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For reasons of protection of personal data, some information contained in this issue cannot be disclosed anymore, therefore a new authentic version has been published.

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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*

(2017/C 277/01)

Last publication

OJ C 269, 14.8.2017.

Past publications

OJ C 256, 7.8.2017.

OJ C 249, 31.7.2017.

OJ C 239, 24.7.2017.

OJ C 231, 17.7.2017.

OJ C 221, 10.7.2017.

OJ C 213, 3.7.2017.

These texts are available on:

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

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 13 June 2017 (request for a preliminary ruling from the Curtea de Apel Alba Iulia — Romania) — Eugenia Florescu and Others v Casa Județeană de Pensii Sibiu and Others

(Case C-258/14) ([1])

(Reference for a preliminary ruling — Article 143 TFEU — Difficulties as regards the balance of payments of a Member State — Financial assistance from the European Union — Memorandum of Understanding concluded between the European Union and the Member State in receipt of the assistance — Social policy — Principle of equal treatment — National legislation prohibiting the combining of a public retirement pension with employment income from a professional activity carried out in a public institution — Different treatment of persons occupying posts whose term is laid down in the Constitution and of professional judges and law officers)

(2017/C 277/02)

Language of the case: Romanian

Referring court

Curtea de Apel Alba Iulia

Parties to the main proceedings

Applicants: Eugenia Florescu, Ioan Poiană, Cosmina Diaconu (acting in her capacity as an heir of Mircea Bădilă), Anca Vidrighin (acting in her capacity as an heir of Mircea Bădilă), Eugenia Elena Bădilă (acting in her capacity as an heir of Mircea Bădilă)

Defendants: Casa Județeană de Pensii Sibiu, Casa Națională de Pensii și alte Drepturi de Asigurări Sociale, Ministerul Muncii, Familiei și Protecției Sociale, Statul roman, Ministerul Finanțelor Publice

Operative part of the judgment

1. *The Memorandum of Understanding between the European Community and Romania, concluded in Bucharest and Brussels on 23 June 2009, must be regarded as an act of an EU institution, within the meaning of Article 267 TFEU, which may be subject to interpretation by the Court of Justice of the European Union.*

2. *The Memorandum of Understanding between the European Community and Romania, concluded in Bucharest and Brussels on 23 June 2009, must be interpreted as meaning that it does not require the adoption of national legislation, such as that at issue in the main proceedings, which prohibits the combining of a net public-sector retirement pension with income from activities carried out in public institutions if the amount of the pension exceeds the amount of the average gross national salary on the basis of which the State social security budget was drawn up.*

3. *Article 6 TEU and Article 17 of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which prohibits the combining of a net public-sector retirement pension with income from activities carried out in public institutions if the amount of that pension exceeds a certain threshold.*

4. *Article 2(2)(b) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation must be interpreted as not applying to national legislation, such as that at issue in the main proceedings, which is interpreted as meaning that the prohibition on the combining of a net retirement pension with income from activities carried out in public institutions, laid down by the national legislation if the amount of the pension exceeds the amount of the national gross average salary on the basis of which the State social security budget was drawn up, applies to professional judges but not to persons occupying a post whose term is laid down in the national Constitution.*

(1) OJ C 292, 1.9.2014.

Judgment of the Court (Sixth Chamber) of 15 June 2017 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — proceedings brought by Ilves Jakelu Oy

(Case C-368/15) (1)

(Reference for a preliminary ruling — Directive 97/67/EC — Article 9 — Freedom to provide services — Postal services — Notions of universal service and essential requirements — General and individual authorisations — Authorisation to provide postal services under individually negotiated contracts — Conditions imposed)

(2017/C 277/03)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Ilves Jakelu Oy

Intervening party: Liikenne- ja viestintäministeriö

Operative part of the judgment

1. *Article 9(1) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008, must be interpreted to the effect that a postal items service such as the one at issue in the main proceedings does not fall within the scope of the universal service if it does not involve the permanent provision of a postal service of specified quality at all points in the territory at affordable prices for all users. The provision of a postal items service which does not fall within the scope of the universal service may be subjected only to the issuing of a general authorisation.*

2. *Article 9(1) of Directive 97/67, as amended by Directive 2008/6, must be interpreted to the effect that the provision of postal services not falling within the scope of the universal service may be made subject to requirements such as those referred to in Article 9 (2), second subparagraph, second indent, of that directive, as amended.*

(1) OJ C 311, 21.9.2015.

Judgment of the Court (Third Chamber) of 15 June 2017 (request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas — Lithuania) — Lietuvos Respublikos aplinkos ministerijos Aplinkos projektų valdymo agentūra v 'Alytaus regiono atliekų tvarkymo centras' UAB

(Case C-436/15) ([1])

(Reference for a preliminary ruling — Protection of the European Union's financial interests — Regulation (EC, Euratom) No 2988/95 — Article 3(1) — Funding from the Cohesion Fund — Project for the development of a regional waste management system — Irregularities — Concept of 'multiannual programme' — Definitive termination of a multiannual programme — Limitation period)

(2017/C 277/04)

Language of the case: Lithuanian

Referring court

Lietuvos vyriausiasis administracinis teismas

Parties to the main proceedings

Applicant: Lietuvos Respublikos aplinkos ministerijos Aplinkos projektų valdymo agentūra

Defendant: 'Alytaus regiono atliekų tvarkymo centras' UAB

third parties: Lietuvos Respublikos finansų ministerija, 'Skirnuva' UAB, 'Parama' UAB, 'Alkesta' UAB, 'Dzūkijos statyba' UAB

Operative part of the judgment

1. *A project, such as that at issue in the main proceedings, consisting in the creation of a waste management system in a specific region and the implementation of which was envisaged over several years and financed by resources of the European Union, falls within the concept of a 'multiannual programme' within the meaning of the second sentence of the second subparagraph of Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests.*

2. *Article 3(1) of Regulation No 2988/95 must be interpreted as meaning that the limitation period for an irregularity committed in the context of a 'multiannual programme', such as the project at issue in the main proceedings, runs from the date on which the irregularity in question was committed, in accordance with the first subparagraph of Article 3(1) of Regulation No 2988/95; if the irregularity is 'continuous or repeated', the limitation period runs from the day on which the irregularity ceases, in accordance with the second subparagraph of Article 3(1) of Regulation No 2988/95.*

   In addition, a 'multiannual programme' is regarded as 'definitively terminated', within the meaning of the second sentence of the second subparagraph of Article 3(1) of Regulation No 2988/95, on the end date provided for in respect of that programme, in accordance with the rules which govern it. In particular, a multiannual programme governed by Council Regulation (EC) No 1164/94 of 16 May 1994 establishing a Cohesion Fund, as amended by Council Regulation (EC) No 1264/1999 of 21 June 1999, Council Regulation (EC) No 1265/1999 of 21 June 1999 and the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, must be regarded as being 'definitively terminated', within the meaning of that provision, on the date indicated in the European Commission decision approving that project as the deadline for completion of the work and for the making of the payments of the eligible expenditure related thereto, without prejudice to any extension, by a new decision of the Commission to that effect.

([1]) OJ C 337, 12.10.2015.

Judgment of the Court (Fifth Chamber) of 15 June 2017 (request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas — Lithuania) — Proceedings brought by 'Agrodetalė' UAB

(Case C-513/15) ([1])

(Reference for a preliminary ruling — Internal market — EC type-approval — Directive 2003/37/EC — Scope — Agricultural or forestry tractors — Placement on the market and registration in the European Union of used or second-hand vehicles imported from a third country — Concepts of 'new vehicle' and 'entry into service')

(2017/C 277/05)

Language of the case: Lithuanian

Referring court

Lietuvos vyriausiasis administracinis teismas

Party to the main proceedings

'Agrodetalė' UAB

Operative part of the judgment

1. *Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003 on type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and repealing Directive 74/150/EEC, as amended by Commission Directive 2014/44/EU of 18 March 2014, must be interpreted as meaning that the first placing on the market and the registration in a Member State of used or second-hand tractors imported from a third country are subject to compliance with the technical requirements laid down by that directive.*

2. *Article 23(1)(b) of Directive 2003/37, as amended by Directive 2014/44, must be interpreted as meaning that the provisions of that directive apply to second-hand vehicles coming under categories T1, T2 and T3 and imported into the European Union from a third country, where they are entered into service in the European Union for the first time on or after 1 July 2009.*

([1]) OJ C 414, 14.12.2015.

Judgment of the Court (Second Chamber) of 22 June 2017 (request for a preliminary ruling from the Förvaltningsrätten i Linköping — Sweden) — E.ON Biofor Sverige AB v Statens energimyndighet

(Case C-549/15) ([1])

(Reference for a preliminary ruling — Promotion of energy from renewable sources — Biofuels for transport — Directive 2009/28/EC — Article 18(1) — 'Mass balance' system to ensure that biogas meets the prescribed sustainability criteria — Validity — Articles 34 and 114 TFEU — National rules requiring the mass balance to be achieved within a location with a clear boundary — Practice of the competent national authority to accept that that condition may be satisfied where sustainable biogas is transported using the national gas network — Order of that authority stating that that condition cannot be satisfied where sustainable biogas is imported from other Member States via interconnected national gas networks — Free movement of goods)

(2017/C 277/06)

Language of the case: Swedish

Referring court

Förvaltningsrätten i Linköping

Parties to the main proceedings

Applicant: E.ON Biofor Sverige AB

Defendant: Statens energimyndighet

Operative part of the judgment

1. *Article 18(1) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC must be interpreted as meaning that it is not intended to place an obligation on the Member States to authorise imports, via their interconnected national gas networks, of biogas satisfying the sustainability criteria set out in Article 17 of that directive and intended for use as biofuel;*

2. *Examination of the second question has not disclosed any factor such as to affect the validity of Article 18(1) of Directive 2009/28;*

3. *Article 34 TFEU must be interpreted as precluding an order, such as the order at issue in the main proceedings, by which a national authority seeks to exclude the possibility that an economic operator may implement a mass balance system, within the meaning of Article 18(1) of Directive 2009/28, in respect of sustainable biogas transported in interconnected national gas networks, by virtue of a provision adopted by that authority under which such a mass balance must be achieved 'within a location with a clear boundary', when that authority accepts, on the basis of that provision, that a mass balance system may be implemented in respect of sustainable biogas transported within the national gas network of the Member State of that authority.*

([1]) OJ C 7, 11.1.2016.

Judgment of the Court (First Chamber) of 15 June 2017 (request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas — Lithuania) — Lietuvos Respublikos transporto priemonių draudikų biuras v Gintaras Dockevičius, Jurgita Dockevičienė

(Case C-587/15) ([1])

(Reference for a preliminary ruling — Insurance against civil liability in respect of motor vehicles — Accident occurring in 2006 between vehicles normally based in different Member States — Internal Regulations of the Council of Bureaux of national insurers of the Member States — Lack of jurisdiction of the Court — Directive 2009/103/EC — Not applicable ratione temporis — Directives 72/166/EEC, 84/5/EEC and 2000/26/EC — Not applicable ratione materiae — Article 47 of the Charter of Fundamental Rights of the European Union — Inapplicability — Failure to implement EU law)

(2017/C 277/07)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

Applicant: Lietuvos Respublikos transporto priemonių draudikų biuras

Defendants: Gintaras Dockevičius, Jurgita Dockevičienė

Operative part of the judgment

The Court does not have jurisdiction to give a preliminary ruling on the questions referred by the national court in respect of the interpretation of the Internal Regulations of the Council of Bureaux, adopted by the Agreement of 30 May 2002 between the national insurers' bureaux of the Member States of the European Economic Area and other Associate States, and appended to the annex to Commission Decision 2003/564/EC of 28 July 2003 on the application of Council Directive 72/166/EEC relating to checks on insurance against civil liability in respect of the use of motor vehicles.

— *Since Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability, is not applicable ratione temporis to the dispute in the main proceedings,*

— *since Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability, as amended by Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005, Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles as amended by Directive 2005/14, and Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC are not applicable ratione materiae to the present dispute, and, therefore,*

— *since, in the absence of implementation of EU law within the meaning of Article 51(1) of the Charter, neither is Article 47 of the Charter of Fundamental Rights of the European Union applicable to the dispute,*

those directives and Article 47 of the Charter must be interpreted as not precluding, in the present case, the consequences arising from the case-law of the referring court to the effect that, for the purposes of the subrogated claim, the burden of proof relating to all of the elements establishing the civil liability of the defendants in the main proceedings for the accident which occurred on 20 July 2006 rests with the Lietuvos Respublikos transporto priemonių draudikų biuras (the Bureau of Motor Insurers of the Republic of Lithuania).

([1]) OJ C 27, 25.1.2016.

Judgment of the Court (Grand Chamber) of 13 June 2017 (request for a preliminary ruling from the High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court) — United Kingdom) — The Queen, on the application of: The Gibraltar Betting and Gaming Association Limited v Commissioners for Her Majesty's Revenue and Customs, Her Majesty's Treasury

(Case C-591/15) ([1])

(Reference for a preliminary ruling — Article 355(3) TFEU — Status of Gibraltar — Article 56 TFEU — Freedom to provide services — Purely internal situation — Inadmissibility)

(2017/C 277/08)

Language of the case: English

Referring court

High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court)

Parties to the main proceedings

Applicant: The Queen, on the application of: The Gibraltar Betting and Gaming Association Limited

Defendant: Commissioners for Her Majesty's Revenue and Customs, Her Majesty's Treasury

Operative part of the judgment

Article 355(3) TFEU, in conjunction with Article 56 TFEU, is to be interpreted as meaning that the provision of services by operators established in Gibraltar to persons established in the United Kingdom constitutes, as a matter of EU law, a situation confined in all respects within a single Member State.

([1]) OJ C 27, 25.1.2016.

Judgment of the Court (Second Chamber) of 14 June 2017 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Stichting Brein v Ziggo BV, XS4ALL Internet BV

(Case C-610/15) ([1])

(Reference for a preliminary ruling — Intellectual and industrial property — Directive 2001/29/EC — Harmonisation of certain aspects of copyright and related rights — Article 3(1) — Communication to the public — Definition — Online sharing platform — Sharing of protected files, without the consent of the rightholder)

(2017/C 277/09)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Stichting Brein

Defendants: Ziggo BV, XS4ALL Internet BV

Operative part of the judgment

The concept of 'communication to the public', within the meaning of Article 3(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, must be interpreted as covering, in circumstances such as those at issue in the main proceedings, the making available and management, on the internet, of a sharing platform which, by means of indexation of metadata relating to protected works and the provision of a search engine, allows users of that platform to locate those works and to share them in the context of a peer-to-peer network.

([1]) OJ C 48, 8.2.2016.

Judgment of the Court (Second Chamber) of 21 June 2017 (request for a preliminary ruling from the Cour de cassation — France) — N.W, L.W, C.W v Sanofi Pasteur MSD SNC, Caisse primaire d'assurance maladie des Hauts-de-Seine, Carpimko

(Case C-621/15) ([1])

(Reference for a preliminary ruling — Directive 85/374/EEC — Liability for defective products — Article 4 — Pharmaceutical laboratories — Vaccination against hepatitis B — Multiple sclerosis — Proof of defect of vaccine and of causal link between the defect and the damage suffered — Burden of proof — Methods of proof — Lack of scientific consensus — Serious, specific and consistent evidence left to the discretion of the court ruling on the merits — Whether permissible — Conditions)

(2017/C 277/10)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicants: N.W, L.W, C.W

Defendants: Sanofi Pasteur MSD SNC, Caisse primaire d'assurance maladie des Hauts-de-Seine, Carpimko

Operative part of the judgment

1. *Article 4 of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products must be interpreted as not precluding national evidentiary rules such as those at issue in the main proceedings under which, when a court ruling on the merits of an action involving the liability of the producer of a vaccine due to an alleged defect in that vaccine, in the exercise of its exclusive jurisdiction to appraise the facts, may consider that, notwithstanding the finding that medical research neither establishes nor rules out the existence of a link between the administering of the vaccine and the occurrence of the victim's disease, certain factual evidence relied on by the applicant constitutes serious, specific and consistent evidence enabling it to conclude that there is a defect in the vaccine and that there is a causal link between that defect and that disease. National courts must, however, ensure that their specific application of those evidentiary rules does not result in the burden of proof introduced by Article 4 being disregarded or the effectiveness of the system of liability introduced by that directive being undermined.*

2. *Article 4 of Directive 85/374 must be interpreted as precluding evidentiary rules based on presumptions according to which, where medical research neither establishes nor rules out the existence of a link between the administering of the vaccine and the occurrence of the victim's disease, the existence of a causal link between the defect attributed to the vaccine and the damage suffered by the victim will always be considered to be established when certain predetermined causation-related factual evidence is presented.*

([1]) OJ C 48, 8.2.2016.

Judgment of the Court (Fourth Chamber) of 14 June 2017 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Mohammad Zadeh Khorassani v Kathrin Pflanz

(Case C-678/15) ([1])

(Reference for a preliminary ruling — Directive 2004/39/EC — Markets in financial instruments — Article 4(1)(2) — Definition of 'investment services' — point 1 of Section A of Annex I — Reception and transmission of orders in relation to one or more financial instruments — Potential inclusion of brokering with a view to concluding a portfolio management contract)

(2017/C 277/11)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Mohammad Zadeh Khorassani

Defendant: Kathrin Pflanz

Operative part of the judgment

Article 4(1)(2) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, read in conjunction with point 1 of Section A of Annex I to that directive, must be interpreted as meaning that the investment service consisting in the reception and transmission of orders in relation to one or more financial instruments does not include brokering with a view to concluding a contract covering portfolio management services.

([1]) OJ C 106, 21.3.2016.

Judgment of the Court (Second Chamber) of 14 June 2017 (request for a preliminary ruling from the Landesverwaltungsgericht Oberösterreich — Austria) — Online Games Handels GmbH and Others v Landespolizeidirektion Oberösterreich

(Case C-685/15) ([1])

(Reference for a preliminary ruling — Article 49 TFEU — Freedom of establishment — Article 56 TFEU — Freedom to provide services — Games of chance — Restrictive legislation of a Member State — Penal administrative sanctions — Overriding reasons in the public interest — Proportionality — Charter of Fundamental Rights of the European Union — Article 47 — Right to effective judicial protection — National legislation laying down the requirement for the court to examine of its own motion the facts of the case before it in the context of the prosecution of administrative offences — Compliance)

(2017/C 277/12)

Language of the case: German

Referring court

Landesverwaltungsgericht Oberösterreich

Parties to the main proceedings

Applicants: Online Games Handels GmbH, Frank Breuer, Nicole Enter, Astrid Walden

Defendant: Landespolizeidirektion Oberösterreich

Operative part of the judgment

Articles 49 and 56 TFEU, as interpreted in particular in the judgment of 30 April 2014, Pfleger and Others (C-390/12, EU:C:2014:281), read in light of Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding a national procedural system according to which, in administrative offence proceedings, the court called upon to rule on the compliance with EU law of legislation restricting the exercise of a fundamental freedom of the European Union, such as the freedom of establishment or the freedom to provide services within the European Union, is required to examine of its own motion the facts of the case before it in the context of examining whether administrative offences arise, provided that such a system does not have the consequence that that court is required to substitute itself for the competent authorities of the Member State concerned, whose task it is to provide the evidence necessary to enable that court to determine whether that restriction is justified.

([1]) OJ C 118, 4.4.2016.

Judgment of the Court (First Chamber) of 21 June 2017 (request for a preliminary ruling from the Amtsgericht Kehl — Germany) — criminal proceedings against A

(Case C-9/16) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Regulation (EC) No 562/2006 — Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) — Articles 20 and 21 — Crossing internal borders — Checks within the territory — National legislation authorising checks to establish the identity of persons apprehended within 30 kilometres of the common border with other States parties to the Convention implementing the Schengen Agreement — Possibility of checks irrespective of the behaviour of the person concerned or of the existence of specific circumstances — National legislation permitting certain controls on persons on the premises of railway stations)

(2017/C 277/13)

Language of the case: German

Referring court

Amtsgericht Kehl

Parties to the main proceedings

A

Other party: Staatsanwaltschaft Offenburg

Operative part of the judgment

1. *Article 67(2) TFEU and Articles 20 and 21 of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), as amended by Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which confers on the police authorities of the Member State in question the power to check the identity of any person, within an area of 30 kilometres from that Member State's land border with other States parties to the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, signed at Schengen (Luxembourg) on 19 June 1990, with a view to preventing or terminating unlawful entry into or residence in the territory of that Member State or preventing certain criminal offences which undermine the security of the border, irrespective of the behaviour of the person concerned and of the existence of specific circumstances, unless that legislation lays down the necessary framework for that power ensuring that the practical exercise of it cannot have an effect equivalent to that of border checks, which is for the referring court to verify;*

2. *Article 67(2) TFEU and Articles 20 and 21 of Regulation No 562/2006, as amended by Regulation No 610/2013, must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which permits the police authorities of the Member State in question to carry out, on board trains and on the premises of the railways of that Member State, identity or border crossing document checks on any person, and briefly to stop and question any person for that purpose, if those checks are based on knowledge of the situation or border police experience, provided that the exercise of those checks is subject under national law to detailed rules and limitations determining the intensity, frequency and selectivity of the checks, which is for the referring court to verify.*

(1) OJ C 136, 18.4.2016.

Judgment of the Court (Eighth Chamber) of 15 June 2017 — Al-Bashir Mohammed Al-Faqih, Ghunia Abdrabbah, Taher Nasuf, Sanabel Relief Agency Ltd v European Commission, Council of the European Union

(Case C-19/16 P) (1)

(Appeal — Common foreign and security policy (CFSP) — Fight against terrorism — Specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban — Regulation (EC) No 881/2002 — Freezing of funds and economic resources of natural and legal persons included in a list drawn up by the United Nations Sanctions Committee — Re-listing of those persons in Annex I to Regulation No 881/2002 after annulment of the original listing — Disappearance of the legal person in the course of the proceedings — Capacity to be a party to judicial proceedings)

(2017/C 277/14)

Language of the case: English

Parties

Appellants: Al-Bashir Mohammed Al-Faqih, Ghunia Abdrabbah, Taher Nasuf, Sanabel Relief Agency Ltd (represented by: N. Garcia-Lora, Solicitor, and E. Grieves, Barrister)

Other parties to the proceedings: European Commission (represented by: F. Ronkes Agerbeek, D. Gauci and J. Norris-Usher, Agents), Council of the European Union (represented by: G. Étienne, J.-P. Hix and H. Marcos Fraile, Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Mr Al-Bashir Mohammed Al-Faqih, Mr Ghunia Abdrabbah and Mr Taher Nasuf to pay the costs.*

([1]) OJ C 106, 21.3.2016.

Judgment of the Court (Tenth Chamber) of 22 June 2017 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Wolfram Bechtel, Marie-Laure Bechtel v Finanzamt Offenburg

(Case C-20/16) ([1])

(Reference for a preliminary ruling — Freedom of movement of workers — Income received in a Member State other than the Member State of residence — Method of exemption with maintenance of progressivity in the Member State of residence — Pension and health insurance contributions levied on income received in a Member State other than the Member State of residence — Deduction of those contributions — Condition relating to the absence of a direct link with exempted tax revenues)

(2017/C 277/15)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicants: Wolfram Bechtel, Marie-Laure Bechtel

Defendant: Finanzamt Offenburg

Operative part of the judgment

Article 45 TFEU must be interpreted to the effect that it precludes legislation of a Member State, such as that at issue in the main proceedings, under which a taxpayer residing in that Member State and working for the public administration of another Member State may not deduct from the income tax basis of assessment in her Member State of residence the pension and health insurance contributions deducted from her wages in the Member State of employment, in contrast to comparable contributions paid to the social security fund of her Member State of residence, where, under the Convention for the avoidance of double taxation between the two Member States, the wages must not be taxed in the worker's Member State of residence and merely increase the tax rate to be applied to other income.

([1]) OJ C 118, 4.4.2016.

Judgment of the Court (Ninth Chamber) of 14 June 2017 (request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) — Portugal) — Santogal M-Comércio e Reparação de Automóveis Lda v Autoridade Tributária e Aduaneira

(Case C-26/16) ([1])

(Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Article 138(2)(a) — Conditions for the grant of the exemption for an intra-Community supply of a new means of transport — Purchaser's residence in the Member State of destination — Temporary registration in the Member State of destination — Risk of tax evasion — Good faith of the vendor — Obligation of diligence on the part of the vendor)

(2017/C 277/16)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Applicant: Santogal M-Comércio e Reparação de Automóveis Lda

Defendant: Autoridade Tributária e Aduaneira

Operative part of the judgment

1. *Article 138(2)(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax precludes national provisions from making the benefit of the exemption of an intra-Community supply of a new means of transport subject to the requirement that the purchaser of that means of transport must be established or domiciled in the Member State of destination of that means of transport.*

2. *Article 138(2)(a) of Directive 2006/112 must be interpreted as meaning that the exemption of a supply of a new means of transport cannot be refused in the Member State of supply on the sole ground that that means of transport has been registered only temporarily in the Member State of destination.*

3. *Article 138(2)(a) of Directive 2006/112 precludes the vendor of a new means of transport, transported by the purchaser to another Member State and registered in that latter State temporarily, from being required to pay value added tax at a later stage when it is not established that the temporary registration regime has ended and value added tax has or will be paid in the Member State of destination.*

4. *Article 138(2)(a) of Directive 2006/112 as well as the principles of legal certainty, proportionality and protection of legitimate expectations preclude the vendor of a new means of transport, transported by the purchaser to another Member State and registered on a temporary basis in that State, from being required to pay value added tax at a later stage in the event of tax evasion by the purchaser, unless it has been established, in the light of objective evidence, that that vendor knew or ought to have known that the transaction was part of a fraud committed by the purchaser and he did not take all reasonable steps within his power to avoid his participation in that fraud. It is for the referring court to verify whether this is the case on the basis of an overall assessment of all the evidence and circumstances of the case in the main proceedings.*

([1]) OJ C 136, 18.4.2016.

Judgment of the Court (Fourth Chamber) of 14 June 2017 (request for a preliminary ruling from the First-tier Tribunal (Tax Chamber) — United Kingdom) — Compass Contract Services Limited v Commissioners for Her Majesty's Revenue and Customs

(Case C-38/16) ([1])

(Reference for a preliminary ruling — Value added tax (VAT) — Repayment of overpaid VAT — Right to deduct VAT — Procedures — Principles of equal treatment and fiscal neutrality — Principle of effectiveness — National legislation introducing a limitation period)

(2017/C 277/17)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicant: Compass Contract Services Limited

Defendant: Commissioners for Her Majesty's Revenue and Customs

Operative part of the judgment

The principles of fiscal neutrality, equal treatment and effectiveness do not preclude national legislation, such as that at issue in the main proceedings, which, in the context of the reduction of the limitation period, on the one hand, for claims for overpaid value added tax and, on the other hand, for claims for deduction of input value added tax, provides different transitional periods, with the result that claims relating to two accounting periods of three months are subject to different limitation periods depending on whether they concern the repayment of overpaid value added tax or the deduction of input value added tax.

([1]) OJ C 106, 21.3.2016.

Judgment of the Court (First Chamber) of 22 June 2017 (request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi Bíróság — Hungary) — Unibet International Ltd. v Nemzeti Adó- és Vámhivatal Központi Hivatala

(Case C-49/16) ([1])

(Reference for a preliminary ruling — Freedom to provide services — Restrictions — Conditions for the award of a concession for the organisation of online games of chance — Practical impossibility of obtaining such a licence for private operators established in other Member States)

(2017/C 277/18)

Language of the case: Hungarian

Referring court

Fővárosi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Unibet International Ltd.

Defendant: Nemzeti Adó- és Vámhivatal Központi Hivatala

Operative part of the judgment

1. *Article 56 TFEU must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which introduces a system of concessions and licences for the organisation of online games of chance, if it contains discriminatory rules with regard to operators established in other Member States or if it lays down rules which are not discriminatory but which are applied in a manner which is not transparent or are implemented in such a way as to prevent or hinder an application from certain tenderers established in other Member States;*

2. *Article 56 TFEU must be interpreted as precluding penalties, such as those at issue in the main proceedings, imposed for the infringement of national legislation introducing a system of concessions and licences for the organisation of games of chance, if such national legislation proves to be contrary to Article 56 TFEU.*

([1]) OJ C 136, 18.4.2016.

Judgment of the Court (First Chamber) of 14 June 2017 (request for a preliminary ruling from the Tribunale Ordinario di Verona — Italy) — Livio Menini, Maria Antonia Rampanelli v Banco Popolare — Società Cooperativa

(Case C-75/16) ([1])

(Reference for a preliminary ruling — Consumer protection — Alternative dispute resolution (ADR) procedures — Directive 2008/52/EC — Directive 2013/11/EU — Article 3(2) — Applications by consumers to set an order aside in the context of payment order proceedings instituted by a credit institution — Right of access to the judicial system — National legislation providing for mandatory recourse to a mediation procedure — Obligation to be assisted by a lawyer — Condition for the admissibility of proceedings before the courts)

(2017/C 277/19)

Language of the case: Italian

Referring court

Tribunale Ordinario di Verona

Parties to the main proceedings

Applicants: Livio Menini, Maria Antonia Rampanelli

Defendant: Banco Popolare — Società Cooperativa

Operative part of the judgment

Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which prescribes recourse to a mediation procedure, in disputes referred to in Article 2(1) of that directive, as a condition for the admissibility of legal proceedings relating to those disputes, to the extent that such a requirement does not prevent the parties from exercising their right of access to the judicial system.

On the other hand, that directive must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which provides that, in the context of such mediation, consumers must be assisted by a lawyer and that they may withdraw from a mediation procedure only if they demonstrate the existence of a valid reason in support of that decision.

([1]) OJ C 156, 2.5.2016.

Judgment of the Court (Third Chamber) of 22 June 2017 (request for a preliminary ruling from the Rechtbank Midden-Nederland — Netherlands) — Federatie Nederlandse Vakvereniging and Others v Smallsteps BV

(Case C-126/16) ([1])

(Reference for a preliminary ruling — Directive 2001/23/EC — Articles 3 to 5 — Transfers of undertakings — Safeguarding of employees' rights — Exceptions — Insolvency proceedings — 'Pre-pack' — Survival of an undertaking)

(2017/C 277/20)

Language of the case: Dutch

Referring court

Rechtbank Midden-Nederland

Parties to the main proceedings

Applicants: Federatie Nederlandse Vakvereniging, Karin van den Burg-Vergeer, Lyoba Tanja Alida Kukupessy, Danielle Paase-Teeuwen, Astrid Johanna Geertruda Petronelle Schenk

Defendant: Smallsteps BV

Operative part of the judgment

Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, and in particular Article 5 (1) thereof, must be interpreted as meaning that the protection of workers guaranteed by Articles 3 and 4 of that directive applies in a situation, such as that at issue in the main proceedings, in which the transfer of an undertaking takes place following a declaration of insolvency and in the context of a 'pre-pack' where that 'pre-pack' is prepared before the declaration of insolvency and put into effect immediately after that declaration, and, in particular, a court-appointed prospective insolvency administrator investigates the possibilities for continuation of the activities of that undertaking by a third party and prepares for acts which must be carried out shortly after the insolvency to enable such continuation and, moreover, it is irrelevant in that regard that the 'pre-pack' is also aimed at maximising the proceeds of the transfer for all the creditors of the undertaking in question.

([1]) OJ C 165, 10.5.2016.

Judgment of the Court (Third Chamber) of 15 June 2017 (request for a preliminary ruling from the Oberster Gerichtshof — Austria) — Saale Kareda v Stefan Benkö

(Case C-249/16) ([1])

(Reference for a preliminary ruling — Jurisdiction in civil and commercial matters — Regulation (EU) No 1215/2012 — Article 7(1) — Concepts of 'matters relating to a contract' and of a 'contract for the provision of services' — Recourse claim between jointly and severally liable debtors under a credit agreement — Determination of the place of performance of the credit agreement)

(2017/C 277/21)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: Saale Kareda

Defendant: Stefan Benkö

Operative part of the judgment

1. *Article 7(1) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a recourse claim between jointly and severally liable debtors under a credit agreement constitutes a 'matter relating to a contract', as referred to in that provision.*

2. *The second indent of Article 7(1)(b) of Regulation No 1215/2012 must be interpreted as meaning that a credit agreement, such as that at issue in the main proceedings, between a credit institution and two jointly and severally liable debtors, must be classified as a 'contract for the provision of services' for the purposes of that provision.*

3. *The second indent of Article 7(1)(b) of Regulation No 1215/2012 must be interpreted as meaning that, where a credit institution has granted a loan to two jointly and severally liable debtors, the 'place in a Member State where, under the contract, the services were provided or should have been provided', within the meaning of that provision, is, unless otherwise agreed, the place where that institution has its registered office, and this also applies with a view to determining the territorial jurisdiction of the court called upon to hear and determine an action for recourse between those joint debtors.*

(1) OJ C 305, 22.8.2016.

Judgment of the Court (Sixth Chamber) of 15 June 2017 — Kingdom of Spain v European Commission, Republic of Latvia

(Case C-279/16 P) (1)

(Appeal — Action for annulment — EAGGF, EAGF and EAFRD — Expenditure excluded from EU financing — Expenditure incurred by the Kingdom of Spain)

(2017/C 277/22)

Language of the case: Spanish

Parties

Appellant: Kingdom of Spain (represented by: J. García-Valdecasas Dorrego and V. Ester Casas, acting as Agents)

Other parties to the proceedings: European Commission (represented by: D. Triantafyllou and I. Galindo Martín, acting as Agents), Republic of Latvia

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

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

(1) OJ C 279, 1.8.2016.

Judgment of the Court (Eighth Chamber) of 15 June 2017 (request for a preliminary ruling from the Nederlandstalige rechtbank van eerste aanleg Brussel — Belgium) — T.KUP SAS v Belgische Staat

(Case C-349/16) (1)

(Reference for a preliminary ruling — Dumping — Regulation (EC) No 1472/2006 — Imports of certain footwear with uppers of leather originating in China and Vietnam — Validity of Implementing Regulation (EU) No 1294/2009 — Expiry review of anti-dumping measures — Unrelated importers — Sampling — European Union interest)

(2017/C 277/23)

Language of the case: Dutch

Referring court

Nederlandstalige rechtbank van eerste aanleg Brussel

Parties to the main proceedings

Applicant: T.KUP SAS

Defendant: Belgische Staat

Operative part of the judgment

The examination of the questions referred has disclosed nothing capable of affecting the validity of Council Implementing Regulation (EU) No 1294/2009 of 22 December 2009 imposing a definitive anti-dumping duty on imports of certain footwear with uppers of leather originating in Vietnam and originating in the People's Republic of China, as extended to imports of certain footwear with uppers of leather consigned from the Macao SAR, whether declared as originating in the Macao SAR or not, following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96.

([1]) OJ C 335, 12.9.2016.

Judgment of the Court (Seventh Chamber) of 14 June 2017 (request for a preliminary ruling from the Landgericht Trier — Germany) — Verband Sozialer Wettbewerb eV v TofuTown.com GmbH

(Case C-422/16) ([1])

(Reference for a preliminary ruling — Common organisation of the markets in agricultural products — Regulation (EU) No 1308/2013 — Article 78 and Annex VII, Part III — Decision 2010/791/EU — Definitions, designations and sales descriptions — 'Milk' and 'milk products' — Designations used for the promotion and marketing of purely plant-based products)

(2017/C 277/24)

Language of the case: German

Referring court

Landgericht Trier

Parties to the main proceedings

Applicant: Verband Sozialer Wettbewerb eV

Defendant: TofuTown.com GmbH

Operative part of the judgment

Article 78(2) and Annex VII, Part III to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 must be interpreted as precluding the term 'milk' and the designations reserved by that regulation exclusively for milk products from being used to designate a purely plant based product in marketing or advertising, even if those terms are expanded upon by clarifying or descriptive terms indicating the plant origin of the product at issue, unless that product is listed in Annex I to Commission Decision 2010/791/EU of 20 December 2010 listing the products referred to in the second subparagraph of point III(1) of Annex XII to Council Regulation (EC) No 1234/2007.

([1]) OJ C 350, 26.9.2016.

Judgment of the Court (Ninth Chamber) of 15 June 2017 (request for a preliminary ruling from the Cour d'appel de Mons — Belgium) — Immo Chiaradia SPRL (C-444/16), Docteur De Bruyne SPRL (C-445/16) v État belge

(Joined Cases C-444/16 and C-445/16) ([1])

(Reference for a preliminary ruling — Directive 78/660/EEC — Annual accounts of certain types of companies — Principle that a true and fair view must be given — Principle that valuation must be made on a prudent basis — Issuing company of a share option recognising the grant date price of the option in the course of the accounting year in which the option is exercised or at the end of its period of validity)

(2017/C 277/25)

Language of the case: French

Referring court

Cour d'appel de Mons

Parties to the main proceedings

Applicants: Immo Chiaradia SPRL (C-444/16), Docteur De Bruyne SPRL (C-445/16)

Defendant: État belge

Operative part of the judgment

The principles that a true and fair view must be given and that valuation must be made on a prudent basis set out in Articles 2(3) and 31(1)(c) respectively of Council Directive 78/660/EEC of 25 July 1978 based on Article [50(2)(g) TFEU] on the annual accounts of certain types of companies, as amended by Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003, must be interpreted as not precluding an accounting method according to which a company issuing a share option may recognise as income the grant date price of that option in the course of the accounting year in which that option is exercised or at the end of its period of validity.

([1]) OJ C 410, 7.6.2016.

Judgment of the Court (Seventh Chamber) of 21 June 2017 (request for a preliminary ruling from the Corte d'appello di Genova — Italy) — Kerly Del Rosario Martinez Silva v Istituto nazionale della previdenza sociale (INPS), Comune di Genova

(Case C-449/16) ([1])

(Reference for a preliminary ruling — Social security — Regulation (EC) No 883/2004 — Article 3 — Family benefits — Directive 2011/98/EU — Article 12 — Right to equal treatment — Third-country nationals holding single permits)

(2017/C 277/26)

Language of the case: Italian

Referring court

Corte d'appello di Genova

Parties to the main proceedings

Applicant: Kerly Del Rosario Martinez Silva

Defendants: Istituto nazionale della previdenza sociale (INPS), Comune di Genova

Operative part of the judgment

Article 12 of Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State must be interpreted as precluding national legislation, such as that at issue in the main proceedings, under which a third-country national holding a single permit within the meaning of Article 2(c) of that directive cannot receive a benefit such as the benefit for households having at least three minor children established by Legge n. 448 — Misure di finanza pubblica per la stabilizzazione e lo sviluppo (Law No 448 on public finance measures for stabilisation and development) of 23 December 1998.

([1]) OJ C 410, 7.11.2016.

Appeal brought on 21 December 2016 by Laboratoire de la mer against the order of the General Court (Sixth Chamber) delivered on 18 October 2016 in Case T-109/16: Laboratoire de la mer v European Union Intellectual Property Office

(Case C-662/16 P)

(2017/C 277/27)

Language of the case: English

Parties

Appellant: Laboratoire de la mer (represented by: J. Blanchard, avocat)

Other party to the proceedings: European Union Intellectual Property Office

By order of 20 June 2017 the Court of Justice (Sixth Chamber) held that the appeal was inadmissible.

Appeal brought on 24 January 2017 by Rudolf Keil against the judgment of the Court (Seventh Chamber) delivered on 15 December 2016 in Case T-330/15 Rudolf Keil v European Union Intellectual Property Office

(Case C-37/17 P)

(2017/C 277/28)

Language of the case: German

Parties

Appellant: Rudolf Keil (represented by: J. Sachs, Rechtsanwalt)

Other party to the proceedings: European Union Intellectual Property Office

By order of 31 May 2017, the Court of Justice of the European Union (Tenth Chamber) dismissed the appeal and ordered the appellant to bear his own costs.

Appeal brought on 17 February 2017 by CBA Spielapparate- und Restaurantbetriebs GmbH against the order of the General Court (Third Chamber) delivered on 19 December 2016 in Case T-655/16 CBA Spielapparate- und Restaurantbetriebs GmbH v Court of Justice of the European Union

(Case C-87/17 P)

(2017/C 277/29)

Language of the case: German

Parties

Appellant: CBA Spielapparate- und Restaurantbetriebs GmbH (represented by: A. Schuster, Rechtsanwalt)

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

By order of 5 July 2017, the Court of Justice of the European Union (Tenth Chamber) dismissed the appeal and ordered the appellant to bear its own costs.

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Piemonte (Italy) lodged on 5 April 2017 — Demarchi Gino S.a.s. v Ministero della Giustizia

(Case C-177/17)

(2017/C 277/30)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Piemonte

Parties to the main proceedings

Applicant: Demarchi Gino S.a.s.

Defendant: Ministero della Giustizia

Question referred

Does the principle that everyone is entitled to a hearing by an impartial tribunal within a reasonable time, affirmed in the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union and in Article 6(1) of the European Convention for the Protection of Human Rights, which has become a principle of European Union law by virtue of Article 6(3) TEU, read in conjunction with the principle arising from Article 67 TFEU, according to which the Union is to constitute an area of freedom, security and justice with respect for fundamental rights, and the principle arising from Articles 81 and 82 TFEU, according to which, in civil and criminal matters having cross-border implications, the Union is to develop judicial cooperation based on the principle of mutual recognition of judgments and of decisions in extrajudicial cases, preclude national provisions, such as the Italian provisions contained in Article 5 sexies of Law No 89/2001, which impose on persons entitled to the payment by the Italian State of 'fair compensation' in respect of the unreasonable duration of legal proceedings a series of obligations which they must fulfil in order to obtain such payment, and to await the expiry of the period referred to in Article 5 sexies (5) of Law No 89/2001 without, in the meanwhile, being entitled to take any legal action for enforcement and without subsequently being able to claim damages in respect of late payment, even in cases in which the 'fair compensation' has been awarded in respect of the unreasonable duration of civil proceedings which have cross-border implications or which involve a matter that falls within the jurisdiction of the European Union and/or a matter in relation to which the European Union provides for the reciprocal recognition of judgments?

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Piemonte (Italy) lodged on 5 April 2017 — Graziano Garavaldi v Ministero della Giustizia

(Case C-178/17)

(2017/C 277/31)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Piemonte

Parties to the main proceedings

Applicant: Graziano Garavaldi

Defendant: Ministero della Giustizia

Question referred

Does the principle that everyone is entitled to a hearing by an impartial tribunal within a reasonable time, affirmed in the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union and in Article 6(1) of the European Convention for the Protection of Human Rights, which has become a principle of European Union law by virtue of Article 6(3) TEU, read in conjunction with the principle arising from Article 67 TFEU, according to which the Union is to constitute an area of freedom, security and justice with respect for fundamental rights, and the principle arising from Articles 81 and 82 TFEU, according to which, in civil and criminal matters having cross-border implications, the Union is to develop judicial cooperation based on the principle of mutual recognition of judgments and of decisions in extrajudicial cases, preclude national provisions, such as the Italian provisions contained in Article 5 sexies of Law No 89/2001, which impose on persons entitled to the payment by the Italian State of 'fair compensation' in respect of the unreasonable duration of legal proceedings a series of obligations which they must fulfil in order to obtain such payment, and to await the expiry of the period referred to in Article 5 sexies (5) of Law No 89/2001 without, in the meanwhile, being entitled to take any legal action for enforcement and without subsequently being able to claim damages in respect of late payment, even in cases in which the 'fair compensation' has been awarded in respect of the unreasonable duration of civil proceedings which have cross-border implications or which involve a matter that falls within the jurisdiction of the European Union and/or a matter in relation to which the European Union provides for the reciprocal recognition of judgments?

Request for a preliminary ruling from the Commissione tributaria di primo grado di Bolzano (Italy) lodged on 21 April 2017 — Rotho Blaas Srl v Agenzia delle Dogane e dei Monopoli

(Case C-207/17)

(2017/C 277/32)

Language of the case: Italian

Referring court

Commissione tributaria di primo grado di Bolzano

Parties to the main proceedings

Applicant: Rotho Blaas Srl

Defendant: Agenzia delle Dogane e dei Monopoli

Questions referred

1. Are Council Regulation (EC) No 91/2009 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China ([1]) and Council Implementing Regulation (EU) No 924/2012 amending Regulation (EC) No 91/2009 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China, ([2]) and Commission Implementing Regulation (EU) 519/2015 of 26 March 2015 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not, following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 ([3]) invalid/unlawful/incompatible with Article VI of the General Agreement on Tariffs and Trade of 1994 and the decision of the WTO DSB of 28 July 2011?

2. If Regulation (EC) No 91/2009 imposing an anti-dumping duty and related implementing regulations Nos 924/2012 and 519/2015 are declared invalid/unlawful/incompatible, does the repeal of the anti-dumping duties imposed on the basis of the contested measures produce legal effects from the time Implementing Regulation (EU) No 278/2016 ([4]) enters into force, or from the date on which the contested measure, that is to say, Basic Regulation (EC) No 91/2009, entered into force?

([1]) Council Regulation of 26 January 2009 (OJ 2009 L 29, p. 1).
([2]) Council Regulation of 4 October 2012 (OJ 2012 L 275, p. 1).
([3]) Commission Regulation of 26 March 2015 (OJ 2015 L 82, p. 78).
([4]) Commission Implementing Regulation (EU) 2016/278 of 26 February 2016 repealing the definitive anti-dumping duty imposed on imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not (OJ 2016 L 52, p. 24).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 24 April 2017 — Autorità Garante della Concorrenza and Del Mercato — Antitrust, Coopservice Soc. coop. a r.l. v Azienda Socio-Sanitaria Territoriale della Vallecamonica — Sebino (ASST) and Others

(Case C-216/17)

(2017/C 277/33)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Autorità Garante della Concorrenza and del Mercato (AGCM) — Antitrust, Coopservice Soc. coop. a r.l.

Defendants: Azienda Socio-Sanitaria Territoriale della Vallecamonica — Sebino (ASST), Azienda Socio-Sanitaria Territoriale del Garda (ASST), Azienda Socio-Sanitaria Territoriale della Vallecamonica (ASST)

Questions referred

(1) Can Articles 2(5) and 32 of Directive 2004/18/EU ([1]) and Article 33 of Directive 2014/24/EU ([2]) be interpreted as allowing the conclusion of a framework agreement in which:

(a) a contracting authority acts on its own behalf and on behalf of other contracting authorities specifically indicated, which do not, however, play a direct part in the conclusion of that framework agreement;

(b) the quantity of services that may be required by the non-signatory contracting authorities when they enter into the subsequent contracts envisaged in the framework agreement itself is not determined;

(2) if the answer to question (1) should be in the negative,

Can Articles 2(5) and 32 of Directive 2004/18/EU and Article 33 of Directive 2014/24/EU be interpreted as allowing the conclusion of a framework agreement in which:

(a) a contracting authority acts on its own behalf and on behalf of other contracting authorities specifically indicated, which do not, however, play a direct part in the conclusion of that framework agreement;

(b) the quantity of services that may be required by the non-signatory contracting authorities when they enter into the subsequent contracts envisaged in the framework agreement itself is determined by reference to their usual requirements.

([1]) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).
([2]) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC Text with EEA relevance (OJ 2014 L 94, p. 65).

Request for a preliminary ruling from the Rechtbank Amsterdam (Netherlands) lodged on 18 May 2017 — Openbaar Ministerie v Tadas Tupikas

(Case C-270/17)

(2017/C 277/34)

Language of the case: Dutch

Referring court

Rechtbank Amsterdam

Parties to the main proceedings

Applicant: Openbaar Ministerie

Defendant: Tadas Tupikas

Question referred

Are appeal proceedings

— in which there has been an examination of the merits and

— which resulted in the passing of a (new) sentence on the person concerned and/or the confirmation of the sentence handed down at first instance,

— where the EAW [European Arrest Warrant] concerns the execution of that sentence,

the 'trial resulting in the decision' as referred to in Article 4a(1) of Framework Decision 2002/584/JHA? ([1])

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

Request for a preliminary ruling from the Rechtbank Amsterdam (Netherlands) lodged on 18 May 2017 — Openbaar Ministerie v Sławomir Andrzej Zdziaszek

(Case C-271/17)

(2017/C 277/35)

Language of the case: Dutch

Referring court

Rechtbank Amsterdam

Parties to the main proceedings

Applicant: Openbaar Ministerie

Defendant: Sławomir Andrzej Zdziaszek

Questions referred

1. Are proceedings

   — in which the court in the issuing Member State decides to combine separate custodial sentences which had previously been imposed on the person concerned by a final judgment into one single custodial sentence, and/or to change an aggregate custodial sentence which had previously been imposed on the person concerned by a final judgment and

   — in which that court no longer examines the question of guilt,

   such as the proceedings which led to the cumulative sentence of 25 March 2014, a 'trial resulting in the decision' as referred to in the introductory subparagraph of Article 4a(1) of Framework Decision 2002/584/JHA? ([1])

2. Can the executing judicial authority:

— in a case where the requested person did not appear in person at the trial resulting in the decision,

— but where the issuing judicial authority has not, either in the EAW [European Arrest Warrant] or in the supplementary information requested pursuant to Article 15(2) of Framework Decision 2002/584/JHA, provided information about the applicability of one or more of the circumstances referred to in subparagraphs (a) to (d) of Article 4a(1) of Framework Decision 2002/584/JHA, in accordance with the wording of one or more of the categories of point 3 of paragraph (d) of the EAW form,

for those very reasons conclude that none of the conditions of Article 4a(1)(a) to (d) of Framework Decision 2002/584/JHA has been satisfied and for those very reasons refuse to execute the EAW?

3. Are appeal proceedings

— in which there has been an examination of the merits and

— which resulted in the passing of a (new) sentence on the person concerned and/or the confirmation of the sentence handed down at first instance,

— where the EAW concerns the execution of that sentence,

the 'trial resulting in the decision' as referred to in Article 4a(1) of Framework Decision 2002/584/JHA?

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

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 18 May 2017 — K.M. Zyla v Staatssecretaris van Financiën

(Case C-272/17)

(2017/C 277/36)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: K.M. Zyla

Respondent: Staatssecretaris van Financiën

Question referred

Must Article 45 TFEU be interpreted as precluding legislation of a Member State under which a worker who, pursuant to Regulation No 1408/71 (1) or Regulation No 883/2004, (2) is insured under the social security system of the Member State concerned for part of a calendar year, and who, when the contributions for that insurance are levied, is entitled to only a portion of the contributions component of the general tax credit which is determined on a time-proportionate basis in relation to the period of insurance, if that worker, for the remainder of the calendar year, was not insured under the social security system of that Member State, and was resident in another Member State for the remainder of the calendar year and earned (virtually) his entire annual income in the first-mentioned Member State?

(1) Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (English Special Edition 1971(II), p. 416).

(2) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).

Reference for a preliminary ruling from the High Court (Ireland) made on 30 May 2017 — Eugen Bogatu v Minister for Social Protection

(Case C-322/17)

(2017/C 277/37)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicant: Eugen Bogatu

Defendant: Minister for Social Protection

Questions referred

1. Does EU Regulation No. 883/2004 ([1]), and in particular Article 67 thereof, when read in conjunction with article 11(2) thereof require that, in order to be eligible for 'family benefit' as defined in article 1(z) of the Regulation, a person must either be employed or self-employed in the competent Member State (as defined in article l(s) of the Regulation or alternatively be in receipt of the cash benefits referred to in Article 11(2) of the Regulation?

2. Is the reference to 'cash benefits' in article 11(2) of the regulation to be interpreted as referring only to a period during which a claimant is in actual receipt of cash benefits, or does it mean any period during which a claimant is covered for a cash a benefit in the future, whether or not that benefit has been claimed at the time of application for family benefit?

([1]) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004, L 166, p. 1).

Reference for a preliminary ruling from the High Court (Ireland) made on 30 May 2017 — People Over Wind, Peter Sweetman v Coillte Teoranta

(Case C-323/17)

(2017/C 277/38)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicants: People Over Wind, Peter Sweetman

Defendant: Coillte Teoranta

Question referred

Whether, or in what circumstances, mitigation measures can be considered when carrying out screening for appropriate assessment under Article 6(3) of the Habitats Directive ([1])?

([1]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992, L 206, p. 7).

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 12 June 2017 — Sergejs Buivids

(Case C-345/17)

(2017/C 277/39)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Appellant: Sergejs Buivids

Other party to the proceedings: Datu valsts inspekcija

Questions referred

1. Do activities such as those at issue in the present case, that is to say, the recording, in a police station, of police officers carrying out procedural measures and publication of the video on the Internet site *www.youtube.com*, fall within the scope of Directive 95/46? ([1])

2. Must Directive 95/46 be interpreted as meaning that those activities may be regarded as the processing of personal data for journalistic purposes, within the meaning of Article 9 of that directive?

([1]) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31).

Action brought on 26 June 2017 — European Commission v Portuguese Republic

(Case C-382/17)

(2017/C 277/40)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: P. Costa de Oliveira and L. Nicolae, Agents)

Defendant: Portuguese Republic

Form of order sought

The applicant claims that the Court should:

— declare that by failing to develop, implement and maintain a quality management system for the operational parts of the flag-State-related activities of its administration, certified in accordance with the applicable international quality standards, by 17 June 2012, the Portuguese Republic has failed to fulfil its obligations under Article 8(1) of Directive 2009/21/EC ([1]) of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements;

— order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

Article 8(1) of the Directive clearly lays down that by 17 June 2012 the Member States must develop, implement and maintain the quality management system referred to.

It is now June 2017 and the Portuguese Republic has still not complied with Article 8(1).

By acting in that manner, the Portuguese administration is undermining the objectives pursued by the Directive, jeopardising maritime safety and the protection of the environment. In addition, the conduct of the Portuguese administration carries the risk of creating an unfair competitive advantage for the Portuguese fleet in relation to other Member States' fleets.

(1) OJ 2009 L 131, p. 132.

Action brought on 26 June 2017 — European Commission v Portuguese Republic

(Case C-383/17)

(2017/C 277/41)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: P. Costa de Oliveira and L. Nicolae, Agents)

Defendant: Portuguese Republic

Form of order sought

The applicant claims that the Court should:

— declare that by failing to provide the Commission with any report of the results of the monitoring of every recognised organisation acting on its behalf, the Portuguese Republic fails to fulfil its obligations under Article 9(2) of Directive 2009/15/EC (1) of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations;

— order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

Article 9(2) of the Directive clearly lays down that each Member State must, at least on a biennial basis, monitor every recognised organisation acting on its behalf and provide the other Member States and the Commission with a report on the results of such monitoring activities at the latest by 31 March of the year following the year in which the monitoring was carried out.

Since the time limit for transposing the Directive into national law expired on 17 June 2011 in accordance with Article 13 (1) of that directive, the Portuguese Republic ought to have provided the first report by 31 March 2013 at the latest, as it could have opted to carry out the first monitoring during 2011 or 2012.

It is now June 2017 and the Portuguese Republic has still not provided a report.

(1) OJ 2009 L 131, p. 47.

Action brought on 10 July 2017 — European Commission v Republic of Croatia

(Case C-415/17)

(2017/C 277/42)

Language of the case: Croatian

Parties

Applicant: European Commission (represented by: H. Støvlbæk, M. Mataija and G. von Rintelen, Agents)

Defendant: Republic of Croatia

Form of order sought

The European Commission claims that the Court should:

— declare that the Republic of Croatia has failed to fulfil its obligations under Article 2 of Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (OJ 2014 L 158, p. 196), by failing to take the necessary measures, by 17 June 2016, in order to comply with that directive or, in any event, by failing to communicate such measures to the Commission;

— impose on the Republic of Croatia, in accordance with Article 260(3) TFEU, a daily penalty payment of EUR 9 275,20, with effect from the day on which judgment is given that there has been a failure to comply with the obligation to notify the measures for transposing Directive 2014/59/EU;

— order the Republic of Croatia to pay the costs.

Pleas in law and main arguments

The Republic of Croatia has failed to fulfil its obligation to inform the Commission of the measures for transposing Directive 2014/56/EU within the time limit laid down in Article 2 of that directive.

GENERAL COURT

Judgment of the General Court of 11 July 2017 — Viraj Profiles v Council

(Case T-67/14) ([1])

(Dumping — Imports of certain stainless steel wires originating in India — Determination of the cost of production — Selling, General and Administrative costs — Obligation to state reasons — Injury — Causal link — Complaint — Opening of the investigation — Manifest error of assessment)

(2017/C 277/43)

Language of the case: English

Parties

Applicant: Viraj Profiles Ltd (Maharashtra, India) (represented by: V. Akritidis and Y. Melin, lawyers)

Defendant: Council of the European Union (represented: initially by B. Driessen, and subsequently by H. Marcos Fraile, acting as Agents, assisted by R. Bierwagen, C. Hipp and D. Reich, lawyers)

Intervener in support of the defendant: European Commission (represented by: J.-F. Brakeland and A. Stobiecka-Kuik, acting as Agents)

Re:

Action pursuant to Article 263 TFEU for annulment of Council Implementing Regulation (EU) No 1106/2013 of 5 November 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India (OJ 2013 L 298, p. 1), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. *Annuls Council Implementing Regulation (EU) No 1106/2013 of 5 November 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India, as far as it relates to Viraj Profiles Ltd;*

2. *Orders the Council of the European Union to bear its own costs and to pay the costs incurred by Viraj Profiles;*

3. *Orders the European Commission to bear its own costs.*

([1]) OJ C 112, 14.4.2014.

Judgment of the General Court of 6 July 2017 — France v Commission

(Case T-74/14) ([1])

(State aid — Aid measures implemented by France in favour of SNCM — Restructuring aid and mesures taken in the context of a privatisation plan — Private investor in a market economy test — Decision declaring the aid unlawful and incompatible with the internal market — Re-opening of the formal investigation procedure — Obligation to state reasons)

(2017/C 277/44)

Language of the case: French

Parties

Applicant: French Republic (represented by: initially G. de Bergues, D. Colas, E. Belliard and J. Bousin, and subsequently D. Colas, E. Belliard and J. Bousin, acting as Agents)

Defendant: European Commission (represented by: V. Di Bucci and B. Stromsky, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2013) 7066 final of 20 November 2013, concerning State aid SA.16237 (C 58/2002) (ex N 118/2002) implemented by France in favour of SNCM.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the French Republic to pay the costs.*

([1]) OJ C 135, 5.5.2014.

Judgment of the General Court of 29 June 2017 — Cipriani v EUIPO — Hotel Cipriani (CIPRIANI)

(Case T-343/14) ([1])

(EU trade mark — Invalidity proceedings — EU word mark CIPRIANI — No bad faith — Article 52(1)(b) of Regulation (EC) No 207/2009 — No breach of the right to a name of a well-known person — Article 53 (2)(a) of Regulation No 207/2009)

(2017/C 277/45)

Language of the case: English

Parties

Applicant: Arrigo Cipriani (Venice, Italy) (represented by: A. Vanzetti, G. Sironi and S. Bergia, lawyers)

Defendant: European Union Intellectual Property Office (represented by: J. Crespo Carrillo, Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Hotel Cipriani Srl (Venice) (represented: initially by C. Hoole, Solicitor, and subsequently by T. Alkin, B. Brandreth, Barristers, W. Sander, P. Cantrill, M. Pearce, A. Hall and A. Ward, Solicitors, and finally by B. Brandreth, Barrister, and A. Poulter and P. Brownlow, Solicitors)

Re:

Action brought against the decision of the fourth Board of Appeal of EUIPO of 14 March 2014 (Case R 224/2012-4), relating to proceedings for a declaration of invalidity between Arrigo Cipriani and Hotel Cipriani

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Arrigo Cipriani to bear his own costs and to pay the costs incurred by the European Union Intellectual Property Office (EUIPO) and those of Hotel Cipriani Srl.*

([1]) OJ C 261, 11.8.2014.

Judgment of the General Court of 6 July 2017 — SNCM v Commission

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

(State aid — Aid measures implemented by France in favour of SNCM — Restructuring aid and mesures taken in the context of a privatisation plan — Private investor in a market economy test — Decision declaring the aid unlawful and incompatible with the internal market — Social policy of the Member States — Re-opening of the formal investigation procedure — Obligation to state reasons — Equal treatment — Article 41 of the Charter of Fundamental Rights)

(2017/C 277/46)

Language of the case: French

Parties

Applicant: Société nationale maritime Corse Méditerranée (SNCM) (Marseille, France) (represented by: F.-C. Laprévote, C. Froitzheim and A. Dupuis, lawyers)

Defendant: European Commission (represented by: V. Di Bucci and B. Stromsky, acting as Agents)

Intervener in support of the applicant: Comité d'entreprise de la Société nationale maritime Corse Méditerranée (SNCM) (Marseille) (represented by: C. Bonnefoi, lawyer)

Intervener in support of the defendant: Corsica Ferries France (Bastia, France) (represented by: N. Flandin and S. Rodrigues, lawyers)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2013) 7066 final of 20 November 2013, concerning State aid SA.16237 (C 58/2002) (ex N 118/2002) implemented by France in favour of SNCM.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Société nationale maritime Corse Méditerranée (SNCM) to bear its own costs and pay those incurred by the European Commission and Corsica Ferries France;*

3. *Orders the comité d'entreprise de la Société nationale maritime Corse Méditerranée (SNCM) to bear its own costs.*

([1]) OJ C 56, 16.2.2015.

Judgment of the General Court of 7 July 2017 — Azarov v Council

(Case T-215/15) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in Ukraine — Freezing of funds — List of persons, entities and bodies subject to the freezing of funds and economic resources — Retention of the applicant's name on the list — Duty to state reasons — Rights of defence — Right to property — Right to conduct a business — Proportionality — Misuse of power — Principle of sound administration — Manifest error of assessment)

(2017/C 277/47)

Language of the case: German

Parties

Applicant: Mykola Yanovych Azarov (Kiev, Ukraine) (represented by: G. Lansky and A. Egger, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix and F. Naert, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 25) and of Council Implementing Regulation (EU) 2015/357 of 5 March 2015 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 1), in so far as those acts maintain the applicant's name on the list of persons covered by the restrictive measures at issue.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Mykola Yanovych Azarov to pay the costs.*

([1]) OJ C 221, 6.7.2015.

Judgment of the General Court of 7 July 2017 — Arbuzov v Council

(Case T-221/15) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in Ukraine — Freezing of funds — List of persons, entities and bodies subject to the freezing of funds and economic resources — Retention of the applicant's name on the list — Principle of sound administration — Rights of defence — Duty to state reasons — Manifest error of assessment — Right to property)

(2017/C 277/48)

Language of the case: Czech

Parties

Applicant: Sergej Arbuzov (Kiev, Ukraine) (represented by: M. Machytková and V. Fišar, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix and A. Westerhof Löfflerová, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of (i) Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 25), (ii) Council Implementing Regulation (EU) 2015/357 of 5 March 2015 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 1), (iii) Council Decision (CFSP) 2016/318 of 4 March 2016 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2016 L 60, p. 76) and (iv) Council Implementing Regulation (EU) 2016/311 of 4 March 2016 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2016 L 60, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Sergej Arbuzov to bear his own costs and to pay those incurred by the Council of the European Union.*

([1]) OJ C 279, 24.8.2015.

Judgment of the General Court of 4 July 2017 — Sistema Teknolotzis v Commission

(Case T-234/15) ([1])

(Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) — Grant agreements for the PlayMancer, Mobiserv and PowerUp projects — Article 299 TFEU — Enforceable decision — Actions for annulment — Challengeable act — Admissibility — Proportionality — Duty of diligence — Obligation to state reasons)

(2017/C 277/49)

Language of the case: Greek

Parties

Applicant: Sistema Teknolotzis AE — Efarmogon Ilektronikis kai Pliroforikis (Athens, Greece) (represented by: E. Georgilas, lawyer)

Defendant: European Commission (represented by: J. Estrada de Solà and L. Di Paolo, acting as Agents, assisted by E. Politis, lawyer)

Re:

Application on the basis of Article 263 TFEU seeking the annulment of Commission Decision C(2015) 1677 final of 10 March 2015 constituting writ of execution for the enforced recovery from the applicant of the sum of EUR 716 334,05 together with interest.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Sistema Teknolotzis AE — Efarmogon Ilektronikis kai Pliroforikis to pay the costs.*

([1]) OJ C 270, 17.8.2015.

Judgment of the General Court of 28 June 2017 — Tayto Group v EUIPO — MIP Metro (real)

(Case T-287/15) ([1])

(EU trade mark — Revocation proceedings — EU figurative mark real — Genuine use — Form differing in elements which do not alter the distinctive character — Point (a) of the second subparagraph of Article 15(1) of Regulation (EC) No 207/2009 — Use of the mark by a third party — Article 15(2) of Regulation No 207/2009 — Proof of genuine use — Article 15(1) and Article 51(1)(a) of Regulation No 207/2009 — Obligation to state reasons)

(2017/C 277/50)

Language of the case: English

Parties

Applicant: Tayto Group Ltd (Corby, United Kingdom) (represented by: G. Würtenberger and R. Kunze, lawyers)

Defendant: European Union Intellectual Property Office (represented by: D. Gája, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany) (represented by: J.-C. Plate and R. Kaase, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 16 March 2015 (Case R 2285/2013-4), relating to revocation proceedings between Tayto Group and MIP Metro Group Intellectual Property

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Tayto Group Ltd to pay the costs.*

(1) OJ C 279, 24.8.2015.

Judgment of the General Court of 28 June 2017 — Josel v EUIPO — Nationale-Nederlanden Nederland (NN)

(Case T-333/15) (1)

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark NN — Earlier national word mark NN — Relative ground for refusal — Lack of genuine use of the earlier mark — Articles 15(1)(a) and 42(2) of Regulation (EC) No 207/2009 — Form differing by elements altering the distinctive character)

(2017/C 277/51)

Language of the case: English

Parties

Applicant: Josel, SL (Barcelona, Spain) (represented: initially by J.L. Rivas Zurdo, and subsequently by J. Güell Serra, lawyers)

Defendant: European Union Intellectual Property Office (represented by: D. Gája, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Nationale-Nederlanden Nederland BV (The Hague, Netherlands) (represented: initially by E. Morée and A. Janssen, and subsequently by A. Janssen, R. Sjoerdsma and C. Jehoram, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 14 April 2015 (Case R 1531/2014-4), relating to opposition proceedings between Josel and Nationale-Nederlanden Nederland.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the applicant to pay the costs.*

(1) OJ C 262, 10.8.2015.

Judgment of the General Court of 4 July 2017 — European Dynamics Luxembourg and Others v European Union Agency for Railways

(Case T-392/15) ([1])

(Public service contracts — Tendering procedure — External Service Provision for development, studies and support for information systems for the European Union Agency for Railways — Ranking of a tenderer's bid — Rejection of the tenderer's bid — Duty to state reasons — Abnormally low tender)

(2017/C 277/52)

Language of the case: Greek

Parties

Applicants: European Dynamics Luxembourg SA (Luxembourg, Luxembourg), Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) and European Dynamics Belgium SA (Brussels, Belgium) (represented initially by I. Ampazis, M. Sfyri, C.-N. Dede and D. Papadopoulou and, subsequently, by M. Sfyri, C.-N. Dede and D. Papadopoulou lawyers)

Defendant: European Union Agency for Railways (represented initially by M.J. Doppelbauer, and subsequently by M. G. Stärkle and Z. Pyloridou, acting as Agents and V. Christianos, lawyer)

Re:

Action based on Article 263 TFEU seeking annulment of the decision of the European Union Agency for Railways ranking the tenders submitted by the applicants for Lots 1 and 2 of contract ERA/2015/01/OP 'ESP EISD 5 — External Service Provision for ERA Information System'

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders European Dynamics Luxembourg SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE and European Dynamics Belgium to pay the costs.*

([1]) OJ C 328, 5.10.2015.

Judgment of the General Court of 11 July 2017 — Lidl Siftung v EUIPO (JEDE FLASCHE ZÄHLT!)

(Case T-623/15) ([1])

(EU trade mark — Application for EU figurative mark JEDE FLASCHE ZÄHLT! — Mark consisting of an advertising slogan — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2017/C 277/53)

Language of the case: German

Parties

Applicant: Lidl Siftung & Co. KG (Neckarsulm, Germany) (represented by: M. Wolter, A. Marx and A. Berger, lawyers)

Defendant: European Union Intellectual Property Office (represented by: M. Eberl and A. Schifko, acting as Agents)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 7 September 2015 (Case R 479/2015-4), concerning an application for registration of the figurative sign JEDE FLASCHE ZÄHLT! as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Lidl Stiftung & Co. KG to pay the costs.*

([1]) OJ C 16, 18.1.2016.

Judgment of the General Court of 5 July 2017 — Allstate Insurance v EUIPO (DRIVEWISE)

(Case T-3/16) ([1])

(EU trade mark — Application for registration of the EU word mark DRIVEWISE — Absolute ground for refusal — Descriptive character — No distinctive character — Article 7(1)(b) and (c) and 7(2) of Regulation (EC) No 207/2009 — Article 75 of Regulation No 207/2009)

(2017/C 277/54)

Language of the case: English

Parties

Applicant: Allstate Insurance Company (Northfield, Illinois, United States) (represented by: G. Würtenberger and N. Martzivanou, lawyers)

Defendant: European Union Intellectual Property Office (represented by: A. Folliard-Monguiral and K. Doherty, acting as Agents)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 8 October 2015 (Case R 956/2015-2), relating to an application for registration of the word sign DRIVEWISE as an EU trade mark.

Operative part of the judgment

The General Court:

1. *Dismisses the action;*

2. *Orders Allstate Insurance Company to pay the costs.*

([1]) OJ C 78, 29.2.2016.

Judgment of the General Court of 29 June 2017 — United Kingdom v Commission

(Case T-27/16) ([1])

(EAGF and EAFRD — Expenditure excluded from financing — Fruit and vegetables — Error of law — Article 3(1) and (3) of Regulation (EC) No 1433/2003 — Article 52(1) and (2) of Regulation (EC) No 1580/2007 — Principle of legality — Legal certainty — Equal treatment — Principle of non-discrimination — Obligation to state reasons)

(2017/C 277/55)

Language of the case: English

Parties

Applicant: United Kingdom of Great Britain and Northern Ireland (represented by: J. Kraehling and G. Brown, acting as Agents, and by S. Lee and M. Gray, Barristers)

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

Re:

Application pursuant to Article 263 TFEU seeking the partial annulment of Commission Implementing Decision (EU) 2015/2098 of 13 November 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2015 L 303, p. 35), by which the Commission, in particular, applied to the period of 2008 to 2012 a financial correction in the amount of EUR 1 849 194,86 following the exclusion of certain expenditure relating to the operational programmes of fruit and vegetable producer organisations of the United Kingdom for the years 2008 and 2009 as a result of weaknesses in the system of key controls of those programmes.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the United Kingdom of Great Britain and Northern Ireland to pay the costs.*

([1]) OJ C 111, 29.3.2016.

Judgment of the General Court of 29 June 2017 — E-Control v ACER

(Case T-63/16) ([1])

(Energy — Conditions for access to the network for cross-border exchanges in electricity — National regulatory authorities' decisions approving the methods of allocation of cross-border transmission capacity — Compatibility with Regulation (EC) No 714/2009 — Opinion of ACER — Definition of a decision open to appeal before ACER — Article 19 of Regulation (EC) No 713/2009 — Decision of the Board of Appeal of ACER dismissing the appeal as inadmissible — Error of law — Failure to state reasons)

(2017/C 277/56)

Language of the case: English

Parties

Applicant: Energie-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft (E-Control) (Vienna, Austria) (represented by: F. Schuhmacher, lawyer)

Defendant: Agency for the Cooperation of Energy Regulators (ACER) (represented by: E. Tremmel, acting as Agent)

Intervener in support of the applicant: Republic of Austria (represented by C. Pesendorfer, acting as Agent)

Interveners in support of the defendant: Czech Republic (represented by M. Smolek, T. Müller and J. Vláčil, acting as Agents), Republic of Poland (represented by B. Majczyna, acting as Agent) and Polskie Sieci Elektroenergetyczne S.A. (established in Konstancin-Jeziorna, Poland) (represented initially by M. Motylewski and A. Kulińska, and subsequently by H. Napieła and K. Figurska, lawyers)

Re:

Action under Article 263 TFEU for the annulment of Decision No A-001-2015 of the Board of Appeal of ACER of 16 December 2015, dismissing an appeal against Opinion No 09/2015 of ACER of 23 September 2015 on the compliance of the decisions of national regulatory authorities approving the methods of allocation of cross-border transmission capacity in the Central-East Europe region with Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (OJ 2009 L 211, p. 15), including the guidelines on the management and allocation of available transfer capacity of interconnections between national systems contained in Annex I thereto.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Energie-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft (E-Control) to bear its own costs and to pay those incurred by the Agency for the Cooperation of Energy Regulators (ACER);*

3. *Orders the Czech Republic, the Republic of Poland, the Republic of Austria and Polskie Sieci Elektroenergetyczne S.A. to bear their own costs.*

(1) OJ C 156, 2.5.2016.

Judgment of the General Court of 4 July 2017 — Pirelli Tyre v EUIPO (A pair of curved strips positioned on the side of a tyre)

(Case T-81/16) (1)

(EU trade mark — Application for an EU trade mark consisting of a pair of curved strips on the side of a tyre — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Council Regulation (EC) No 207/2009 — No distinctive character acquired through use — Article 7(3) of Regulation No 207/2009 — Article 75 of Regulation No 207/2009 — Article 76 of Regulation No 207/2009)

(2017/C 277/57)

Language of the case: English

Parties

Applicant: Pirelli Tyre SpA (Milan, Italy) (represented by: T.M. Müller and F. Togo, lawyers)

Defendant: European Union Intellectual Property Office (represented by: L. Rampini, acting as Agent)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 9 December 2015 (Case R 1019/2015-1) concerning an application for registration of a sign consisting of a pair of curved strips on the side of a tyre as an EU trade mark.

Operative part of the judgment

The General Court:

1. *Dismisses the action;*

2. *Orders Pirelli Tyre SpA to pay the costs.*

(1) OJ C 156, 2.5.2016.

Judgment of the General Court of 4 July 2017 — Murphy v EUIPO — Nike Innovate (Electronic wristband)

(Case T-90/16) (1)

(Community design — Invalidity proceedings — Registered Community design representing an electronic wristband — Prior Community design — Ground for invalidity — Individual character — Different overall impression — Article 6 and Article 25(1)(b) of Regulation (EC) No 6/2002 — Obligation to state reasons — Article 62 of Regulation No 6/2002)

(2017/C 277/58)

Language of the case: English

Parties

Applicant: Thomas Murphy (Dublin, Ireland) (represented by: N. Travers, SC, J. Gormley, Barrister, and M. O'Connor, Solicitor)

Defendant: European Union Intellectual Property Office (represented by: D. Gája, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Nike Innovate CV (Beaverton, Oregon, United States) (represented by: C. Spintig, S. Pietzcker and M. Prasse, lawyers)

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 19 November 2015 (Case R 736/2014–3), relating to invalidity proceedings between Mr Murphy and Nike Innovate.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Thomas Murphy to pay the costs.*

([1]) OJ C 156, 2.5.2016.

Judgment of the General Court of 5 July 2017 — Gamet v EUIPO — 'Metal-Bud II' Robert Gubała (Door handle)

(Case T-306/16) ([1])

(Community design — Invalidity proceedings — Registered Community design representing a door handle — Earlier design — Ground for invalidity — No individual character — Degree of freedom of the designer — No different overall impression — Article 6 and Article 25(1)(b) of Regulation (EC) No 6/2002 — Evidence submitted in support of the opposition after the expiry of the prescribed period — Production of evidence for the first time before the Board of Appeal — Discretion of the Board of Appeal — Article 63 of Regulation No 6/2002)

(2017/C 277/59)

Language of the case: English

Parties

Applicant: Gamet S.A. (Toruń, Poland) (represented by: A. Rolbiecka, lawyer)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Firma produkcyjno-handlowa 'Metal-Bud II' Robert Gubała (Świątniki Górne, Poland) (represented by: M. Mikosza, lawyer)

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 17 March 2016 (Case R 2040/2014-3), relating to invalidity proceedings between Firma produkcyjno-handlowa 'Metal-Bud II' Robert Gubała and Gamet.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Gamet S.A. to pay the costs.*

([1]) OJ C 296, 16.8.2016.

Judgment of the General Court of 7 July 2017 — Axel Springer v EUIPO — Stiftung Warentest (TestBild)

(Case T-359/16) ([1])

(EU trade mark — Opposition proceedings — Application for an EU word mark TestBild — Earlier national figurative marks test — Relative ground for refusal — Likelihood of confusion — Similarity of the goods and services — Similarity of the signs — Inherent distinctive character — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2017/C 277/60)

Language of the case: German

Parties

Applicant: Axel Springer SE (Berlin, Germany) (represented by: K. Hamacher and G. Müllejans, lawyers)

Defendant: European Union Intellectual Property Office (represented by: D. Walicka, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Stiftung Warentest (Berlin) (represented: initially by R. Mann, J. Smid, T. Brach, H. Nieland and A.-K. Kornrumpf and subsequently by J. Smid, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 4 May 2016 (Case R 555/2015-4), relating to opposition proceedings between Stiftung Warentest and Axel Springer.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 4 May 2016 (Case R 555/2015-4), in so far as it found that there was a likelihood of confusion in respect of 'printed matter, in particular test periodicals, consumer information, prospectuses, catalogues, books, newspapers and periodicals; instructional and teaching material (except apparatus)', in Class 16 of the Nice Agreement of 15 June 1957 concerning the International Classification of Goods and Services for the purposes of the Registration of Marks, as revised and amended;*

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

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

([1]) OJ C 296, 16.8.2016.

Judgment of the General Court of 11 July 2017 — Dogg Label v EUIPO — Chemoul (JAPRAG)

(Case T-406/16) ([1])

(EU trade mark — Invalidity proceedings — EU word mark JAPRAG — Earlier national figurative mark JAPAN-RAG — Relative ground for refusal — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2017/C 277/61)

Language of the case: French

Parties

Applicant: Dogg Label (Marseilles, France) (represented by: M. Angelier, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Folliard-Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Patrick Chemoul (Paris, France) (represented by: E. Hoffman, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 13 May 2016 (Case R 2336/2015-2), relating to invalidity proceedings between Dogg Label and Mr Chemoul.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of EUIPO of 13 May 2016 (Case R 2336/2015-2);*

2. *Orders Dogg Label, EUIPO and Mr Patrick Chemoul to bear their own respective costs.*

([1]) OJ C 364, 3.10.2016.

Judgment of the General Court of 29 June 2017 – Martín Osete v EUIPO — Rey (AN IDEAL WIFE and Others)

(Joined Cases T-427/16 to T-429/16) ([1])

(EU trade mark — Revocation proceedings — EU word marks AN IDEAL WIFE, AN IDEAL LOVER and AN IDEAL HUSBAND — No genuine use of the marks — Article 51(1)(a) of Regulation (EC) No 207/2009 — No proper reason for non-use)

(2017/C 277/62)

Language of the case: English

Parties

Applicant: Isabel Martín Osete (Paris, France) (represented by: V. Wellens, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Gája, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Danielle Rey, (Toulouse, France) (represented by: P. Wallaert and J. Cockain-Barere, lawyers)

Re:

Actions brought against the decisions of the Second Board of Appeal of EUIPO of 21 April 2016 (Cases R 1528/2015-2, R 1527/2015-2 and R 1526/2015-2), concerning revocation proceedings between Ms Rey and Ms Martín Osete.

Operative part of the judgment

The Court:

1. *Dismisses the actions;*

2. *Orders Ms Isabel Martín Osete to pay the costs.*

([1]) OJ C 343, 19.9.2016.

Judgment of the General Court of 29 June 2017 — Mr. Kebab v EUIPO – Mister Kebap (Mr. KEBAB)

(Case T-448/16) ([1])

(EU trade mark — Opposition proceedings — Application for registration of the EU figurative mark Mr. KEBAB — Earlier Spanish figurative mark MISTER KEBAP — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2017/C 277/63)

Language of the case: Slovak

Parties

Applicant: Mr. Kebab s. r. o. (Košice-Západ, Slovakia) (represented by: L. Vojčík, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Folliard-Monguiral and R. Cottrellovú, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO: Mister Kebap, SL (Finestrat, Spain)

Re:

Action brought against the decision of the 2nd Board of Appeal of EUIPO of 11 May 2006 (Case R 987/2015-2), relating to opposition proceedings between Mister Kebap and Mr. Kebab.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr. Kebab s. r. o. to pay the costs.*

([1]) OJ C 383, 17.10.2016.

Judgment of the General Court of 28 June 2017 — X-cen-tek v EUIPO (Representation of a triangle)

(Case T-470/16) ([1])

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

(2017/C 277/64)

Language of the case: German

Parties

Applicant: X-cen-tek GmbH & Co. KG (Wardenburg, Germany) (represented by: H. Hillers, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Schifko, acting as Agent)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 17 June 2016 (Case R 2565/2015-4), concerning an application for registration of a figurative sign representing a triangle as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders X-cen-tek GmbH & Co. KG to pay the costs.*

([1]) OJ C 383, 17.10.2016.

Judgment of the General Court of 28 June 2017 — Colgate-Palmolive v EUIPO (AROMASENSATIONS)

(Case T-479/16) ([1])

(EU trade mark — Application for EU figurative mark AROMASENSATIONS — Absolute ground for refusal — No distinctive character — Article 7(1)(b) and (2) of Regulation (EC) No 207/2009)

(2017/C 277/65)

Language of the case: English

Parties

Applicant: Colgate-Palmolive Co. (New York, New York, United States) (represented by: M. Zintler and A. Stolz, lawyers)

Defendant: European Union Intellectual Property Office (represented by: A. Folliard-Monguiral and M. Simandlova, acting as Agents)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 6 June 2016 (Case R 2482/2015-2), concerning an application for registration of the figurative sign AROMASENSATIONS as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Colgate-Palmolive Co. to pay the costs.*

([1]) OJ C 383, 17.10.2016.

Judgment of the General Court of 6 July 2017 — Bodson and Others v EIB

(Case T-506/16) ([1])

(Civil service — EIB staff — Contractual nature of the employment relationship — Remuneration — Reform of the system of remuneration and salary progression — Legitimate expectations — Legal certainty — Manifest error of assessment — Proportionality — Duty to have regard for the welfare of staff — Article 11(3) of the Rules of Procedure of the EIB)

(2017/C 277/66)

Language of the case: French

Parties

Applicants: Jean-Pierre Bodson (Luxembourg, Luxembourg) and the 483 other applicants whose names are listed in the annex to the judgment (represented by: L. Levi, lawyer)

Defendant: European Investment Bank (EIB) (represented by: initially, C. Gómez de la Cruz, G. Nuvoli and T. Gilliams, and, subsequently, T. Gilliams and G. Faedo, acting as Agents, assisted by P.-E. Partsch, lawyer)

Re:

Action under Article 270 TFEU seeking, first, annulment of the decisions, contained in the salary slips from April 2013 onwards, applying to the applicants the decision of the EIB Board of Directors of 18 December 2012, the decision of the EIB Management Committee of 29 January 2013, and the article published online on 5 February 2013 informing staff of the adoption of those two decisions; and, secondly, an order that the EIB pay to the applicants a sum corresponding to the difference between the amount of remuneration paid in application of the abovementioned decisions and the amount of remuneration due under the previous system, together with compensation for the damage which the applicants claim to have suffered as a result of their loss of purchasing power.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Jean-Pierre Bodson and the other members of staff of the European Investment Bank (EIB) whose names are listed in the annex to pay the costs.*

([1]) OJ C 207, 20.7.2013 (case initially registered before the Civil Service Tribunal of the European Union under number F-45/13 and transferred to the General Court of the European Union on 1 September 2016).

Judgment of the General Court of 6 July 2017 — Bodson and Others v EIB

(Case T-508/16) ([1])

(Civil service — EIB staff — Contractual nature of the employment relationship — Remuneration — Reform of the bonus scheme — Legitimate expectations — Legal certainty — Manifest error of assessment — Proportionality — Duty to have regard for the welfare of staff — Article 11(3) of the Rules of Procedure of the EIB — Equal treatment)

(2017/C 277/67)

Language of the case: French

Parties

Applicants: Jean-Pierre Bodson (Luxembourg, Luxembourg) and the 450 other applicants whose names are listed in the annex to the judgment (represented by: L. Levi, lawyer)

Defendant: European Investment Bank (EIB) (represented by: initially, C. Gómez de la Cruz, G. Nuvoli and T. Gilliams, and, subsequently, T. Gilliams and G. Faedo, acting as Agents, assisted by P.-E. Partsch, lawyer)

Re:

Action under Article 270 TFEU seeking, first, annulment of the decisions, contained in the bonus statements for April 2013, applying to the applicants the decision of the EIB Board of Directors of 14 December 2010 and the decisions of the EIB Management Committee of 9 November 2010, 29 June 2011, 16 November 2011 and 20 February 2013; and, secondly, an order that the EIB pay to the applicants a sum corresponding to the difference between the amount of remuneration paid in application of the abovementioned decisions and the amount of remuneration due under the previous system, or, in the alternative, the amount of remuneration due under the new scheme when correctly implemented, as well as compensation for the material damage resulting from loss of purchasing power and for the non-material damage which the applicants claim to have suffered.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Jean-Pierre Bodson and the other members of the staff of the European Investment Bank (EIB) whose names are listed in the annex to pay the costs.*

([1]) OJ C 274, 21.9.2013 (case initially registered before the Civil Service Tribunal of the European Union under number F-61/13 and transferred to the General Court of the European Union on 1 September 2016).

Action brought on 11 May 2017 — UI (*) v Council

(Case T-282/17)

(2017/C 277/68)

Language of the case: English

Parties

Applicant: UI (*) (represented by: J. Diaz Cordova, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Order the defendant to establish him to the post of AST/SC 2 in the General Secretariat of the Council (DG A3).

Pleas in law and main arguments

In support of the action, the applicant essentially calls into question the legality of the procedures which, the applicant maintains, have led to the wrongful failure to establish him in the post concerned. The applicant makes particular reference to the drawing up by the defendant of an additional document which, the applicant alleges, should not be taken into account in his evaluation, having been submitted long after the end of his probationary period. The applicant alleges that the defendant breached certain fundamental rights, including the right to private life, the confidentiality of communications and the right to submit complaints, when evaluating the applicant's case.

Action brought on 2017 — Air France v Commission

(Case T-338/17)

(2017/C 277/69)

Language of the case: French

Parties

Applicant: Société Air France (Tremblay-en-France, France) (represented by: A. Wachsmann and S. Thibault-Liger, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— primarily, annul, on the basis of Article 263 TFEU, the entirety of European Commission Decision No C(2017) 1742 final of 17 March 2017, Case AT.39258 — Airfreight, as far as it is concerned, and the reasons given for its operative part, on the basis of its first, second and third pleas in law;

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

— in the alternative, if the General Court does not annul Decision No C(2017) 1742 final in its entirety on the basis of its first, second and third pleas in law:

— first,

— annul Article 1, first paragraph, Article 1(1)(c), 1(2)(c), 1(3)(c) and 1(4)(c) of Decision No C(2017) 1742 final, in that the single and continuous infringement established against it is based on inadmissible evidence submitted by Lufthansa in connection with its application for immunity from fines, and the reasons given for it, Article 3(b) of the decision in that it imposes on it a fine of EUR 182 920 000, and Article 4 of the decision, and consequently reduce, on the basis of Article 261 TFEU, the amount of that fine, in accordance with its first plea in law,

— annul Article 1, first paragraph, Article 1(1)(c), 1(2)(c), 1(3)(c) and 1(4)(c) of Decision No C(2017) 1742 final, in that it excludes from the scope of the single and continuous infringement established against it the airlines referred to in the reasons for the decision as being involved in the infringement, and the reasons given for it, Article 3(b) of the decision in that it imposes on it a fine of EUR 182 920 000, and Article 4 of the decision, and consequently reduce, on the basis of Article 261 TFEU, the amount of that fine, in accordance with its second plea in law,

— annul Article 1, first paragraph, Article 1(2)(c) and 1(3)(c) of Decision No C(2017) 1742 final, in that finds that the single and continuous infringement established against it includes the airfreight services within the EEA (EEA inbound traffic), and the reasons given for it, Article 3(b) of the decision in that it imposes on it a fine of EUR 182 920 000, and Article 4 of the decision, and consequently reduce, on the basis of Article 261 TFEU, the amount of that fine, in accordance with its third plea in law,

— secondly, annul Article 1, first paragraph, Article 1(1)(c), 1(2)(c), 1(3)(c) and 1(4)(c) of Decision No C(2017) 1742 final, in that it finds that the refusal to commission the freight forwarders constitutes a separate element of the single and continuous infringement established against it, and the reasons given for it, Article 3(b) of the decision in that it imposes on it a fine of EUR 182 920 000, and Article 4 of the decision, and consequently reduce, on the basis of Article 261 TFEU, the amount of that fine, in accordance with its fourth plea in law,

— and, thirdly, annul Article 3(b) of Decision No C(2017) 1742 final, in that it imposes on it a fine of EUR 182 920 000 on the ground that the calculation of that fine includes its freight tariffs and 50 % of its revenue in respect of freight services into the EEA (EEA inbound revenue) (in accordance with its fifth plea in law), overestimates the seriousness of the infringement established against it (in accordance with its sixth plea in law), establishes an erroneous duration of infringement against it (in accordance with its seventh plea in law) and applies an insufficient fine reduction under the regulatory regimes (in accordance with its eighth plea in law), and the reasons given for it, and reduce, on the basis of Article 261 TFEU, that fine to an appropriate amount;

— in any event, order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the 2002 Leniency Notice and of its principles of legitimate expectations, equal treatment and non-discrimination between Air France and Lufthansa affecting the admissibility of documents submitted in connection with Lufthansa's application for immunity. This plea in law is divided into four parts:

— First part, based on the admissibility of the first plea in law;

— Second part, based on the withdrawal of immunity granted to Lufthansa;

— Third part, alleging the inadmissibility of the evidence adduced in its application for immunity;

— Fourth part, alleging that the inadmissibility of the evidence adduced by Lufthansa in its application for immunity should necessarily lead to the annulment of the decision.

2. Second plea in law, alleging infringement of the obligation to state reasons and of the principles of equal treatment, non-discrimination and of protection against arbitrary action by the Commission resulting from the exclusion from the operative part of the decision of airlines which took part in the practices. That plea in law consists of two parts:

   — First part, based on the argument that the exclusion of airlines that took part in the practices from the operative part of the decision is vitiated by a failure to state reasons;

   — Second part, based on the argument that the exclusion of airlines that took part in the practices from the operative part of the decision is vitiated by an infringement of the principles of equal treatment, non-discrimination and of protection against arbitrary action by the Commission.

3. Third plea in law, alleging infringement of the rules delimiting the territorial jurisdiction of the Commission, which, it claims, was committed as a result of the inclusion of the EEA inbound traffic in the single and continuous infringement. This plea in law is divided into two parts:

   — First part, based on the fact that the practices relating to the EEA inbound traffic were not implemented within the EEA;

   — Second part: the Commission has not, it claims, established the existence of qualified effects within the EEA connected with the practices relating to the EEA inbound traffic.

4. Fourth plea in law, alleging contradictory reasoning and manifest error of assessment which vitiates the finding that the refusal to commission the freight forwarders constitutes a separate element of the single and continuous infringement. That plea in law consists of two parts:

   — First part, according to which that finding is vitiated by contradictory reasoning;

   — Second part, according to which that finding is vitiated by a manifest error of assessment.

5. Fifth plea in law, relating to the incorrect nature of the value of sales considered for the calculation of Air France's fine and which is divided into two parts:

   — First part, alleging that the inclusion of the tariffs in the value of sales is based on contradictory reasoning, several errors of law and a manifest error of assessment;

   — Second part, alleging that the inclusion of 50 % of the EEA inbound revenue in the value of sales infringes the 2006 Fining Guidelines and the principle of ne bis in idem.

6. Sixth plea in law, alleging erroneous assessment of the seriousness of the infringement, and consisting of two parts:

   — First part, relying on the argument that the overestimation of the seriousness of the practices was based on several manifest errors of assessment and an infringement of the principles of proportionality of penalties and equal treatment;

   — Second part, based on the argument that the overestimation of the seriousness of the practices resulted from the inclusion in the scope of the infringement contacts relating to practices implemented outside of the EEA, in breach of the rules of territorial jurisdiction of the Commission.

7. Seventh plea in law, alleging incorrect calculation of the duration of the infringement.

8. Eighth plea in law, alleging failure to state reasons and the insufficiency of the 15 % reduction granted by the Commission under the regulatory regimes.

Action brought on 15 June 2017 — SQ v EIB

(Case T-377/17)

(2017/C 277/70)

Language of the case: French

Parties

Applicant: SQ (represented by: N. Cambonie and P. Walter, lawyers)

Defendant: European Investment Bank

Form of order sought

The applicant claims that the Court should:

— partially annul the contested decision in so far as the President incorrectly concludes therein, first, that the practices implemented by the Director for Communication in respect of the applicant, which are referred to in paragraphs 20 to 24, 25, 31, 34, 46, 50 and 51 of the report, did not constitute psychological harassment, second, that there was no need to initiate disciplinary proceedings against that Director and, third, that the contested decision finding that the applicant had been subjected to psychological harassment must remain strictly confidential;

— order the EIB to pay her compensation because of (i) the non-material damage which she suffered as a result of the psychological harassment by the Director for Communication confirmed in the contested decision and award her EUR 121 992 (one hundred and twenty-one thousand nine hundred and ninety-two euros) in that regard, (ii) the non-material damage which she suffered, and which can be separated from the illegality on which the partial annulment of the contested decision is based, and award her EUR 25 000 (twenty-five thousand euros) in that regard, and (iii) the non-material damage resulting from, first, the breach by the Director-General for Personnel of the independence of the reporting procedure conducted by the Compliance Officer and, second, the intimidation of the applicant or the threat of retaliation made by the Director-General for Personnel, and award the applicant EUR 25 000 (twenty-five thousand euros) in that regard;

— order the EIB to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging errors of law and manifest errors of assessment as regards the categorisation of some of the practices complained of by the applicant by which the decision of the European Investment Bank (EIB) of 20 March 2017 ('the contested decision') is vitiated. This plea is divided into two parts:

   — First part, alleging errors of law in the application of the requirement that acts of psychological harassment must be repetitive;

   — Second part, alleging manifest errors of assessment resulting from the fact that some of the practices complained of were objectively such as to damage self-confidence and self-esteem.

2. Second plea in law, alleging errors connected with a failure to initiate disciplinary proceedings, and divided into two parts:

   — First and main part, alleging an error of law;

   — Second part, raised in the alternative, alleging a manifest error of assessment and/or infringement of the principle of proportionality.

3. Third plea in law, alleging errors of law and manifest errors of assessment as regards the obligation imposed on the applicant to keep confidential the contested decision finding that she had been subjected to psychological harassment by the Director for Communication.

Action brought on 28 June 2017 — Dalli v Commission

(Case T-399/17)

(2017/C 277/71)

Language of the case: English

Parties

Applicant: John Dalli (St. Julians, Malta) (represented by: L. Levi and S. Rodrigues, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— order the compensation of the prejudice, notably the moral prejudice, estimated on a provisional basis at 1 000 000 euros;

— order to the defendant to bear the entire costs.

Pleas in law and main arguments

In support of the action for indemnification, the applicant relies on two pleas in law with regard to the claimed illegality.

1. First plea in law, alleging that the OLAF's conduct was unlawful

   — The OLAF's unlawful conducts are, notably, the following ones: illegality of the decision to open the investigation; flaws in the characterization of the investigations and illegality of the extension of the scope of the investigation; violation of the principles for gathering evidence (including distortion and falsification of evidence), of the rights of defence and of various EU provisions (as Articles 339 of the Treaty on the Functioning of the European Union, Articles 4, 8 and 11(7) of Regulation (EC) No 1073/1999, Article 4 of Commission Decision No 1999/396, Article 18 of the OLAF instructions, and Article 13(5) of the Supervisory Committee's Rules) as well as of the violation of the principle of presumption of innocence and of the right to the protection of personal data.

2. Second plea in law, alleging the Commission's conduct was unlawful

   — The Commission's unlawful conducts are the following ones: violation of the principle of sound and good administration and of the duty to behave in an objective, impartial and loyal manner and in the respect of the principle of independence, as well as the violation of the OLAF independence.

Action brought on 27 June 2017 — Vienna International Hotelmanagement v EUIPO (Vienna House)

(Case T-402/17)

(2017/C 277/72)

Language of the case: German

Parties

Applicant: Vienna International Hotelmanagement AG (Vienna, Austria) (represented by: M. Zrzavy, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'Vienna House' — Application No 14 501 357

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 25 April 2017 in Case R 333/2016-4

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

Action brought on 27 June 2017 — Vienna International Hotelmanagement v EUIPO (VIENNA HOUSE)

(Case T-403/17)

(2017/C 277/73)

Language of the case: German

Parties

Applicant: Vienna International Hotelmanagement AG (Vienna, Austria) (represented by: M. Zrzavy, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Mark at issue: EU figurative mark containing the word elements in red 'VIENNA HOUSE' — application No 14 501 308

Contested decision: decision of the Fourth Board of Appeal of EUIPO of 25 April 2017 in Case R 332/2016-4

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

Action brought on 30 June 2017 — Landesbank Baden-Württemberg v SRB

(Case T-411/17)

(2017/C 277/74)

Language of the case: German

Parties

Applicant: Landesbank Baden-Württemberg (Stuttgart, Germany) (represented by: H. Berger and K. Rübsamen, lawyers)

Defendant: Single Resolution Board (SRB)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Executive Session of the Single Resolution Board of 11 April 2017 concerning the calculation of the ex-ante contributions to the Single Resolution Fund for 2017 (SRB/ES/SRF/2017/05), including the Annex thereto, in so far as the contested decision, including the Annex thereto, concerns the applicant's contribution; and

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

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the second paragraph of Article 296 TFEU and of Article 41(1) and (2)(c) of the Charter of Fundamental Rights of the European Union ('the Charter') due to the fact that the decision fails to state adequate reasons

2. Second plea in law, alleging infringement of the right to be heard under Article 41(1) and (2)(a) of the Charter due to the absence of an opportunity for the applicant to be heard

3. Third plea in law, alleging infringement of the fundamental right to effective legal protection under Article 47(1) of the Charter due to fact that the decision is not subject to review

4. Fourth plea in law, alleging infringement of Article 103(7)(h) of Directive 2014/59/EU, ([1]) of Article 113(7) of Regulation (EU) No 575/2013, ([2]) of the first sentence of Article 6(5) of Delegated Regulation (EU) 2015/63, ([3]) of Articles 16 and 20 of the Charter and of the principle of proportionality, due to the application of the multiplier for the IPS (Institutional Protection Scheme) Indicator

5. Fifth plea in law, alleging infringement of Article 16 of the Charter and of the principle of proportionality, due to the application of the risk adjustment multiplier

6. Sixth plea in law, alleging the illegality of Articles 4 to 7 and Article 9 of Delegated Regulation (EU) 2015/63 and of Annex I to that delegated regulation

([1]) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council (OJ 2014 L 173, p. 190).

([2]) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ 2013 L 176, p. 1).

([3]) Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements (OJ 2015 L 11, p. 44).

Action brought on 29 June 2017 — Karl Storz v EUIPO (3D)

(Case T-413/17)

(2017/C 277/75)

Language of the case: English

Parties

Applicant: Karl Storz GmbH & Co. KG (Tuttlingen, Germany) (represented by: S. Gruber, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: International registration designating the European Union in respect of the figurative mark containing the word elements '3D' — International registration designating the European Union No 1 272 627

Contested decision: Decision of the Second Board of Appeal of EUIPO of 11 April 2017 in Case R 1502/2016-2

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Second Board of Appeal of the European Union Intellectual Property Office of 11 April 2017 in Case R 1502/2016-2 and register the trade mark '3D', IR 1 272 627, designating the European Union for all the goods applied for including the goods which are still affected by the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 7(1)(b) in conjunction with Article 7(2) of the Regulation No 207/2009;

— Infringement of Article 7(1)(c) in conjunction with Article 7(2) of the Regulation No 207/2009.

Action brought on 3 July 2017 — Vorarlberger Landes- und Hypothekenbank v SRB

(Case T-414/17)

(2017/C 277/76)

Language of the case: German

Parties

Applicant: Vorarlberger Landes- und Hypothekenbank AG (Bregenz, Austria) (represented by: G. Eisenberger, lawyer)

Defendant: Einheitlicher Abwicklungsausschuss (SRB)

Form of order sought

The applicant claims that the court should:

— annul the decision of the Single Resolution Board (SRB) ('Decision of the Executive Session of the Board of 11 April 2017 on the calculation of the 2017 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2017/05)'), and in any event to the extent that that decision concerns the applicant; and

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

Pleas in law and main arguments

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

1. First plea in law, alleging a flagrant breach of essential procedural requirements by reason of incomplete notification of the decision

2. Second plea in law, alleging a flagrant breach of essential procedural requirements by reason of an inadequate statement of reasons for the decision

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Action brought on 03 July 2017 — Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO — Papouis Dairies (fino)

(Case T-416/17)

(2017/C 277/77)

Language in which the application was lodged: English

Parties

Applicant: Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi (Nicosia, Cyprus) (represented by: S. Malynicz, QC, and V. Marsland, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Papouis Dairies LTD (Nicosia, Cyprus)

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 in colour containing the word element 'fino' — Application for registration No 11 180 791

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 20 April 2017 in Case R 2759/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

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

Plea in law

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

Action brought on 3 July 2017 — Cyprus v EUIPO — Papouis Dairies (fino Cyprus Halloumi Cheese)

(Case T-417/17)

(2017/C 277/78)

Language in which the application was lodged: English

Parties

Applicant: Republic of Cyprus (represented by: S. Malynicz, QC, and V. Marsland, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Papouis Dairies LTD (Nicosia, Cyprus)

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 in colour containing the word elements 'fino Cyprus Halloumi Cheese' — Application for registration No 11 180 791

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 20 April 2017 in Case R 2650/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

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

Plea in law

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

Action brought on 4 July 2017 — Eduard Meier v EUIPO — Calzaturificio Elisabet (Safari Club)

(Case T-418/17)

(2017/C 277/79)

Language in which the application was lodged: English

Parties

Applicant: Eduard Meier GmbH (Munich, Germany) (represented by: S. Schicker and M. Knitter, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Calzaturificio Elisabet Srl (Monte Urano, Italy)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'Safari Club' — Application for registration No 13 186 036

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 2 May 2017 in Case R 1158/2016-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to bear the costs.

Plea in law

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

Action brought on 4 July 2017 — Mendes v EUIPO — Actial Farmaceutica (VSL#3)

(Case T-419/17)

(2017/C 277/80)

Language in which the application was lodged: Italian

Parties

Applicant: Mendes SA (Lugano, Switzerland) (represented by: G. Carpineti, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Actial Farmaceutica Srl (Rome, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark 'VSL#3' — European Union trade mark No 1 437 789

Procedure before EUIPO: Revocation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 3 May 2017 in Case R 1306/2016-2

Form of order sought

The applicant claims that the Court should:

— primarily, annul the contested decision of the Board of Appeal of EUIPO in accordance with and for the purposes of Article 51(1)(b) EUTMR;

— in the alternative, annul the contested decision of the Board of Appeal of EUIPO in accordance with and for the purposes of Article 51(1)(c) EUTMR;

— in any event, order that the applicant should be reimbursed in full for the costs of the proceedings, or at least that each party should bear its own costs in full.

Plea in law

— Infringement of Article 51(1)(b) and (c) of Regulation No 207/2009.

Action brought on 10 July 2017 — Portigon v SRB

(Case T-420/17)

(2017/C 277/81)

Language of the case: German

Parties

Applicant: Portigon AG (Düsseldorf, Germany) (represented by: D. Bliesener and V. Jungkind, lawyers)

Defendant: Single Resolution Board (SRB)

Form of order sought

The applicant claims that the Court should:

— annul the defendant's decision of 11 April 2017 concerning the calculation of the ex-ante contributions to the Single Resolution Fund for 2017 (SRB/ES/SRF/2017/05) in so far as the decision concerns the applicant; and

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

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the first to third subparagraphs of Article 70(2) of Regulation (EU) No 806/2014 ([1]) in conjunction with Article 8(1)(b) of Implementing Regulation (EU) 2015/81 ([2]) in conjunction with Article 103(7) of Directive 2014/59/EU ([3])

   — The applicant claims that the defendant was wrong to make the applicant subject to an obligation to pay a contribution to the Fund, since a mandatory contribution for institutions under resolution is not provided for under Regulation (EU) No 806/2014 and Directive 2014/59/EU. Article 114 TFEU prohibits levying contributions on institutions, such as the applicant, which are resolving their remaining business operations. The requirements for the adoption of measures under Article 114(1) TFEU are, in relation to the applicant, not satisfied. Furthermore, the levying of contributions is contrary to Article 114(2) TFEU.

   — The applicant claims that the defendant was wrong to make the applicant subject to an obligation to pay a contribution to the Fund; since the institution has no risk exposure, there is no prospect of the institution entering into resolution in accordance with the rules of Regulation (EU) No 806/2014 and the institution is of no importance to the stability of the financial system. Such an obligation would infringe Article 103(7)(a), (d) and (g) of Directive 2014/59/EU.

   — The applicant has not engaged in any new business since the beginning of 2012 and is under resolution as a result of an aid decision by the European Commission. It holds the majority of its remaining liabilities on trust for another entity, which has taken over the opportunities and risks from that business.

— Delegated Regulation (EU) 2015/63 ([4]) infringes Article 114 TFEU and Article 103(7) of Directive 2014/59/EU as an essential element relating to the calculation of the contribution (second sentence of Article 290(1) TFEU). Furthermore, the defendant should not have been allowed to transfer additional risk indicators (Article 290(1) TFEU).

2. Second plea in law, alleging infringement of Article 16 and Article 20 of the Charter of Fundamental Rights of the European Union ('the Charter'), since, in view of the special situation of the applicant in comparison with other credit institutions liable to pay contributions, the decision is contrary to the general principle of equality. Furthermore, the decision interferes disproportionately with the applicant's freedom to conduct a business

3. Third plea in law, alleging, in the alternative, infringement of Article 70(2) of Regulation (EU) No 806/2014, in conjunction with Article 103(7) of Directive 2014/59/EU, since the defendant, in calculating the amount of the contribution, wrongly failed to exclude the applicant's risk-free on-balance sheet fiduciary business from the liabilities relevant to collection of the contribution

4. Fourth plea in law, alleging, in the alternative, infringement of Article 70(6) of Regulation (EU) No 806/2014, in conjunction with Article 5(3) and (4) of Delegated Regulation (EU) 2015/63, since the defendant wrongly calculated the applicant's contribution on the basis of a gross approach with regard to derivative contracts

5. Fifth plea in law, alleging, in the alternative, infringement of Article 70(6) of Regulation (EU) No 806/2014, in conjunction with Article 6(8)(a) of Delegated Regulation (EU) 2015/63, since the defendant, in calculating the amount of the contribution, wrongly regarded the applicant as an institution undergoing reorganisation and the risk indicator under Article 6(5)(c) of Delegated Regulation (EU) 2015/63 should have taken the minimum value

6. Sixth plea in law, alleging infringement of Article 41(1) and (2)(a) of the Charter due to the absence of an opportunity for the applicant to be heard

7. Seventh plea in law, alleging infringement of Article 41(1) and (2)(c) of the Charter due to the fact that the decision fails to state adequate reasons

([1]) Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ 2014 L 225, p. 1).

([2]) Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to ex ante contributions to the Single Resolution Fund (OJ 2015 L 15, p. 1).

([3]) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ 2014 L 173, p. 190).

([4]) Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements (OJ 2015 L 11, p. 44).

Action brought on 3 July 2017 — Capo d'Anzio v Commission

(Case T-425/17)

(2017/C 277/82)

Language of the case: Italian

Parties

Applicant: Capo d'Anzio SpA (Anzio, Italy) (represented by: S. Carloni, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul, on the basis of Article 263 TFEU, Commission Decision C(2017) 2953 final of 28 April 2017 on the recovery of EUR 193 120 (plus interest for late payment) initially granted to the applicant by way of pre-financing in the context of the grant agreement LIFE10 ENV/IT/000369 — LCA4PORTS.

Pleas in law and main arguments

In support of its action, the applicant submits that:

1. On 14 October 2011 the company Capo d'Anzio signed the grant agreement LIFE10 ENV/IT/000369, by which the European Commission awarded that company a grant (for an amount equal to 45,94 % of the total, up to a maximum amount of EUR 485 300) in the context of a project studying the environmental sustainability of the planned development of the Port of Anzio pursuant to the construction, renovation and extension project approved by the competent public authorities.

2. While the activities envisaged by the project were being carried out, and the contractual and statutory rules had initially been complied with in full, the Commission identified a failure to comply with certain formal obligations, leading to that institution suspending the project and later requiring, by way of the contested decision, repayment of the amounts of money granted.

3. The infringement invoked by the applicant is infringement of the rules set out in Article 11 et seq. of the common provisions regulating the procedures to be implemented in the event of suspension of the project and subsequent termination of the grant contract and taking of action to recover the pre-financing.

4. In this case, the Commission acknowledges that it received communications from Capo d'Anzio bearing witness to the temporary nature of its economic and financial difficulties and expressly stating that those difficulties had been brought about by unlawful acts and matters outwith the control of that company.

5. Capo d'Anzio consistently and conscientiously reported those difficulties, which could not be attributed to it, finally requesting, by memorandum of 2 November 2015 and subsequent memorandum of 7 December 2015, that account be taken of those difficulties when decisions relating to the contract were being taken, requesting a meeting to enable it to explain its reasoning and expressly undertaking, in any event, to repay the pre-financing in the event of being permanently unable to furnish a report on the project as requested.

6. Instead of taking account of the justification provided and requesting further details in order to enable the applicant to exercise its rights of defence as requested, the Commission applied the common provisions, equating Capo d'Anzio's conduct with a culpable failure to fulfil obligations.

7. Capo d'Anzio was entitled to have the requested meeting with the Commission in order to demonstrate that there had been no culpable failure on its part to fulfil its obligations and thus to exercise its right not to be adversely affected by a situation which could not be attributed to it.

8. The Commission's conduct therefore amounted to a restriction of Capo d'Anzio's rights and an infringement of the general principles of law which make the termination of contracts conditional on the existence of a culpable failure to fulfil obligations.

9. That infringement of the procedural and substantive rules resulted in the unfair contested decision by which the partially-awarded funding was revoked, notwithstanding the fact that Capo d'Anzio had, in essence, properly used the sums received from the Commission to pay the professionals responsible for implementing the project, as that decision focused primarily on the purely formal fact that Capo d'Anzio had failed timeously to provide a report on the activities carried out.

Action brought on 5 July 2017 — Item Industrietechnik v EUIPO (EFUSE)

(Case T-426/17)

(2017/C 277/83)

Language of the case: German

Parties

Applicant: Item Industrietechnik GmbH (Solingen, Germany) (represented by: G. Hasselblatt, V. Töbelmann and M. Vitt, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU figurative mark including the word element 'EFUSE' — Application No 15 463 003

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 18 April 2017 in Case R 1881/2016-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 5 July 2017 — Item Industrietechnik v EUIPO (EFUSE)

(Case T-427/17)

(2017/C 277/84)

Language of the case: German

Parties

Applicant: Item Industrietechnik GmbH (Solingen, Germany) (represented by: G. Hasselblatt, V. Töbelmann and M. Vitt, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'EFUSE' — Application No 15 463 011

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 18 April 2017 in Case R 1882/2016-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 11 July 2017 — Alpine Welten Die Bergführer v EUIPO (ALPINEWELTEN Die Bergführer)

(Case T-428/17)

(2017/C 277/85)

Language of the case: German

Parties

Applicant: Alpine Welten Die Bergführer GmbH & Co. KG (Berghülen, Germany) (represented by: T.-C. Leisenberg)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: European Union figurative mark containing the word elements 'ALPINEWELTEN Die Bergführer' – Application for registration No 15 187 826

Contested decision: Decision of the First Board of Appeal of EUIPO of 25 April 2017 in Case R 1339/2016-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Order of the General Court of 29 June 2017 — It Works v EUIPO — KESA Holdings Luxembourg (IT it WORKS)

(Case T-778/15) ([1])

(2017/C 277/86)

Language of the case: English

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

([1]) OJ C 90, 7.3.2016.

Order of the General Court of 30 June 2017 — Austrian Power Grid v ACER

(Case T-53/17) ([1])

(2017/C 277/87)

Language of the case: English

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

([1]) OJ C 95, 27.3.2017.

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