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Information and Notices

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Contents

EN

General Court

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2016/C 175/01)

Last publication

OJ C 165, 10.5.2016

Past publications

OJ C 156, 2.5.2016

OJ C 145, 25.4.2016

OJ C 136, 18.4.2016

OJ C 118, 4.4.2016

OJ C 111, 29.3.2016

OJ C 106, 21.3.2016

These texts are available on:

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

GENERAL COURT

Assignment of Judges to Chambers

(2016/C 175/02)

On 13 April 2016, the Plenary Meeting of the General Court decided, following the entry into office as Judges of Mr Iliopoulos, Mr Calvo-Sotelo Ibáñez-Martín, Mr Spielmann, Mr Valančius, Mr Csehi, Ms Półtorak and Ms Marcoulli, on a proposal from the President made in accordance with Article 13(2) of the Rules of Procedure, to amend the decision of the General Court of 23 October 2013, ([1]) as most recently amended by the decision of 8 October 2015, ([2]) on the assignment of Judges to Chambers.

For the period from 14 April 2016 to 31 August 2016, the assignment of Judges to Chambers is as follows:

First Chamber (Extended Composition), sitting with five Judges:

Mr Kanninen, Vice-President, Ms Pelikánová, Mr Buttigieg, Mr Gervasoni and Mr Calvo-Sotelo Ibáñez-Martín, Judges.

First Chamber, sitting with three Judges:

Mr Kanninen, Vice-President;

(a) Ms Pelikánová and Mr Buttigieg, Judges;

(b) Ms Pelikánová and Mr Calvo-Sotelo Ibáñez-Martín, Judges;

(c) Mr Buttigieg and Mr Calvo-Sotelo Ibáñez-Martín, Judges.

Second Chamber (Extended Composition), sitting with five Judges:

Ms Martins Ribeiro, President of the Chamber, Mr Bieliūnas, Mr Gervasoni, Mr Madise and Mr Csehi, Judges.

Second Chamber, sitting with three Judges:

Ms Martins Ribeiro, President of the Chamber;

(a) Mr Gervasoni and Mr Madise, Judges;

(b) Mr Gervasoni and Mr Csehi, Judges;

(c) Mr Madise and Mr Csehi, Judges.

([1]) OJ C 344, 23.11.2013, p. 2.
([2]) OJ C 354, 26.10.2015, p. 2.

Third Chamber (Extended Composition), sitting with five Judges:

Mr Papasavvas, President of the Chamber, Ms Labucka, Mr Bieliūnas, Mr Forrester and Mr Iliopoulos, Judges.

Third Chamber, sitting with three Judges:

Mr Papasavvas, President of the Chamber;

(a) Mr Bieliūnas and Mr Forrester, Judges;

(b) Mr Bieliūnas and Mr Iliopoulos, Judges;

(c) Mr Forrester and Mr Iliopoulos, Judges.

Fourth Chamber (Extended Composition), sitting with five Judges:

Mr Prek, President of the Chamber, Ms Labucka, Mr Schwarcz, Ms Tomljenović and Mr Kreuschitz, Judges.

Fourth Chamber, sitting with three Judges:

Mr Prek, President of the Chamber, Ms Labucka and Mr Kreuschitz, Judges.

Fifth Chamber (Extended Composition), sitting with five Judges:

Mr Dittrich, President of the Chamber, Mr Dehousse, Mr Schwarcz, Ms Tomljenović and Mr Collins, Judges.

Fifth Chamber, sitting with three Judges:

Mr Dittrich, President of the Chamber, Mr Schwarcz and Ms Tomljenović, Judges.

Sixth Chamber (Extended Composition), sitting with five Judges:

Mr Frimodt Nielsen, President of the Chamber, Mr Dehousse, Ms Wiszniewska-Białecka, Mr Collins and Mr Valančius, Judges.

Sixth Chamber, sitting with three Judges:

Mr Frimodt Nielsen, President of the Chamber;

(a) Mr Dehousse and Mr Collins, Judges;

(b) Mr Dehousse and Mr Valančius, Judges;

(c) Mr Collins and Mr Valančius, Judges.

Seventh Chamber (Extended Composition), sitting with five Judges:

Mr van der Woude, President of the Chamber, Ms Wiszniewska-Białecka, Ms Kancheva, Mr Ulloa Rubio and Ms Marcoulli, Judges.

Seventh Chamber, sitting with three Judges:

Mr van der Woude, President of the Chamber;

(a) Ms Wiszniewska-Białecka and Mr Ulloa Rubio, Judges;

(b) Ms Wiszniewska-Białecka and Ms Marcoulli, Judges;

(c) Mr Ulloa Rubio and Ms Marcoulli, Judges.

Eighth Chamber (Extended Composition), sitting with five Judges:

Mr Gratsias, President of the Chamber, Mr Czúcz, Ms Kancheva, Mr Wetter and Ms Półtorak, Judges.

Eighth Chamber, sitting with three Judges:

Mr Gratsias, President of the Chamber;

(a) Ms Kancheva and Mr Wetter, Judges;

(b) Ms Kancheva and Ms Półtorak, Judges;

(c) Mr Wetter and Ms Półtorak, Judges.

Ninth Chamber (Extended Composition), sitting with five Judges:

Mr Berardis, President of the Chamber, Mr Czúcz, Mr Pelikánová, Mr Popescu and Mr Spielmann, Judges.

Ninth Chamber, sitting with three Judges:

Mr Berardis, President of the Chamber;

(a) Mr Czúcz and Mr Popescu, Judges;

(b) Mr Czúcz and Mr Spielmann, Judges;

(c) Mr Popescu and Mr Spielmann, Judges.

The Chambers (Extended Composition) sitting with five Judges shall be composed:

— in the case of the First, Second, Third, Sixth, Seventh and Eighth Chambers sitting with three Judges from the four Judges assigned to them, by the addition to the three-Judge composition first seised of the case of the fourth Judge forming the Chamber and a fifth Judge from the Chamber immediately following in numerical order (who shall not be the President of the Chamber), designated in accordance with the order laid down in Article 8 of the Rules of Procedure;

— in the case of the Ninth Chamber sitting with three Judges from the four Judges assigned to it, by the addition to the three-Judge composition first seised of the case of the fourth Judge assigned to the Chamber and a fifth Judge from the First Chamber (who shall not be the President of the Chamber), designated in accordance with the order laid down in Article 8 of the Rules of Procedure;

— in the case of the Fourth Chamber, by the addition of two Judges from the Fifth Chamber (who shall not be the President of the Chamber);

— in the case of the Fifth Chamber, by the addition of two Judges from the Sixth Chamber (who shall not be the President of the Chamber), designated in accordance with the order laid down in Article 8 of the Rules of Procedure.

The Chambers sitting with three Judges from the four Judges assigned to them shall sit in three sub-compositions.

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Landgericht Hamburg (Germany) lodged on 25 January 2016 — Irene Uhden v KLM Royal Dutch Airlines N.V.

(Case C-40/16)

(2016/C 175/03)

Language of the case: German

Referring court

Landgericht Hamburg

Parties to the main proceedings

Applicant: Irene Uhden

Defendant: KLM Royal Dutch Airlines N.V.

Question referred

Is the second sentence of Article 7(1) of Regulation (EC) No 261/2004 ([1]) of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 ('the air passenger rights regulation') to be interpreted as meaning that the concept of 'distance' relates only to the direct distance between the point of departure and the last destination, regardless of the distance actually flown in the individual case?

([1]) OJ 2004 L 46, p. 1.

Appeal brought on 29 January 2016 by Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) against the judgment of the General Court (Fourth Chamber) delivered on 18 November 2015 in Case T-659/14: Instituto dos Vinhos do Douro e do Porto, IP v OHIM

(Case C-56/16 P)

(2016/C 175/04)

Language of the case: English

Parties

Appellant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: O. Mondéjar Ortuño and E. Zaera Cuadrado, Agents)

Other parties to the proceedings: Instituto dos Vinhos do Douro e do Porto, IP, Bruichladdich Distillery Co.Ltd

Form of order sought

The appellant claims that the Court should:

— uphold the appeal in its entirety;

— annul the judgment under appeal;

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

Pleas in law and main arguments

The General Court infringed Article 53(1)(c) of Regulation (EC) No 207/2009 ([1]), read in conjunction with Article 8(4), and Article 53(2)(d) of Regulation (EC) No 207/2009 by considering that the protection conferred by Regulation (EC) No 491/2009 ([2]) to registered designations of origin can be supplemented by Decreto-Lei No 173/2009 and Decreto-Lei No 212/2004 and the Portuguese Intellectual Property Code.

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

([2]) Council Regulation (EC) No 491/2009 of 25 May 2009 amending Regulation (EC) No 1234/2007 establishing a common organization of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) OJ L 154, p. 1

Request for a preliminary ruling from the Szegedi Közigazgatási és Munkaügyi Bíróság (Hungary) lodged on 8 February 2016 — Istanbul Lojistik Ltd v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatóság

(Case C-65/16)

(2016/C 175/05)

Language of the case: Hungarian

Referring court

Szegedi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Istanbul Lojistik Ltd

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatóság

Questions referred

1. Must Article 4 of Decision No 1/95 of the [EC]-Turkey Association Council be interpreted as meaning that a tax such as that governed by the Hungarian Law on motor vehicle tax, which, in accordance with that Law, is levied on a goods vehicle with a Turkish registration number operated by a Turkish haulier and used for the carriage of goods, by reason of the fact that it crosses the Hungarian border in order to arrive at another Member State — starting from Turkey and passing through Hungary as the transit Member State — constitutes a charge having equivalent effect to a customs duty and is not, therefore, compatible with Article 4 of that decision?

2. (a) If the answer to the first question is no, must Article 5 of Decision No 1/95 of the [EC]-Turkey Association Council be interpreted as meaning that a tax such as that governed by the Hungarian Law on motor vehicle tax, which, in accordance with that Law, is levied on a goods vehicle with a Turkish registration number operated by a Turkish haulier and used for the carriage of goods, by reason of the fact that it crosses the Hungarian border in order to arrive at another Member State — starting from Turkey and passing through Hungary as the transit Member State — constitutes a measure having equivalent effect to a quantitative restriction and is not, therefore, compatible with Article 5 of that decision?

(b) Must Article 7 of Decision No 1/95 of the [EC]-Turkey Association Council be interpreted as meaning that it is permissible, on road safety grounds and the grounds for applying laws, for a tax such as that governed by the Hungarian Law on motor vehicle tax, which, in accordance with that Law, is levied on a goods vehicle with a Turkish registration number operated by a Turkish haulier and used for the carriage of goods, to be applied, by reason of the fact that it crosses the Hungarian border in order to arrive at another Member State, starting from Turkey and passing through Hungary as the transit Member State?

3. Must Article 3(2) TFEU and Article 1(2) and (3)(a) of Regulation (EC) No 1072/2009 ([1]) be interpreted as precluding, on the basis of a bilateral transport agreement concluded with Turkey, the Member State of transit from applying a tax such as that governed by the Hungarian Law on motor vehicle tax, which, in accordance with that Law, is levied on a goods vehicle with a Turkish registration number operated by a Turkish haulier and used for the carriage of goods, by reason of the fact that it crosses the Hungarian border in order to arrive at another Member State, starting from Turkey and passing through Hungary as the transit Member State?

4. Must Article 9 of the [EC]-Turkey Association Agreement between the [EEC] and Turkey be interpreted … as meaning that a tax such as that governed by the Hungarian Law on motor vehicle tax, which, in accordance with that Law, is levied on a goods vehicle with a Turkish registration number operated by a Turkish haulier and used for the carriage of goods, by reason of the fact that it crosses the Hungarian border in order to arrive at another Member State — starting from Turkey and passing through Hungary as the transit Member State — entails discrimination on grounds of nationality and is not, therefore, compatible with Article 9 of that agreement?

([1]) Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ 2009 L 300, p. 72).

Request for a preliminary ruling from the Najvyšší súd Slovenskej republiky (Slovakia) lodged on 15 February 2016 — Radosław Szoja v Sociálna poisťovňa

(Case C-89/16)

(2016/C 175/06)

Language of the case: Slovak

Referring court

Najvyšší súd Slovenskej republiky

Parties to the main proceedings

Appellant: Radosław Szoja

Respondent: Sociálna poisťovňa

Questions referred

1. May Article 13(3)of Regulation (EC) No 883/2004 ([1]) of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, in conjunction with the right to social security benefits and social services enshrined in Article 34(1) and (2) of the Charter of Fundamental Rights of the European Union, in the circumstances of the dispute in the main proceedings, be interpreted without taking into account the clarifications in Article 14 of Regulation (EC) No 987/2009 ([2]) of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, and without any possibility of consequently applying the procedure mentioned in Article 16 of the abovementioned regulation, in such a way that the shortness of the working time or the low level of remuneration of employees has no effect on the choice of the national law applicable when a person is both employed and self-employed, in other words: the abovementioned Article 14 of the implementing Regulation does not apply to the interpretation of Article 13(3) of the basic Regulation?

2. If a negative answer is given to the first question, is it the case, if there is a conflict when two regulations are applied, that is to say: conflict between the basic regulation and the implementing regulation, which in the present case are Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, that the national court may assess the provisions thereof on the basis of their legislative force, or on the basis of their rank in the hierarchy of Union law?

3. May the interpretation of the provisions of the Basic Regulation adopted by the Administrative Commission under Article 72 of the Basic Regulation be considered a binding interpretation made by an EU institution, from which the national court may not depart, which at the same time precludes a reference for a preliminary ruling, or is that interpretation merely one of the permissible interpretations of EU law that the national court must take into account as one of the factors underlying its decision?

([1]) OJ 2004 L 166, p. 1.
([2]) OJ 2009 L 284, p. 1.

Request for a preliminary ruling from the Juzgado de Primera Instancia No 60 de Madrid (Spain) lodged on 15 February 2016 — Caixabank S.A. v Héctor Benlliure Santiago

(Case C-91/16)

(2016/C 175/07)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 60 de Madrid

Parties to the main proceedings

Applicant: Caixabank S.A.

Defendant: Héctor Benlliure Santiago

Question referred

Is the use of an agreed remunerative interest rate in a situation in which default interest is applicable in accordance with Directive 93/13 ([1]) or, on the contrary, does it presuppose an amendment of the contract which is not permitted under EU case-law?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Appeal brought on 18 February 2016 by Ellinikos Chrysos AE Metalleion kai Viomichanias Chrysou against the judgment of the General Court (Fourth Chamber) delivered on 9 December 2015 in Joined Cases T-233/11 and T-262/11: Greece and Ellinikos Chrysos v Commission

(Case C-100/16 P)

(2016/C 175/08)

Language of the case: English

Parties

Appellant: Ellinikos Chrysos AE Metalleion kai Viomichanias Chrysou (represented by: V. Christianos, I. Soufleros, dikigoroi)

Other parties to the proceedings: Hellenic Republic, European Commission

Form of order sought

The appellant claims that the Court should:

— Set aside the Judgment of the General Court of 9 December 2015 in Joined Cases T-233/11 and T-262/11 and refer the case back to the General Court for a ruling.

— Order the Commission to pay the costs

Pleas in law and main arguments

1. The judgment under appeal held that all the conditions of Article 107 (1) TFEU were satisfied with regard to two State aid measures; the first State aid measure concerns the sale of the Cassandra Mines to the Appellant at a price which is lower than their market value. The second measure concerns the waiver of tax, in relation to the land value of the mines.

2. The Appellant relies on three grounds of appeal, two in respect of the first State aid measure and one in respect of the second State aid measure. More specifically:

— In relation to the first State aid measure: the appellant submits that the assessment in the judgment under appeal with regard to the existence of an advantage is vitiated by errors in law, combined with defective reasoning and procedural irregularity in respect of the value of the mines.

— In relation to the first State aid measure: the appellant submits that the assessment in the judgment under appeal with regard to the existence of an advantage is vitiated by errors in law, combined with defective reasoning, in respect of the land value.

— In relation to the second State aid measure: the appellant submits that the assessment in the judgment under appeal with regard to the existence of an advantage is vitiated by error in law.

Request for a preliminary ruling from the Curtea de Apel Cluj (Romania) lodged on 19 February 2016 — SC Paper Consult SRL v Direcția Regională a Finanțelor Publice Cluj-Napoca, Administrația Județeană a Finanțelor Publice Bistrița-Năsăud

(Case C-101/16)

(2016/C 175/09)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Appellant: SC Paper Consult SRL

Respondents: Direcția Regională a Finanțelor Publice Cluj-Napoca, Administrația Județeană a Finanțelor Publice Bistrița-Năsăud

Questions referred

1. Does Directive 2006/112/EC ([1]) preclude national rules under which a taxable person is denied the right to deduct VAT on the grounds that the person upstream, which issued the invoice in which the expenditure and VAT are indicated, has been declared inactive by the tax authorities?

2. If the answer to the first question is in the negative, does Directive 2006/112/EC preclude national rules under which it is sufficient to display the list of registered inactive taxpayers at the headquarters of the Agenției Națională de Administrare Fiscală (National Agency for Fiscal Administration) and to publish that list on the website of that agency, in the section Public information — Information relating to economic operators, in order that the right to deduct VAT in the circumstances described in the first question may be refused?

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

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 23 February 2016 — Lg Costruzioni Srl v Area — Azienda Regionale per l'Edilizia Abitativa — Distretto di Carbonia, Area — Azienda Regionale per l'Edilizia Abitativa

(Case C-110/16)

(2016/C 175/10)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Lg Costruzioni Srl

Respondent: Area — Azienda Regionale per l'Edilizia Abitativa — Distretto di Carbonia, Area — Azienda Regionale per l'Edilizia Abitativa

Questions referred

Is a provision such as that in Article 53(3) of Legislative Decree No 163 of 16 April 2006, which allows participation by an undertaking with a 'named' design engineer who, since he is not himself a tenderer, may not, according to national case-law, rely on the capacity of others, compatible with Article 48 of Directive 2004/18/EC of 31 March 2004? ([1])

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

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 24 February 2016 — Persidera SpA v Autorità per le Garanzie nelle Comunicazioni, Ministero dello Sviluppo Economico delle Infrastrutture e dei Trasporti

(Case C-112/16)

(2016/C 175/11)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Persidera SpA

Respondents: Autorità per le Garanzie nelle Comunicazioni, Ministero dello Sviluppo Economico delle Infrastrutture e dei Trasporti

Questions referred

1. Does EU law, in particular Articles 56, 101, 102 and 106 TFEU, Article 9 of Directive 2002/21/EC ([1]) ('the Framework Directive'), Articles 3, 5 and 7 of Directive 2002/20/EC ([2]) ('the Authorisation Directive') and Articles 2 and 4 of Directive 2002/77/EC ([3]) ('the Competition Directive') and the principles of non-discrimination, transparency, freedom of competition, proportionality, effectiveness and pluralism of information preclude a provision of national law which, for the purposes of determining the number of digital networks to be allocated to operators for the conversion of analogue networks, provides that equal account should be taken of analogue networks operated entirely lawfully and analogue networks that operated in the past in breach of the anti-concentration thresholds laid down by rules of national law and have been the subject of adverse criticism by the Court of Justice or the European Commission or, in any event, operated without being granted the necessary right?

2. Does EU law, in particular Articles 56, 101, 102 and 106 TFEU, Article 9 of Directive 2002/21/EC ('the Framework Directive'), Articles 3, 5 and 7 of Directive 2002/20/EC ('the Authorisation Directive') and Articles 2 and 4 of Directive 2002/77/EC ('the Competition Directive') and the principles of non-discrimination, transparency, freedom of competition, proportionality, effectiveness and pluralism of information preclude a provision of national law which, for the purposes of determining the number of digital networks to be allocated to operators for the conversion of analogue networks takes account of all the analogue networks operated until that point, including those operated in breach of the anti-concentration thresholds laid down by rules of national law that have already been the subject of adverse criticism by the Court of Justice or the European Commission or, in any event, those operated without being granted the necessary rights, and which has the actual effect of reducing the number of digital networks allocated to a multi-network operator, by comparison with those operated under the analogue system, to an extent which is proportionally greater than the reduction imposed on competitors?

([1]) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ 2002 L 108, p. 33).

([2]) Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ 2002 L 108, p. 21).

([3]) Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (Text with EEA relevance) (OJ 2002 L 249, p. 21).

Request for a preliminary ruling from the Juzgado de Primera Instancia No 60 de Madrid (Spain) lodged on 29 February 2016 — Abanca Corporación Bancaria S.A. v Juan José González Rey and Others

(Case C-120/16)

(2016/C 175/12)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 60 de Madrid (Spain)

Parties to the main proceedings

Applicant: Abanca Corporación Bancaria S.A.

Defendants: Juan José González Rey, María Consuelo González Rey and Francisco Rodríguez Alonso

Question referred

Is the use of an agreed remunerative interest rate in a situation in which default interest is applicable in accordance with Directive 93/13 ([1]) or, on the contrary, does it presuppose an amendment of the contract which is not permitted under EU case-law?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 1 March 2016 — Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' — Sofia v Iberdrola Inmobiliaria Real Estate Investments EOOD

(Case C-132/16)

(2016/C 175/13)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika', Sofia

Defendant: Iberdrola Inmobiliaria Real Estate Investments EOOD

Questions referred

1. Do Article 26(1)(b), Article 168(a) and Article 176 of Council Directive 2006/112/EC ([1]) of 28 November 2006 on the common system of value added tax preclude a provision of national law such as Article 70(1)(2) of the Zakon za danak varhu dobavenata stoynost (Law on value added tax), which restricts the right to deduct input VAT in respect of the supply of services relating to construction or improvement of a property owned by a third party, which are used both by the recipient of the supply and by the third party, for the sole reason that the third party enjoys the result of those services free of charge, without taking into account the fact that the services are to be used in the context of the economic activity of the taxable recipient?

2. Do Article 26(1)(b), Article 168(a) and Article 176 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax preclude a tax practice consisting of refusing to recognise the right to deduct the input VAT in respect of the supply of services, where the expenditure corresponding to those services is counted among the taxable person's general costs, on the ground that it was incurred in order to construct or improve a property owned by another person, without taking into account the fact that that property is also to be used by the recipient of the supply of building services in the context of its economic activity?

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

Request for a preliminary ruling from the Högsta domstolen (Sweden) lodged on 14 March 2016 — Riksåklagaren v Zenon Robert Akarsar

(Case C-148/16)

(2016/C 175/14)

Language of the case: Swedish

Referring court

Högsta domstolen

Parties to the main proceedings

Applicant: Riksåklagaren

Defendant: Zenon Robert Akarsar

Question referred

The question concerns the interpretation of Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA ([1])).

Can a Member State refuse to execute a European arrest warrant, which concerns the execution of a custodial sentence which was passed as a combined sentence for a number of offences, when one of those offences does not constitute an offence under the law of the executing Member State and it is not possible in the issuing Member State to order that the sentence be split?

The offence in question does not constitute such an offence covered by Article 2.2 of the Framework Decision in respect of which the requirement of double criminality cannot be applied.

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

Request for a preliminary ruling from the Attunda tingsrätt (Sweden) lodged on 21 March 2016 — Airhelp Limited v Thomas Cook Airlines Scandinavia A/S

(Case C-161/16)

(2016/C 175/15)

Language of the case: Swedish

Referring court

Attunda tingsrätt

Parties to the main proceedings

Applicant: Airhelp Limited

Defendants: Thomas Cook Airlines Scandinavia A/S

Questions referred

1. Must Articles 2(g) and 3(2)(a) of the regulation ([1]) be interpreted as meaning that a passenger must have a reserved seat (that is to say, the right to his own seat in the aeroplane) or is it sufficient for the passenger to have received confirmation of his booking on the flight (that is to say, the right to be transported in the aeroplane) for compensation to be payable?

2. Must a ticket at a reduced fare for a child who does not have his own seat for the flight, but travels in the company of another passenger, be regarded as available directly or indirectly to the public under Article 3(3) of the regulation?

([1]) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 2004, p. 1).

Appeal brought on 29 March 2016 by Toshiba Corporation against the judgment of the General Court (First Chamber) delivered on 19 January 2016 in Case T-404/12: Toshiba Corporation v European Commission

(Case C-180/16 P)

(2016/C 175/16)

Language of the case: English

Parties

Appellant: Toshiba Corporation (represented by: J. F. MacLennan, Solicitor, A. Schulz, Rechtsanwalt, S. Sakellariou, Δικηγόρος, J. Jourdan, avocat)

Other party to the proceedings: European Commission

Form of order sought

The appellant claim that the Court should:

— Set aside the Judgment of the General Court in Case T-404/12, and

i. Annul the Decision of the European Commission in Case COMP/39.966 — *Gas Insulated Switchgear re-adoption*; or

ii. Reduce the fine imposed on Toshiba, in application of Article 261 TFEU; or

iii. Refer the case back to the General Court for determination in accordance with the judgment of this Court as to points of law; and in any event

— Order the European Commission to pay the costs.

Pleas in law and main arguments

The present application is founded on three pleas in law:

a) First plea: The General Court erred in law in finding that Toshiba's rights of defence were not breached by the European Commission; in particular in so far as the Commission did not issue a Statement of Objections to Toshiba prior to adopting the re-adoption decision in 2012;

b) Second plea: The General Court erred in law in concluding that the methodology applied by the European Commission to calculate Toshiba's fine did not infringe the principle of equal treatment; in particular in so far as the Commission used the starting amount calculated for the joint venture TM T&D as a basis to calculate Toshiba's fine, and not a turnover relevant to Toshiba, contrary to what the Commission did for the European addressees of the decision adopted in 2007; and

c) Third plea: The General Court erred in law in concluding that the European Commission, by not reducing Toshiba's fine to reflect its relative participation in the infringement, did not infringe the principle of equal treatment; in particular in so far as the Commission did not consider that Toshiba's more limited participation in the collusive conduct, in comparison to that of the European addressees of the decision adopted in 2007, justified being reflected in the fine amount.

Application for authorisation to serve a garnishee order brought on 29 March 2016 — Yukos Universal Ltd v European Investment Bank

(Case C-185/16 SA)

(2016/C 175/17)

Language of the case: French

Parties

Applicant: Yukos Universal Ltd (represented by: H. Boularbah, avocat)

Defendant: European Investment Bank

Form of order sought

— Order the European Investment Bank to declare the grounds, amounts and arrangements for the debts which the Russian Federation holds against it;

— Authorise YUL to serve interim and final garnishee orders on the European Investment Bank in respect of those debts and, *de minimis*, of all sums owed or which will be owed by the European Investment Bank to the Russian Federation in its capacity as issuer of bonds subscribed by the Russian Federation, including on the interest generated by those bonds and their reimbursement, in accordance with the arrangements laid down in the applicable issue contract(s) or prospectus(es) and up to an amount, in principal and interest, subject to revaluation during the proceedings, of EUR 1 690 886 892,20 (amount of the debt held by YUL against the Russian Federation);

— In any event, order the European Investment Bank to pay the costs of these proceedings.

GENERAL COURT

Order of the General Court of 16 March 2016 — Pharm-a-care Laboratories v OHIM — Pharmavite (VITAMELTS)

(Case T-713/15) ([1])

(Community trade mark — Invalidity proceedings — Withdrawal of the application for a declaration of invalidity — No need to adjudicate)

(2016/C 175/18)

Language of the case: English

Parties

Applicant: Pharm-a-care Laboratories Pty. Ltd (Sydney, Australia) (represented by: I.A. De Freitas, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Pharmavite LLC (California, United States)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 10 September 2015 (Cases R 2649/2014-1) concerning invalidity proceedings between Pharmvite LLC and Pharm-a-care Laboratories Pty. Ltd.

Operative part of the order

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

2. *Pharm-a-care Laboratories Pty. Ltd shall bear its own costs and shall pay the costs incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

([1]) OJ C 38, 1.2.2016.

Order of the President of the General Court of 29 February 2016 — ICA Laboratories and Others v Commission

(Case T-732/15 R)

(Application for interim measures — Environment — Consumer protection — Regulation fixing maximum residue levels for guazatine — Application for suspension of operation of a measure — No urgency)

(2016/C 175/19)

Language of the case: English

Parties

Applicants: ICA Laboratories Close Corp. (Century City, South Africa); ICA International Chemicals (Proprietary) Ltd (Century City); and ICA Developments (Proprietary) Ltd (Century City) (represented by: K. Van Maldegem, R. Crespi, lawyers, and P. Sellar, Solicitor)

Defendant: European Commission (represented by: X. Lewis and P. Ondrůšek, acting as Agents)

Re:

Application for suspension of the operation of Commission Regulation (EU) 2015/1910 of 21 October 2015 amending Annexes III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for guazatine in or on certain products (OJ 2015 L 280, p. 2).

Operative part of the order

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

2. *The costs are reserved.*

Action brought on 17 March 2016 — Philip Morris Brands v EUIPO — Explosal (Superior Quality Cigarettes FILTER CIGARETTES Raquel)

(Case T-105/16)

(2016/C 175/20)

Language in which the application was lodged: English

Parties

Applicant: Philip Morris Brands Sàrl (Neuchâtel, Switzerland) (represented by: L. Alonso Domingo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Explosal Ltd (Larnaca, Cyprus)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU figurative mark in black and white containing the word elements 'Superior Quality Cigarettes FILTER CIGARETTES Raquel' — EU trade mark No 10 008 084

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of EUIPO of 4 January 2016 in Case R 2775/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and either reject EUTM application no. 10008084 for all goods or, subsidiarily, send the case back to the Board of Appeal for further consideration of the prohibitions laid down by Article 8(1)(b) and 8(5) of Regulation No 207/2009 in light of the submitted evidence of repute and enhanced distinctiveness of the earlier trade mark;

— order EUIPO and the other party to pay their own the costs and those of the applicant.

Pleas in law

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

— Infringement of Articles 8(1)(b) and 76(1) of Regulation No 207/2009;

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

Action brought on 17 March 2016 — zero v EUIPO — Hemming (ZIRO)

(Case T-106/16)

(2016/C 175/21)

Language in which the application was lodged: English

Parties

Applicant: zero Holding GmbH & Co. KG (Bremen, Germany) (represented by: M. Nentwig, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Oliver Hemming (Cadbury, United Kingdom)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU figurative mark containing the word element 'ZIRO' — EU trade mark application No 12 264 958

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 12 January 2016 in Case R 71/2015-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

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

— Infringement of Article 75, second sentence, of Regulation No 207/2009.

Action brought on 18 March 2016 — Airhole Facemasks v EUIPO — sindustrysurf (AIRHOLE FACE MASKS YOU IDIOT)

(Case T-107/16)

(2016/C 175/22)

Language in which the application was lodged: English

Parties

Applicant: Airhole Facemasks, Inc. (Vancouver, British Columbia, Canada) (represented by: A. Michaels, Barrister and S. Barker, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: sindustrysurf, SL (Trapagaran, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU figurative mark in black and white containing the word elements 'AIRHOLE FACE MASKS YOU IDIOT' — EU trade mark No 9 215 427

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 18/01/2016 in Case R 2547/2014-4

Form of order sought

The applicant claims that the Court should:

— reverse the contested decision, and declare the EUTM invalid in its entirety, or alternatively annul the contested decision;

— order sindustrysurf, SL to pay the applicant's costs of this appeal and of the proceedings before the Board of Appeal and to pay the costs ordered to be paid by the Cancellation Division.

Pleas in law

— Infringement of Article 8(3) of Regulation No 207/2009;

— Infringement of Article 52(1)(b)of Regulation No 207/2009;

— Infringement of Article 53(1)(b) of Regulation No 207/2009.

Action brought on 17 March 2016 — Naviera Armas v Commission

(Case T-108/16)

(2016/C 175/23)

Language of the case: Spanish

Parties

Applicant: Naviera Armas, SA (Las Palmas de Gran Canaria, Spain) (represented by: J. Buendía Sierra and Á. Givaja Sanz, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the decision of the European Commission of 8 December 2015 on State aid SA.36628 (2015/NN-2) (OJ 2016 C 25, p. 2) finding that no State aid was granted to the shipping company Fred Olsen S.A. in the context of measures adopted by the Kingdom of Spain at Puerto de las Nieves;

— order the defendant to pay its own costs and those of the applicant.

Pleas in law and main arguments

By the contested decision, the Commission found that the alleged exclusive right held by Fred Olsen to operate out of the port of Puerto de las Nieves (the Canary Islands, Spain), Fred Olsen's total or partial exemption from payment of the corresponding port dues, and the conditions of use of that port which, according to the applicant, also provide an unfair advantage to that shipping company in that they exclude conventional vessels, do not constitute State aid.

In support of its action, the applicant raises a single plea claiming that it provided a sufficient statement of reasons for the Commission to have reasonable doubt concerning the existence of State aid in favour of Fred Olsen, thus giving grounds for initiation of a formal investigation procedure.

In support of that plea, the applicant contends that:

— the excessively long duration of the preliminary examination carried out by the Commission between the date Naviera Armas lodged its complaint, 26 April 2013, and the date of the contested decision is, in itself, evidence of the complexity of the case and demonstrates that initiation of a formal investigation procedure was necessary.

— the contested decision is vitiated by certain manifest errors in the assessment of the facts, such as stating that no undertaking requested permission to operate out of Puerto de las Nieves using high speed ferries before 2013, that Fred Olsen was the only undertaking interested in using the port in the 1990s, and that only high speed ferries can operate out of that port.

— Fred Olsen has had exclusive use of Puerto de las Nieves since 1991 thus giving it a competitive advantage at the discretion of the Spanish authorities.

— Fred Olsen has benefitted from total exemption from certain port dues for over 20 years.

Action brought on 18 March 2016 — Savant Systems v EUIPO — Savant Group (SAVANT)

(Case T-110/16)

(2016/C 175/24)

Language in which the application was lodged: English

Parties

Applicant: Savant Systems LLC (Osterville, Massachusetts, United States) (represented by: O. Nilgen, A. Kockläuner, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Savant Group Ltd (Burton in Kendal, United Kingdom)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark 'SAVANT' — EU trade mark No 32 318

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 18 January 2016 in Case R 33/2015-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision insofar as protection of the contested EU trademark No 32 318 'SAVANT' was maintained with regard to 'computer software' in class 9 and for all services in classes 41 and 42;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 51(1)(a) in connection with Article 15 of Regulation No 207/2009 insofar as the Board of Appeal wrongly held that the proprietor had proven genuine use of the contested CTM for the goods and services as registered, in particular 'computer software' and the related services in classes 41 and 42;

— Infringement, by the Board of Appeal, of the obligation to state reasons why it did not take the 'in use investigation' report into consideration.

Action brought on 18 March 2016 — Prada v EUIPO — The Rich Prada International (THE RICH PRADA)

(Case T-111/16)

(2016/C 175/25)

Language in which the application was lodged: English

Parties

Applicant: Prada SA (Luxembourg, Luxembourg) (represented by: F. Jacobacci, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: The Rich Prada International PT (Surabaya, Indonesia)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark 'THE RICH PRADA' — Application for registration No 10 228 948

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 13 January 2016 in Joined Cases R 3076/2014-2 and R 3186/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in part, thereby granting Opposition Proceedings No B 2 012 477 in its entirety;

— in the alternative, uphold the decision of the Second Board of Appeal in its entirety;

— reverse the order to Prada SA to bear the costs of the appeal to the Board of Appeal, in the amount of €550, and order The Rich Prada International PT to pay such costs;

— order EUIPO to pay the costs of the procedure.

Plea in law

— Infringement of Articles 8(1)(b) and 8(5) of Regulation No 207/2009.

Action brought on 21 March 2016 — Arctic Cat v EUIPO — Slazengers (Representation of a panther)

(Case T-113/16)

(2016/C 175/26)

Language in which the application was lodged: English

Parties

Applicant: Arctic Cat, Inc. (Thief River Falls, Minnesota, United States) (represented by: M. Hartmann and S. Fröhlich, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Slazengers Ltd (Burnham, United Kingdom)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: International registration designating the European Union in respect of the figurative mark (Representation of a panther) — International registration designating the European Union No 941 684

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 11 January 2016 in Case R 2953/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision insofar as the appeal was dismissed and the partial refusal of protection of IR No 941 684 in respect of the European Union for the goods claimed in class 25 ('Power sport vehicle-specific clothing, including protective outwear, balaclavas and face masks') was confirmed;

— allow protection of IR No 941 684 in respect of the European Union also for the goods claimed in class 25 ('Power sport vehicle-specific clothing, including protective outwear, balaclavas and face masks');

— order EUIPO to pay the costs of the proceedings;

— order Slazengers Ltd to pay the costs of the proceedings before EUIPO.

Plea in law

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

Action brought on 18 March 2016 — Port autonome du Centre et de l'Ouest and Others v Commission

(Case T-116/16)

(2016/C 175/27)

Language of the case: French

Parties

Applicants: Port autonome du Centre et de l'Ouest SCRL (La Louvière, Belgium), Port autonome de Namur (Namur, Belgium), Port autonome de Charleroi (Charleroi, Belgium), Port autonome de Liège (Liège, Belgium) and Région wallonne (Jambes, Belgium) (represented by: J. Vanden Eynde, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare the application admissible as regards each of the applicants and consequently annul the Commission decision with reference SA.38393(2015/E) — taxation of ports in Belgium;

— declare the present action admissible and well-founded;

— consequently, annul the decision of the Commission to regard as State aid incompatible with the internal market the fact that the economic activities of Belgian ports, and in particular Walloon ports, are not subject to corporation tax;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging, generally, that the Commission's assertions are neither supported by the facts nor justified in law.

2. Second plea in law, alleging that the Commission has not justified its apparent departure from previous case-law with regard to its decision of 20 October 2004 (N520/2003).

3. Third plea in law, alleging that the activities of ports are subsidised since otherwise they would not be viable given the Belgian economic context, and further alleging that charges determined unilaterally, which do not cover investments made, do not suffice to characterise them as economic activities.

4. Fourth plea in law, alleging that the assertion that the Belgian reference system is corporation tax is not justified in law.

5. Fifth plea in law, alleging that the claim that the tax on legal persons, to which ports are subject, amounts to an advantage since any auxiliary economic activities in which they may engage are not charged to tax, has not been established. Moreover, the Commission has not identified which activities should, in its view, be charged to tax or those activities which form services of general interest.

6. Sixth plea in law, alleging that the particular circumstances of the case must permit the tax on legal persons to be charged, in view of the logic of the Belgian legislative framework, which distinguishes the tax treatment of services of general interest and commercial activities.

7. Seventh plea in law, alleging that the Commission neglected to take into account Member States' prerogatives over:

   — the definition of non-economic activities;

   — the definition of direct taxation;

   — the obligation to ensure the proper functioning of services of general interest necessary for social and economic cohesion;

   — the organisation at their discretion of services of general interest.

8. Eighth plea in law, alleging that the essential activities of the Walloon inland ports are services of general interest that are not governed, in accordance with European legislation, by the competition rules laid down by Article 107 TFEU.

9. Ninth plea in law, put forward in the alternative, alleging that if the essential activities of the Walloon inland ports fall within the scope of services of general economic interest, they are governed by the rules of Articles 93 and 106(2) TFEU and the competition rules are not applicable to them.

10. Tenth plea in law, put forward in the further alternative, alleging that the European criteria for the definition of State aid are not met.

Action brought on 22 March 2016 — Tulliallan Burlington v EUIPO — Burlington Fashion (Burlington)

(Case T-120/16)

(2016/C 175/28)

Language in which the application was lodged: English

Parties

Applicant: Tulliallan Burlington Ltd (St Helier, Jersey) (represented by: A. Norris, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Burlington Fashion GmbH (Schmallenberg, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration designating the European Union in respect of the figurative mark containing the word element 'Burlington' — International registration designating the European Union No 1 017 273

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 11 January 2016 in Case R 94/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and reject the contested mark in respect of all of the contested goods;

— order the payment of the costs incurred by the applicant in connection with this appeal.

Plea in law

— Infringement of Articles 8(5), 8(4) and 8(1)(b) of Regulation No 207/2009.

Action brought on 22 March 2016 — Tulliallan Burlington v EUIPO — Burlington Fashion (BURLINGTON THE ORIGINAL)

(Case T-121/16)

(2016/C 175/29)

Language in which the application was lodged: English

Parties

Applicant: Tulliallan Burlington Ltd (St Helier, Jersey) (represented by: A. Norris, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Burlington Fashion GmbH (Schmallenberg, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration designating the European Union in respect of the figurative mark containing the word elements 'BURLINGTON THE ORIGINAL' – International registration designating the European Union No 1 007 952

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 11 January 2016 in Case R 2501/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and reject the contested mark in respect of all of the contested goods;

— order the payment of the costs incurred by the applicant in connection with this appeal.

Pleas in law

— Infringement of Articles 8(5), 8(4) and 8(1)(b) of Regulation No 207/2009.

Action brought on 22 March 2016 — Tulliallan Burlington v EUIPO — Burlington Fashion (Burlington)

(Case T-122/16)

(2016/C 175/30)

Language in which the application was lodged: English

Parties

Applicant: Tulliallan Burlington Ltd (St Helier, Jersey) (represented by: A. Norris, (Barrister

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Burlington Fashion GmbH (Schmallenberg, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration designating the European Union in respect of the figurative mark containing the word element 'Burlington' — International registration designating the European Union No 982 021

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 11 January 2016 in Case R 2409/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and reject the contested mark in respect of all of the contested goods;

— order the payment of the costs incurred by the applicant in connection with this appeal.

Pleas in law

— Infringement of Articles 8(5), 8(4) and 8(1)(b) of Regulation No 207/2009.

Action brought on 22 March 2016 — Tulliallan Burlington v EUIPO — Burlington Fashion (BURLINGTON)

(Case T-123/16)

(2016/C 175/31)

Language in which the application was lodged: English

Parties

Applicant(s): Tulliallan Burlington Ltd (St Helier, Jersey) (represented by: A. Norris, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Burlington Fashion GmbH (Schmallenberg, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration designating the European Union in respect of the mark word mark 'Burlington' — International registration designating the European Union No 982 020

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 11 January 2016 in Case R 1635/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and reject the contested mark in respect of all of the contested goods;

— order the payment of the costs incurred by the applicant in connection with this appeal.

Pleas in law

— Infringement of Articles 8(5), 8(4) and 8(1)(b) of Regulation No 207/2009.

Action brought on 23 March 2016 — Léon Van Parys v Commission

(Case T-125/16)

(2016/C 175/32)

Language of the case: Dutch

Parties

Applicant: Firma Léon Van Parys NV (Antwerp, Belgium) (represented by: P. Vlaemminck, B. Van Vooren and R. Verbeke, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul Decision C(2016) 95 final of the European Commission of 20 January 2016 concerning Case REC 07/07(REV) finding that post-clearance entry in the accounts of import duties is justified and that remission of those duties is justified with regard to a debtor and is in part justified in the particular case of another debtor but in another part not justified with regard to that particular debtor, and modifying Commission Decision C(2010)2858 of 6 May 2010;

— declare that Article 909 of Regulation No 2454/93 ([1]) has fully taken effect in favour of the present applicant following the Court's judgment in Case T-324/10, in which the Court annulled, in favour of the (present and former) applicant, Article 1(3) of the initial Decision C(2010)2858, with the result that the present applicant, in accordance with Article 909 of Regulation No 2454/93, enjoys full remission of the customs debt, as well as of all interest or costs linked directly or indirectly to that debt;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Articles 907 and 909 of Regulation No 2454/93 and of Article 41 of the Charter of Fundamental Rights of the European Union.

   The applicant submits that the legal effects of the judgment of 19 March 2013 in *Firma Van Parys* v *Commission* (T-324/10, EU:T:2013:136) in favour of the present applicant are, in themselves, sufficient. Consequently, no new Commission decision is required to vitiate the illegality found by the Court and the applicant must benefit from the operation of Article 909 of Regulation No 2454/93.

2. Second plea in law, alleging infringement of Article 907 of Regulation No 2454/93 and of Article 41 of the Charter of Fundamental Rights of the European Union.

   The applicant argues that the Commission misused its power to request additional information on the basis of Article 907 of Regulation No 2454/93 in order to circumvent the application of Article 909 of Regulation No 2454/93. More specifically, the applicant argues that the Commission already had the requested information in its possession.

3. Third plea in law, in the alternative, alleging infringement of the principles of sound administration in so far the judgment of 19 March 2013 in *Firma Van Parys* v *Commission* (T-324/10, EU:T:2013:136) ought to have been given effect to within a reasonable period which could not exceed the original nine-month period prescribed by Article 907 of Regulation No 2454/93.

4. Fourth plea in law, in the further alternative, alleging misuse of powers by reason of the Commission's conduct of an entirely new investigation in which it reached a conclusion that is at variance with the findings made by the Court in the judgment of 19 March 2013 in *Firma Van Parys* v *Commission* (T-324/10, EU:T:2013:136).

5. Fifth plea in law, in the further alternative, alleging an incorrect interpretation of the regulatory framework governing the organisation of the banana market and infringement of the principle of equality.

   — The applicant's use of a lease deal in order to acquire the use of import licences was, in its opinion, statutorily possible in view of Regulation No 2362/98 ([2]) and of the standard commercial practices recognised by the WTO.

   — This cannot be regarded as negligence on the part of an importer when that is not the case for the customs agent or for another importer that used non-transferable licences.

([1]) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1).
([2]) Commission Regulation (EC) No 2362/98 of 28 October 1998 laying down detailed rules for the implementation of Council Regulation (EEC) No 404/93 regarding imports of bananas into the Community (OJ 1998 L 293, p. 32).

Action brought on 24 March 2016 — SureID v EUIPO (SUREID)

(Case T-128/16)

(2016/C 175/33)

Language of the case: English

Parties

Applicant: SureID, Inc. (Hillsboro, Oregon, United States) (represented by: B. Brandreth, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'SUREID' — Application for registration No 13 698 675

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 18 January 2016 in Case R 1478/2015-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs incurred before the Board of Appeal and the General Court.

Plea in law

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

Action brought on 24 March 2016 — Claranet Europe v EUIPO — Claro (claranet)

(Case T-129/16)

(2016/C 175/34)

Language in which the application was lodged: English

Parties

Applicant: Claranet Europe Ltd (St Helier, Jersey) (represented by: G. Crown and D. Farnsworth, Solicitors)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Claro SA (São Paulo, Brazil)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark in red 'claranet' — Application for registration No 11 265 113

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 26 January 2016 in Case R 803/2015-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO (and if applicable, any intervener) to bear its own and pay the applicant's costs.

Plea in law

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

Action brought on 29 March 2016 — Caisse régionale de crédit agricole mutuel Alpes Provence v ECB

(Case T-133/16)

(2016/C 175/35)

Language of the case: French

Parties

Applicant: Caisse régionale de crédit agricole mutuel Alpes Provence (Aix-en-Provence, France) (represented by: H. Savoie, lawyer)

Defendant: European Central Bank

Form of order sought

The applicant claims that the General Court should:

— annul the European Central Bank decision of 29 January 2016 (ECB/SSM/2016 — 969500TJ5KRTCJQWXH05/98) adopted under Article 4(1)(e) of Regulation (EU) No 468/2014 of the European Central Bank and under Articles L. 511-13, L. 511-52, L. 511-58, L. 612-23-1 and R. 612-29-3 of the French monetary and financial code (code monétaire et financier français).

Pleas in law and main arguments

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

1. First plea, alleging that the contested decision is unlawful to the extent that it misconstrues the provisions of Article 13 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ('the CRD IV Directive'), and the provisions of Article L. 511-13 of the French monetary and financial code ('the CMF').

2. Second plea, alleging that the contested decision is unlawful to the extent that it misconstrues the provisions of Article L. 511-52 of the CMF.

3. Third plea, alleging that the contested decision is unlawful to the extent that the ECB infringed Article L. 511-13 of the CMF and Articles 13 and 88 of the CRD IV Directive.

4. Fourth plea, raised in the alternative, alleging that the contested decision is also unlawful to the extent that the ECB infringed Article L. 511-58 of the CMF.

Action brought on 29 March 2016 — Caisse régionale de crédit agricole mutuel Nord Midi-Pyrénées v ECB

(Case T-134/16)

(2016/C 175/36)

Language of the case: French

Parties

Applicant: Caisse régionale de crédit agricole mutuel Nord Midi-Pyrénées (Albi, France) (represented by: H. Savoie, lawyer)

Defendant: European Central Bank

Form of order sought

The applicant claims that the General Court should:

— annul the European Central Bank decision of 29 January 2016 (ECB/SSM/2016 — 969500TJ5KRTCJQWXH05/100) adopted under Article 4(1)(e) of Regulation (EU) No 468/2014 of the European Central Bank and under Articles L. 511-13, L. 511-52, L. 511-58, L. 612-23-1 and R. 612-29-3 of the French monetary and financial code (code monétaire et financier français).

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are essentially identical or similar to those relied on in Case T-133/16, *Caisse régionale de crédit agricole mutuel Alpes Provence* v *ECB*.

Action brought on 29 March 2016 — Caisse régionale de crédit agricole mutuel Charente-Maritime Deux-Sèvres v ECB

(Case T-135/16)

(2016/C 175/37)

Language of the case: French

Parties

Applicant: Caisse régionale de crédit agricole mutuel Charente-Maritime Deux-Sèvres (Saintes, France) (represented by: H. Savoie, lawyer)

Defendant: European Central Bank

Form of order sought

The applicant claims that the General Court should:

— annul the European Central Bank decision of 29 January 2016 (ECB/SSM/2016 — 969500TJ5KRTCJQWXH05/101) adopted under Article 4(1)(e) of Regulation (EU) No 468/2014 of the European Central Bank and under Articles L. 511-13, L. 511-52, L. 511-58, L. 612-23-1 and R. 612-29-3 of the French monetary and financial code (code monétaire et financier français).

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are essentially identical or similar to those relied on in Case T-133/16, *Caisse régionale de crédit agricole mutuel Alpes Provence* v *ECB*.

Action brought on 29 March 2016 — Caisse régionale de crédit agricole mutuel Brie Picardie v ECB

(Case T-136/16)

(2016/C 175/38)

Language of the case: French

Parties

Applicant: Caisse régionale de crédit agricole mutuel Brie Picardie (Amiens, France) (represented by: H. Savoie, lawyer)

Defendant: European Central Bank

Form of order sought

The applicant claims that the General Court should:

— annul the European Central Bank decision of 29 January 2016 (ECB/SSM/2016 — 969500TJ5KRTCJQWXH05/99) adopted under Article 4(1)(e) of Regulation (EU) No 468/2014 of the European Central Bank and under Articles L. 511-13, L. 511-52, L. 511-58, L. 612-23-1 and R. 612-29-3 of the French monetary and financial code (code monétaire et financier français).

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are essentially identical or similar to those relied on in Case T-133/16, *Caisse régionale de crédit agricole mutuel Alpes Provence* v *ECB*.

Action brought on 31 March 2016 — SDSR v EUIPO — Berghaus (BERG OUTDOOR)

(Case T-139/16)

(2016/C 175/39)

Language in which the application was lodged: English

Parties

Applicant: Sports Division SR, SA (SDSR) (Matosinhos, Portugal) (represented by: A. Sebastião and J. Pimenta, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Berghaus Ltd (London, United Kingdom)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: International registration designating the European Union in respect of the figurative mark containing the word elements 'BERG OUTDOOR' — International registration designating the European Union No 1 116 936

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 21 January 2016 in Case R 153/2015-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to grant the registration of International trademark no. 1116936 designating the EU in its entirety;

— order the intervener to pay the costs.

Plea in law

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

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Order of the Civil Service Tribunal (Third Chamber) of 7 April 2016 — Spadafora v Commission

(Case F-44/15) ([1])

(Civil Service — Officials — Post of Head of Unit — Vacancy notice — Selection procedure — Pre-selection panel — Interview with the pre-selection panel — Not included on the short-list of candidates proposed for a final interview with the Appointing Authority — Regularity of the selection procedure — Priority recruitment of a candidate having the nationality of a particular Member State — Conduct of the president of the pre-selection panel — Language discrimination — Claim for compensation — Article 81 of the Rules of Procedure)

(2016/C 175/40)

Language of the case: Italian

Parties

Applicant: Sergio Spadafora (Woluwe-Saint-Lambert, Belgium) (represented by: G. Belotti, lawyer)

Defendant: European Commission (represented by: C. Berardis-Kayser and G. Gattinara, acting as Agents)

Re:

Application for annulment of the decision to appoint a person other than the applicant, who had been acting Head of Unit since the departure of the preceding Head of Unit, to the post of Head of Unit C4 (Legal Advice).

Operative part of the order

1. *The action is dismissed as in part manifestly inadmissible and in part manifestly unfounded.*

2. *Mr Sergio Spadafora shall bear his own costs and pay the costs incurred by the European Commission.*

([1]) OJ C 221, 6.7.2015, p. 27.

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