for the assessment of such circumstances?

   (e) Is the fact that the entry ban was imposed on grounds of public policy or on grounds of irregular stay a relevant factor? If so, must an examination also be undertaken of whether the third-country national concerned also represents a genuine, real and sufficiently serious threat to one of the fundamental interests of society? In that regard, can Articles 27 and 28 of Directive 2004/38/EC, ([3]) which were transposed in Articles 43 and 45 of the Vreemdelingenwet, and the associated case-law of the Court of Justice on public policy, be applied by analogy to family members of static Union citizens? (cf. the pending requests for preliminary rulings in Cases C-165/14 and C-304/14)

2. Should Union law, in particular Article 5 of Directive 2008/115/EC and Articles 7 and 24 of the Charter, be interpreted as precluding a national practice whereby a valid entry ban can be invoked in order not to consider a subsequent application for family reunification with a static Union citizen, lodged in the territory of a Member State, without taking due account of family life and the best interests of the children involved, which were mentioned in that subsequent application for family reunification?

3. Should Union law, in particular Article 5 of Directive 2008/115/EC and Articles 7 and 24 of the Charter, be interpreted as precluding a national practice whereby a decision on removal is taken with regard to a third-country national who is already subject to a valid entry ban, without taking due account of family life and the best interests of the children involved, which were mentioned in a subsequent application for family reunification with a static Union citizen, i.e. after the entry ban was imposed?

4. Does Article 11(3) of Directive 2008/115/EC imply that a third-country national must in principle lodge an application for the lifting or suspension of a current and final entry ban outside the European Union or are there circumstances in which he can also lodge that application in the European Union?

   (a) Must the third and fourth subparagraphs of Article 11(3) of Directive 2008/115/EC be understood to mean that the requirement laid down in the first subparagraph of Article 11(3) of the said Directive, to the effect that the withdrawal or the suspension of the entry ban can only be considered if the third-country national concerned is able to demonstrate that he or she has left the territory in full compliance with a return decision, must plainly have been met in every individual case or in all categories of cases?

   (b) Do Articles 5 and 11 of Directive 2008/115/EC preclude an interpretation whereby a residence application in the context of family reunification with a static Union citizen, who has not exercised his right of freedom of movement and establishment, is regarded as an implicit (temporary) application to lift or suspend the valid and final entry ban whereby, if it is shown that the residence conditions have not been met, the valid and final entry ban is revived?

   (c) Is the fact that the obligation to lodge a request for lifting or suspension in the country of origin possibly entails only a temporary separation between the third-country national and the static Union citizen, a relevant factor? Are there nevertheless circumstances in which Articles 7 and 24 of the Charter preclude such a temporary separation?

   (d) Is the fact that the only effect of the obligation to lodge a request for lifting or suspension in the country of origin is that the Union citizen would, if necessary, only have to leave the territory of the European Union in its entirety for a limited time, a relevant factor? Are there circumstances in which Article 20 TFEU nevertheless precludes the fact that the static Union citizen would have to leave the territory of the European Union in its entirety for a limited time?

([1]) Directive of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98).

([2]) OJ 2000 C 364, p. 1.

([3]) Directive of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77).

Reference for a preliminary ruling from Upper Tribunal (Tax and Chancery Chamber) (United Kingdom) made on 15 February 2016 — The English Bridge Union Limited v Commissioners for Her Majesty's Revenue & Customs

(Case C-90/16)

(2016/C 145/29)

Language of the case: English

Referring court

Upper Tribunal (Tax and Chancery Chamber)

Parties to the main proceedings

Applicant: The English Bridge Union Limited

Defendant: Commissioners for Her Majesty's Revenue & Customs

Questions referred

1. What are the essential characteristics which an activity must exhibit in order for it to be a 'sport' within the meaning of article 132(1)(m) of Council Directive 2006/112/EC ([1]) of 28th November 2006 ('the Principal VAT Directive')? In particular must an activity have a significant (or not insignificant) physical element which is material to its outcome or is it sufficient that it has a significant mental element which is material to its outcome?

2. Is duplicate contract bridge a 'sport' within article 132(1)(m) of the Principal VAT Directive?

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

Request for a preliminary ruling from the Juzgado de Primera Instancia No 38 de Barcelona (Spain) lodged on 17 February 2016 — Banco Santander, S.A. v Mahamdou Demba and Mercedes Godoy Bonet

(Case C-96/16)

(2016/C 145/30)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 38 de Barcelona

Parties to the main proceedings

Applicant: Banco Santander, S.A.

Defendants: Mahamdou Demba and Mercedes Godoy Bonet

Questions referred

1. Does the business practice of assigning or purchasing debts without offering the consumer the opportunity to extinguish the debt by paying the price, interest, expenses and costs of the proceedings to the assignee comply with EU law, and specifically with Article 38 of the Charter of Fundamental Rights of the European Union, Article 2 C of the Treaty of Lisbon, and Articles 4(2), 12 and 169(1) of the Treaty on the Functioning of the European Union? (1)

2. Is that business practice of purchasing a consumer's debt for a negligible price without his consent or knowledge, without including that practice as a general condition or unfair term imposed in the agreement, and without giving the consumer the opportunity to participate in that operation by purchasing and thus extinguishing the debt, compatible with the principles laid down in Directive 93/13/EEC (2) of 5 April 1993 on unfair terms in consumer contracts, and, by extension, with the principle of effectiveness and with Articles 3(1) and 7(1) of that directive?

3. For the purpose of safeguarding the protection of consumers and users and the Community case-law which develops it, is it in accordance with European law, Directive 93/13, and in particular Article 6(1) and Article 7(1) thereof, to establish as an unequivocal criterion that, in unsecured loan agreements concluded with consumers, a non-negotiated term which sets a default interest rate that exceeds by more than two percentage points the basic contract rate of interest ('ordinary interest') is unfair?

4. For the purpose of safeguarding the protection of consumers and users and the Community case-law which develops it, is it in accordance with European law, Directive 93/13, and in particular Article 6(1) and Article 7(1) thereof, to establish, as a consequence, that ordinary interest will continue to accrue until the debt has been paid in full?

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

Action brought on 17 February 2016 — European Commission v Hellenic Republic

(Case C-98/16)

(2016/C 145/31)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: W. Roels and D. Triantafyllou, acting as Agents)

Defendant: Hellenic Republic

Form of order sought

The applicant claims that the Court should:

— Declare that the Hellenic Republic, by the adoption and retention in force of legislation which provides that a preferential inheritance tax rate for bequests of which the beneficiaries are non-profit-making bodies established in other Member States of the EU/EEA is subject to a condition of reciprocity, has failed to fulfil its obligations under Article 63 TFEU and Article 40 of the EEA Agreement;

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The Greek legislation provides for a lower tax rate for bequests of which the beneficiaries are non-profit-making (charitable etc) legal persons. However the low rate is not valid for bequests to equivalent foreign legal persons, unless the relevant States themselves grant more favourable treatment with respect to bequests to Greek non-profit-making legal persons (that is, subject to a condition of reciprocity).

— That legislation involves discrimination to the disadvantage of (non-profit-making) legal persons of other Member States of the EU (and the EEA), which constitutes a restriction on the free movement of capital (Article 63 TFEU).

— That restriction is not covered by the exceptions in Article 65 TFEU.

— The restriction cannot be justified by the relief provided to the national budget by the activities of national non-profit-making bodies (the financial argument is unacceptable).

— Last, the principle of reciprocity cannot justify an infringement of the principle of free movement of capital by means of discrimination.

Appeal brought on 26 February 2016 by SNCF Mobilités (SNCF) against the judgment of the General Court (Seventh Chamber) delivered on 17 December 2015 in Case T-242/12 *SNCF* v *Commission*

(Case C-127/16 P)

(2016/C 145/32)

Language of the case: French

Parties

Appellant: SNCF Mobilités (SNCF) (represented by: P. Beurier, O. Billard, G. Fabre and V. Landes, avocats)

Other parties to the proceedings: European Commission, French Republic, Mory SA, in liquidation, Mory Team, in liquidation.

Form of order sought

The appellant claims that the Court should:

— declare the appeal admissible and well founded;

— set aside the judgment of the General Court of 17 December 2015 in Case T-242/12 *Société nationale des chemins de fer français (SNCF)* v *Commission*;

— order the Commission to pay all of the costs.

Grounds of appeal and main arguments

The appellant relies on several grounds in support of its appeal.

First, it submits, in distorting the provisions of Article 3(2) of the *Sernam 2* decision relating to the *en bloc* disposal of Sernam's assets, the General Court committed several errors of law and failed to comply with its obligation to state reasons.

Second, it submits, in holding that the requirements of openness and transparency applicable to the call for tenders required by Article 3(2) of the *Sernam 2* decision necessarily presupposed that the selected candidate must have participated in the tender procedure as a candidate and in an autonomous capacity from the outset, the General Court erred in law.

Third, it submits, in holding that the tender of the Sernam management team was much more unfavourable to the vendor than the preliminary tenders of the other candidates, the General Court distorted the facts and erred in law.

Fourth, it submits, in holding that the Commission had not confused the purpose and the price of the *en bloc* sale of Sernam's assets, the General Court erred in law, failed to comply with its obligation to state reasons and ruled on the basis of contradictory reasoning.

Fifth, it submits, in holding that the entry in the liabilities of the liquidation account of Sernam S.A. in the amount corresponding to the aid of EUR 41 million did not comply with Article 4 of the *Sernam 2* decision, the General Court erred in law and distorted the operative part of the *Sernam 2* decision.

Sixth, it submits, in holding that the private investor principle was not applicable to the *en bloc* disposal of Sernam's assets, the General Court erred in law, failed to comply with its obligation to state reasons and distorted the operative part of the *Sernam 2* decision.

GENERAL COURT

Judgment of the General Court of 10 March 2016 — credentis v OHIM — Aldi Karlslunde (Curodont)

(Case T-53/15) ([1])

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

(2016/C 145/33)

Language of the case: English

Parties

Applicant: credentis AG (Windisch, Switzerland) (represented by: D. Breuer, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Aldi Karlslunde K/S (Karlslunde, Denmark) (represented by: N. Lützenrath, U. Rademacher, C. Fürsen and N. Bertram, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 13 November 2014 (case R 353/2014-1), relating to opposition proceedings between Aldi Karlslunde K/S and credentis AG.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders credentis AG to pay the costs.*

([1]) OJ C 107, 30.3.2015.

Judgment of the General Court of 10 March 2016 — LG Developpement v OHIM — Bayerische Motoren Werke (MINICARGO)

(Case T-160/15) ([1])

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

(2016/C 145/34)

Language of the case: English

Parties

Applicant: LG Developpement (Baud, France) (represented by: A. Sion, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Bayerische Motoren Werke AG (Munich, Germany) (represented by: R. Delorey, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 23 January 2015 (Case R 596/2014-4), relating to opposition proceedings between Bayerische Motoren Werke AG and LG Developpement.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders LG Developpement to pay the costs.*

([1]) OJ C 198, 15.6.2015.

Order of the General Court of 26 February 2016 — Colomer Italy v OHIM — Farmaca International (INTERCOSMO ESTRO)

(Case T-681/13) ([1])

(Community trade mark — Opposition proceedings — Withdrawal of the application for registration — No need to adjudicate)

(2016/C 145/35)

Language of the case: Italian

Parties

Applicant: Colomer Italy SpA (Sala Bolognese, Italy) (represented by: M. Ricolfi, F. Tarocco and C. Mezzetti, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Bullock and N. Bambara, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Farmaca International SpA (Torino, Italy) (represented by: M. Caramelli and S. Fierro, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 3 October 2013 (Case R 1186/2012-1) relating to opposition proceedings between Farmaca International SpA and Colomer Italy SpA.

Operative part of the order

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

2. *Colomer Italy SpA and Farmaca International SpA are ordered to bear their own costs and, each of them, half of the costs of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

([1]) OJ C 78, 15.3.2014.

Action brought on 3 November 2016 — Hungary v Commission

(Case T-50/16)

(2016/C 145/36)

Language of the case: Hungarian

Parties

Applicant: Hungary (represented by: M. Fehér and G. Koós, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the decision of the European Commission, adopted on 24 November 2015, to register the European citizens' initiative entitled 'Wake Up Europe! Agir pour préserver le projet démocratique européen';

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. By its first plea in law, the applicant submits, that, by registering the citizens' initiative in question, the Commission infringed Article 11(4) TEU, and Articles 2(1) and Article 4[(2)](b) of Regulation No 211/2011 ([1]) too because, according to the applicant, the initiation of the procedure provided for under Article 7 TEU (similar to infringement proceedings) cannot be regarded as a legal act of the Union required for the purpose of implementing the treaties. In addition, according to the applicant, the aim of a citizens' initiative must be the initiation, by the Commission, of a legal act of the Union which materialises in new legislation incorporated in EU law.

2. By its second plea in law, the applicant submits that, by its decision, the Commission infringed the right to sound administration, and the principles of legal certainty and equal treatment as well, and failed to fulfil its duty to state reasons. By that plea in law, the applicant submits, in essence, that given that the Commission, by that decision, departed radically from its previous practice in relation to the registration of citizens' initiatives, earlier initiatives and those that may be presented in the future will not, as a result of that contradiction and lack of foreseeability, be afforded the same treatment.

3. By its third plea in law, the applicant submits that the Commission's decision infringed the principle of sincere cooperation laid down in Article 4(3) TEU. On the one hand, the Commission had previously indicated that the conditions for initiating a procedure against Hungary under Article 7 TEU had not been met, wherefore the decision registering the citizens' initiative could let it be thought that the Commission does not find it inconceivable that the initiative in question may be well founded. On the other, the Commission, in accordance with that principle, ought to have informed Hungary of the existence of the citizens' initiative, which concerns it directly, and given it an opportunity of submitting its observations.

([1]) Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (Corrigendum in OJ 2014 L 235, p. 19).

Action brought on 05 February 2016 — Ryanair and Airport Marketing Services v Commission

(Case T-53/16)

(2016/C 145/37)

Language of the case: English

Parties

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

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Articles 1, 4, 5 and 6 of the Commission Decision of 23 July 2014 in State aid case SA.33961 (2012/C) (ex 2012/NN) which found that Ryanair and Airport Marketing Services received unlawful State aid, incompatible with the internal market, through a number of agreements relating to the Nîmes-Garons airport; and

— order the Commission to pay the costs.

Pleas in law and main arguments

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

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

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

3. Third plea in law, alleging a breach of Article 107(1) TFUE because the Commission erroneously considered that the resources of Veolia Transport Aéroport de Nîmes (VTAN), one of the airport's managers, were State resources.

4. Fourth plea in law, alleging a breach of Article 107(1) TFUE because the Commission failed to properly apply the market economy operator test. The Commission erroneously refused to rely on a comparator analysis, which would have led to the finding of absence of aid to the applicants. In the alternative, the Commission failed to attribute appropriate value to marketing services, wrongly dismissed the rationale behind the airport's decision to purchase such services, erroneously dismissed the possibility that part of the marketing services may have been purchased for general interest purposes, erroneously considered the airport manager, le Syndicat Mixte pour l'aménagement et le dévelopment de l'aéroport de Nîmes — Alès — Camargue — Cévennes (SMAN), and its privately held contractor VTAN as a single entity, based its conclusions on incomplete and inappropriate data for its calculation of the airport's profitability, disregarded the network externalities that the airport could expect to gain from its relationship with Ryanair, and neglected to compare the data submitted by the airport to those typically related to a well-run airport. In any event, even if there was an advantage to the applicants, the Commission failed to establish that the advantage was selective.

5. Fifth plea in law, alleging, on a subsidiary basis, a breach of Articles 107(1) and 108(2) TFUE, because the Commission committed a manifest error of assessment and an error of law by finding that the aid to Ryanair and Airport Marketing Services was equal to the cumulated marginal losses of the airport (as calculated by the Commission) instead of the actual benefit to Ryanair and Airport Marketing Services. The Commission should have examined the extent to which the alleged benefit had actually been passed on to Ryanair's passengers. Further, it failed to quantify any competitive advantage that Ryanair enjoyed through the alleged aid and it failed to explain properly why the recovery of the amount of aid specified in the decision was necessary to ensure the re-establishment of the situation prior to the grant of the aid.

Action brought on 17 February 2016 — POA/Commission

(Case T-74/16)

(2016/C 145/38)

Language of the case: English

Parties

Applicant: Pagkyprios organismos ageladotrofon (POA) Dimosia Ltd (Latsia, Cyprus) (represented by: N. Korogiannakis, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision Ares(2015)5632670, of 7 December 2015, of the Secretariat General, rejecting the confirmatory application submitted by the applicant by its letter dated 15 September 2015, in which the applicant, pursuant to (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43), requested access to documents concerning the application of a Cypriot producer's organization for the registration of the denomination 'Halloumi' under Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ 2012 L 343, p. 1), and

— order the Commission to pay the legal fees of the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission, relying on Article 4(3), first subparagraph, of Regulation No 1049/2001, has failed to give proper explanations why a decision-making process could be seriously undermined by the disclosure of the non-disclosed parts.

2. Second plea in law, alleging an error in law as the reasons provided by the Republic of Cyprus to refuse disclosure on the basis of Article 4(2), second indent, of Regulation No 1049/2001 are inadequate.

3. Third plea in law, alleging a breach of the right to an effective remedy and the principle of transparency as the refusal of the Republic of Cyprus to disclose some of the documents at stake implies that the applicant is not in the position to understand the subject-matter of each non disclosed document.

4. Fourth plea in law, alleging an error in law as a Member state cannot use article 4(3), first subparagraph, of Regulation No 1049/2001 to refuse the disclosure of documents if the decision which could be undermined is that of an institution of the European Union.

Appeal brought on 26 February 2016 by Nicole Clarke, Sigrid Dickmanns and Elisavet Papathanasiou against the judgment of the Civil Service Tribunal of 15 December 2015 in Joined Cases F-101/14, F-102/14 and F-103/14, Clarke and Others v EUIPO

(Case T-89/16 P)

(2016/C 145/39)

Language of the case: German

Parties

Appellants: Nicole Clarke (Alicante, Spain), Sigrid Dickmanns (Gran Alacant, Spain) and Elisavet Papathanasiou (Alicante) (represented by: H. Tettenborn, lawyer)

Other party to the proceedings: European Union Intellectual Property Office (EUIPO)

Form of order sought

The appellants claim that the Court should:

— set aside in its entirety the judgment of the Civil Service Tribunal of the European Union (Third Chamber) of 15 December 2015 in Joined Cases F-101/14, F-102/14 and F-103/14;

— rule in accordance with the form of order sought by the appellants in those proceedings;

— order EUIPO to pay the costs of all of the proceedings — that is, the proceedings before the Civil Service Tribunal of the EU and the appeal proceedings before the General Court.

Grounds of appeal and main arguments

In support of the appeal, the appellants rely on four grounds of appeal.

1. First ground of appeal: erroneous application of the termination clause contained in the appellants' employment contracts and of each of the 'renewal protocols' concluded between EUIPO and the appellants in so far as the competitions at issue are not the 'next' competitions within the meaning of the termination clause.

2. Second ground of appeal: erroneous application of the termination clause contained in the appellants' employment contracts in so far as the competitions at issue do not relate to the specialisation 'industrial property' referred to in the termination clause and therefore cannot bring that termination clause into play.

   The appellants claim, in the context of the first and second grounds of appeal, that in the judgment under appeal the Civil Service Tribunal ('the CST') misconstrued the wording, meaning and purpose of the termination clause as well as its temporal point of reference and applicability.

3. Third ground of appeal: erroneous application of Article 8(1) of the Conditions of Employment of other Servants of the European Union ('the Conditions of Employment')

   The appellants submit in this connection that, in the judgment under appeal, the CST failed to recognise that the 'renewal protocols' concluded between EUIPO and the appellants constituted, in each case, a contractual agreement to, at least, a second extension of the appellants' employment contracts, from which, pursuant to Article 8(1) of the Conditions of Employment, it followed that the appellants' contracts of employment had to be regarded as having been concluded for an indefinite period.

4. Fourth ground of appeal: erroneous application of the duty to have regard for the interests of employees and of the principle of the protection of legitimate expectations

The appellants claim in this ground that, in relation to the question whether EUIPO had fulfilled its duty to have regard for the interests of its employees or had infringed the principle of the protection of legitimate expectations, the CST erred in focusing on the time of the renewal of the employment contracts and not on the time at which the termination clause was signed in so far as it was not until nine years after the termination clause had been signed that EUIPO organised a competition to determine the fate of the appellants' careers.

Action brought on 1 March 2016 — Sheridan v Parliament

(Case T-94/16)

(2016/C 145/40)

Language of the case: English

Parties

Applicant: Gavin Sheridan (Midleton, Ireland) (represented by: N. Pirc Musar, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul decision A(2015)13844 C of the European Parliament of 14 January 2016 rejecting the applicant's confirmatory application for access to certain documents relating to information on Members' of the European Parliament travel expenses, subsistence allowances, general expenditure allowances and staffing arrangements expenses;

— order the Parliament to pay the applicant's costs pursuant to Articles 134 and 140 of the Rules of Procedure of the General Court, including the costs of any intervening parties.

Pleas in law and main arguments

The pleas in law and main arguments raised by the applicant are, in essence, identical or similar to those raised in Case T-639/15, *Psara* v *Parliament* (OJ 2016 C 48, p. 53).

Action brought on 29 February 2016 — Kasztantowicz v EUIPO — Gbb Group (GEOTEK)

(Case T-97/16)

(2016/C 145/41)

Language in which the application was lodged: German

Parties

Applicant: Martin Kasztantowicz (Berlin, Germany) (represented by: R. Ronneburger, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Gbb Group Ltd (Letchworth, United Kingdom)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: The applicant

Trade mark at issue: EU word mark 'GEOTEK' — Application for registration No 5 772 975

Proceedings before EUIPO: Revocation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 14 December 2015 in Case R 3025/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and the decision of the Cancellation Division of EUIPO of 26 September 2014 (Cancellation Decision No 9014 C);

— order EUIPO to pay the costs of the proceedings.

Pleas in law

— Infringement of Rules 57 and 65 of Regulation No 2868/95;

— Infringement of Decision No EX-11-3 of the President of the Office.

Action brought on 4 March 2016 — Italy v Commission

(Case T-98/16)

(2016/C 145/42)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul European Commission Decision No C (2015) 9526 final of 23 December 2015, notified on the same date, on the State aid SA.39451 (2015/C) (ex 2015/NN) implemented by Italy for BANCA TERCAS (Cassa di risparmio della provincia di Teramo S.p.A.);

— order the Commission to pay the costs.

Pleas in law and main arguments

In the contested decision, the Commission declared that a contribution amounting to EUR 295,14 million paid to Banca Tercas by the Fondo interbancario di tutela dei depositi constitutes State aid awarded in breach of Article 108(3) TFEU which is incompatible with the internal market. That contribution is the result of three separate measures: a non-repayable contribution of EUR 265 million (measure 1), a guarantee for EUR 35 million (with an aid element which can be calculated as EUR 0,14 million) granted in order to cover the credit exposure of Banca Tercas towards an Italian group of undertakings (measure 2) and, finally, a further non-repayable contribution of EUR 30 million, to cover tax costs of the operation (measure 3).

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

1. First plea in law, alleging infringement of Article 107(1) TFEU and erroneous reconstruction of the facts concerning the public nature of the resources to which the disputed measures relate.

   — The applicant submits in this respect that the decision incorrectly classifies the resources used by the Fondo interbancario di tutela dei depositi as public resources, without taking into account, in particular, the principles established by the Court of Justice in the judgments of 15 July 2004 in *Pearle and Others*, C-345/02, and of 30 May 2013 in *Doux Élevage*, C-677/11.

2. Second plea in law, alleging infringement of Article 107(1) TFEU and erroneous reconstruction of the facts concerning the imputability of the contested measures to the State.

   — The applicant submits in this regard that the decision is incorrect in so far as it considers the contested measures to be imputable to the State, without taking into account the fact that they derive from an autonomous decision of a private body, namely the Fondo interbancario di tutela dei depositi, and that no public authority exercised any undue influence or pressure for the purposes of reaching that decision.

3. Third plea in law, alleging infringement of Article 107(1) TFEU and erroneous reconstruction of the facts concerning the granting of a selective advantage. Incorrect application of the MEIP (market-economy-investor principle) criterion.

   — The applicant submits in this regard that the decision is incorrect in so far as it failed to consider that the contested measures also complied with the so-called MEIP criterion, since they appeared economically advantageous to the Fondo interbancario di tutela dei depositi, compared with the alternative scenario, which would have resulted from the liquidation of Banca Tercas.

4. Fourth plea in law, alleging infringement of Article 107(3)(b) TFEU and erroneous reconstruction of the facts in respect of the assessment of compatibility of the alleged State aid with the internal market.

   — The applicant submits in this regard that the Commission, finally, erred in taking the view that the disputed measures were incompatible with the internal market, even in the event that they should be classified as State aid.

Action brought on 8 March 2016 — Klausner Holz Niedersachsen v Commission

(Case T-101/16)

(2016/C 145/43)

Language of the case: German

Parties

Applicant: Klausner Holz Niedersachsen GmbH (Saalburg-Ebersdorf, Germany) (represented by: D. Reich, C. Hipp and T. Ilgner, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— find that the defendant infringed Article 108 TFEU in conjunction with Article 15(1) of Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union by failing, following receipt of the applicant's letter of 13 November 2015, to take the decision provided for in those provisions to close the preliminary examination procedures in cases SA.37113 and SA.375009 pursuant to Article 4 of that regulation;

— order the defendant to pay the costs of the proceedings, even if the action should serve no purpose by reason of the adoption of a measure by the European Commission in the course of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law by which it claims that the Commission failed to take, within a reasonable period, a decision closing the preliminary examination procedure pursuant to Article 4(2) to (4) of Regulation (EU) 2015/1589, ([1]) despite being called upon to act pursuant to the second paragraph of Article 265 TFEU.

([1]) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Order of the Civil Service Tribunal (Third Chamber) of 10 March 2016 — Kozak v Commission

(Case F-152/15)

(Civil service — Open Competition EPSO/AD/293/14 — Decision of the selection board not to admit a candidate to sit tests at the assessment centre — Request for review — New decision of the selection board confirming its initial decision — Communication by EPSO of a reasoned reply — Purely confirmatory act — Time-limit for bringing proceedings — Manifest inadmissibility — Article 81 of the Rules of Procedure)

(2016/C 145/44)

Language of the case: English

Parties

Applicant: Małgorzata Kozak (Warsaw, Poland) (represented by: J. Łojkowska-Paprocka, lawyer)

Defendant: European Commission

Re:

Application for annulment of the decision of EPSO not to admit the applicant to the assessment stage of Competition EPSO/AD/293/14.

Operative part of the order

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

2. *Ms Kozak is to bear her own costs.*

Action brought on 24 January 2016 — ZZ v Commission

(Case F-5/16)

(2016/C 145/45)

Language of the case: English

Parties

Applicant: ZZ (represented by: O. Mader, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the Commission's decision not to reclassify the applicant's contract as that of a temporary agent or, in the alternative, compensation for the material damage suffered.

Form of order sought

— Annul the decision of the Commission of 9 April 2015 on the reclassification of the applicant's contract and — where required — the decision of 13 October 2015 (R/513/15) rejecting the complaint of the applicant;

— In the alternative, order the Commission to compensate the applicant for the damage he suffered by the refusal of his reclassification request;

— Order the defendant to pay the costs.

Action brought on 29 January 2016 — ZZ and Others v EEAS

(Case F-6/16)

(2016/C 145/46)

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

Subject-matter and description of the proceedings

The annulment of the applicants' salary slips in respect of March 2015 and those drawn up afterwards in so far as they apply the EEAS' decision to reduce the allowance for living conditions from 15 % to 10 %.

Form of order sought

The applicants claim that the Tribunal should:

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

— as a result, annul their salary slips in respect of March 2015, and those drawn up afterwards in so far as those salary slips apply an ALC of 10 %;

— order the EEAS to pay the costs.

Action brought on 4 February 2016 — ZZ v Commission

(Case F-7/16)

(2016/C 145/47)

Language of the case: French

Parties

Applicant: ZZ (represented by: C. Mourato, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the Commission's decision reducing the amount of the compensation paid to the applicant, who was employed under a Belgian law contract of indeterminate duration, and providing for the recovery of the amounts overpaid.

Form of order sought

— Principally, annul the Commission's note of 9 April 2015 (PMO) sent to the applicant and the salary statements subsequently applying it and, if necessary, the note of 12 December 2014 and the salary statements subsequently drawn up, as regards the recalculation of her monthly compensation, and more exactly:

  — Note of 9 April 2015 of the European Commission (Office for the Administration and Payment of Individual Entitlements, PMO/1 — Remuneration and management of individual rights to emoluments) to the applicant;

  — The applicant's salary statements 04/2015 to 06/2015 and subsequent salary statements which include a deduction of EUR 208,30 (Code DPN — Remboursement dett) and subsequent salary statements;

  — Preliminary note of 12 December 2014 of the European Commission (Office for the Administration and Payment of Individual Entitlements, PMO/1 — Remuneration and management of individual rights to emoluments) to the applicant;

  — The applicant's salary statements 12/2014 to 03/2015.

— In the alternative, annul the notes and salary statements in so far as they make deductions applied retroactively from the remuneration received by the applicant until 9 April 2015;

— In any event, order the defendant to pay the costs.

Action brought on 5 February 2016 — ZZ v EMA

(Case F-8/16)

(2016/C 145/48)

Language of the case: French

Parties

Applicant: ZZ (represented by: L. Levi and A. Blot, lawyers)

Defendant: European Medicines Agency (EMA)

Subject-matter and description of the proceedings

Annulment of the applicant's staff report for 2014 and the decision of 1 April 2015 of the authority empowered to conclude contracts of employment not to renew the applicant's contract as a member of the temporary staff and claim for damages for the non-pecuniary harm allegedly suffered.

Form of order sought

— Annul the applicant's staff report covering the period from 16 February 2014 to 31 December 2014, as finalised on 31 March 2015 by the Assessor and countersigned by the applicant on 14 April 2015;

— Annul the decision of the AECCE of 1 April 2015 not to renew the applicant's contract as a member of the temporary staff;

— Annul both decisions of the AECCE of 26 October 2015 rejecting the two claims made by the applicant of 30 June 2015 against the two abovementioned decisions;

— Award the applicant damages in the sum of EUR 10 000;

— Order the defendant to pay the costs.

Action brought on 17 February 2016 — ZZ and Others v Parliament

(Case F-9/16)

(2016/C 145/49)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: M. Casado Garcia-Hirschfeld, lawyer)

Defendant: European Parliament

Subject-matter and description of the proceedings

The annulment of the decisions refusing the four applicants the grant of education allowances in respect of the year 2014-2015 and the following years and an order that the defendant is to pay the applicants the education allowances in respect of 2015/2016, together with interest calculated as of the dates on which those sums became payable under Annex VII to the Staff Regulations.

Form of order sought

The applicants claim that the Tribunal should:

— annul the contested individual decisions dated 24 April 2015;

— so far as necessary, annul the decisions of the Secretary-General of the European Parliament dated 17 November and 19 November 2015;

— order the European Parliament to pay the applicants the education allowance in respect of 2015/2016 together with interest calculated as of the dates on which those sums became payable under Annex VII to the Staff Regulations;

— order the Parliament to pay the costs.

Action brought on 19 February 2016 — ZZ v Commission

(Case F-11/16)

(2016/C 145/50)

Language of the case: French

Parties

Applicant: ZZ (represented by: N. Lhoest, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the Commission's decision refusuing to re-grade the applicant on her transfer to the European Parliament and to reconstruct her career and an order that the Commission pay the applicant the difference between the remuneration paid to her and that which ought to be paid to her after the reconstruction of her career, together with interest for late payment.

Form of order sought

— Annul the decision of the European Commission of 17 April 2015 refusing to re-grade the applicant on her transfer and to review her career at the European Commission from 16 June 2001 to 31 December 2010, despite the promotion from grade C4 (now AST 3) to grade C3 (now AST 4) granted to her by the European Parliament on 7 August 2009 with retroactive effect from 1 January 2000;

— Annul the decision of the European Commission of 9 November 2015 rejecting the claim made by the applicant on 17 July 2015;

— Order the European Commission to pay the applicant the difference between the remuneration which it paid to her and the remuneration which ought to be paid to her following the reconstruction of her career in grade and step, together with interest for late payment;

— Order the European Commission to pay the costs.

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