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Information and Notices

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(2018/C 042/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 30 June 2017 by Double 'W' Enterprises Ltd against the order of the General Court (Sixth Chamber) delivered on 15 May 2017 in Case T-899/16: Double 'W' Enterprises Ltd v Kingdom of Spain

(Case C-401/17 P)

(2018/C 042/02)

Language of the case: English

Parties

Appellant: Double 'W' Enterprises Ltd (represented by: A. Rubio Crespo, abogado)

Other party to the proceedings: Kingdom of Spain

By order of 14 December 2017 the Court of Justice (Tenth Chamber) held that the appeal was inadmissible.

Appeal brought on 3 August 2017 by Morton's of Chicago Inc. against the judgment of the General Court (Sixth Chamber) delivered on 15 May 2017 in Case T-223/15: Morton's of Chicago v EUIPO

(Case C-468/17 P)

(2018/C 042/03)

Language of the case: English

Parties

Appellant: Morton's of Chicago Inc. (represented by: J. Moss, Barrister, M. Krause, Solicitor)

Other parties to the proceedings: European Union Intellectual Property Office, Mortons the Restaurant Ltd

By order of 13 December 2017 the Court of Justice (Tenth Chamber) held that the appeal was inadmissible.

Appeal brought on 30 August 2017 by X-cen-tek GmbH & Co. KG against the judgment of the General Court (First Chamber) delivered on 28 June 2017 in Case T-470/16, X-cen-tek GmbH & Co. KG v European Union Intellectual Property Office (EUIPO)

(Case C-520/17 P)

(2018/C 042/04)

Language of the case: German

Parties

Appellant: X-cen-tek GmbH & Co. KG (represented by: H. Hillers, Rechtsanwalt)

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

By order of 30 November 2017, the Court of Justice (Seventh Chamber) dismissed the appeal and ordered X-cen-tek GmbH & Co. KG to bear its own costs.

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 24 October 2017 — Fundación Consejo Regulador de la Denominación de Origen Protegida Queso Manchego v Industrial Quesera Cuquerella SL, Juan Ramón Cuquerella Montagud

(Case C-614/17)

(2018/C 042/05)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Fundación Consejo Regulador de la Denominación de Origen Protegida Queso Manchego

Respondent: Industrial Quesera Cuquerella SL, Juan Ramón Cuquerella Montagud

Questions referred

1) Must the evocation of a protected designation of origin prohibited by Article 13(1)(b) of Regulation 510/2006 ([1]) necessarily be brought about by the use of a name visually, phonetically or conceptually similar to the protected designation of origin or may it be brought about by the use of figurative signs evoking the designation of origin?

2) When the protected designation of origin is of a geographical nature (Article 2(1)(a) of Regulation 510/2006) and when the products are the same or comparable, can the use of signs evoking the region with which a protected designation of origin is associated constitute evocation of the protected designation of origin itself, within the meaning of Article 13(1)(b) of Regulation 510/2006, which is prohibited even when the user of those signs is a producer established in the region associated with the protected designation of origin, but whose products are not protected by the designation of origin because they do not meet the requirements set out in the product specification, apart from the geographical provenance?

3) Must the concept of the average consumer who is reasonably well informed and reasonably observant and circumspect, to whose perception the national court has to refer in order to assess whether there is 'evocation' within the meaning of Article 13(1)(b) of Regulation 510/2006, be understood to cover European consumers or can it cover solely consumers of the Member State in which the product giving rise to evocation of the protected geographical indication is produced or with which the PDO is geographically associated and in which the product is mainly consumed?

([1]) Council Regulation (EC) no° 510/2006 of 20 March 2006, on the protection of geographical indications and designations of origin for agricultural products and foodstuffs. (OJ 2006 L 93, p. 12).

Request for a preliminary ruling from the Okresný súd Dunajská Streda (Slovakia) lodged on 8 November 2017 — ZSE Energia, a.s. v RG

(Case C-627/17)

(2018/C 042/06)

Language of the case: Slovak

Referring court

Okresný súd Dunajská Streda

Parties to the main proceedings

Applicant: ZSE Energia, a.s.

Defendant: RG

Questions referred

1. Must the term 'one of the parties' used in Article 3(1) of Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 ([1]) establishing a European Small Claims Procedure ('Regulation No 861/2007') be interpreted as also including the 'intervener', that is, an individual participating in the proceedings who is neither the claimant (applicant) nor the respondent (defendant), but who intervenes in the proceedings in order to support the arguments put forward by the claimant (applicant) or the respondent (defendant)?

2. In the event that the 'intervener' is not to be regarded as a 'party' for the purposes of Article 3(1) of Regulation No 861/2007:

   Does a procedure commenced using Form A of [Annex I] to Regulation No 861/2007 between a claimant (applicant) and a respondent (defendant) fall within the scope of Regulation No 861/2007 under Article 2(1) of that regulation, read in conjunction with Article 3(1) thereof, if those parties are domiciled in the same Member State as the Member State in which the court or tribunal seised is situated, and only the 'intervener' is domiciled in a different Member State?

([1]) OJ 2007 L 199, p. 1.

Request for a preliminary ruling from the Landesverwaltungsgericht Oberösterreich (Austria) lodged on 10 November 2017 — Gmalieva s.r.o., Manfred Naderhirn

(Case C-633/17)

(2018/C 042/07)

Language of the case: German

Referring court

Landesverwaltungsgericht Oberösterreich

Parties to the main proceedings

Applicants: Gmalieva s.r.o., Manfred Naderhirn

Authorities concerned: Landespolizeidirektion Oberösterreich, Bezirkshauptmann von Linz-Land

Interveners: Mag. Jungwirth and Mag. Fabian OHG and others, Gunhild Mayr, Mag. Übermaßer KG

Question referred

Is a combination of procedural system and court structure such as established in Austria, for jurisdiction in matters of public law, in Articles 133(4) and 144(1) of the Bundesverfassungsgesetz (Federal Constitutional Law) in conjunction with Paragraphs 41, 42 and 63 of the Verwaltungsgerichtshofgesetz (Law on the Supreme Administrative Court), on the one hand, and with Paragraph 87 of the Verfassungsgerichtshofgesetz (Law on the Constitutional Court), on the other hand —

namely:

in either case simple annulment (*Kassation*) by the highest instance court, which in effect is not the same as resolving the case on the merits but is merely equivalent to a formal referral back to the lower instance court, i.e.

1) setting aside the contested decision,

2) with an obligation on the part of the lower instance court to reach a new resolution of the case on the merits, with

3) an obligation to be bound by the legal opinion of the highest instances,

whereby this binding effect is generally ordered by statute, i.e. in particular also for those situations in which it is not guaranteed *ex lege* that the higher courts, in proceedings meeting in every respect the requirements of Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 47 of the Charter of Fundamental Rights of the European Union (but rather characterised in particular by

1) the prohibition on making new claims and defences or presenting new facts and evidence (*Neuerungsverbot*),

2) the binding nature of the facts of the case found by the lower court,

3) reference to the relevant factual and legal situation existing at the time of the lower court's decision, and

4) the scope of the power to rule being limited simply to fundamental legal questions (Supreme Administrative Court), on the one hand, and violations of the sphere of fundamental rights (Constitutional Court) on the other),

have conducted both an autonomous assessment of consistency and proportionality and an assessment based on the current factual situation

— compatible with the freedom of establishment guaranteed in Article 49 TFEU and the freedom of services guaranteed in Article 56 TFEU?'

Request for a preliminary ruling from the Tribunal Administrativo e Fiscal de Coimbra (Portugal) lodged on 16 November 2017 — Luís Manuel dos Santos v Fazenda Pública

(Case C-640/17)

(2018/C 042/08)

Language of the case: Portuguese

Referring court

Tribunal Administrativo e Fiscal de Coimbra

Parties to the main proceedings

Applicant: Luís Manuel dos Santos

Defendant: Fazenda Pública

Question referred

Does the principle of free movement of goods between Member States, set out in Article 110 of the Treaty on the Functioning of the European Union (TFEU), preclude a rule of national law [Article 2(1)(b) of the CIUC ([1])], interpreted as meaning that annual road tax should not take into account the date of first registration when it was allocated in another Member State and should only be based on the date of registration in Portugal, if that interpretation results in higher taxation of vehicles imported from another Member State?

([1]) Código do Imposto Único de Circulação (Annual Road Tax Code)

Reference for a preliminary ruling from the High Court (Ireland) made on 27 November 2017 — M. A., S.A., A.Z. v The International Protection Appeals Tribunal, The Minister for Justice and Equality, Attorney General, Ireland

(Case C-661/17)

(2018/C 042/09)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicants: M.A., S.A., A.Z.

Defendants: International Protection Appeals Tribunal, Minister for Justice and Equality, Attorney General, Ireland

Questions referred

1) When dealing with transfer of a protection applicant under regulation 604/2013 ([1]) to the UK, is a national decision-maker, in considering any issues arising in relation to the discretion under art. 17 and/or any issues of protection of fundamental rights in the UK, required to disregard circumstances as they stand at the time of such consideration in relation to the proposed withdrawal of the UK from the EU?

2) Does the concept of the 'determining member state' in regulation 6[0]4/2013 include the role of the member state in exercising the power recognised or conferred by art. 17 of the regulation?

3) Do the functions of a member state [under] art. 6 of regulation 604/2013 include the power recognised or conferred by art. 17 of the regulation?

4) Does the concept of an effective remedy apply to a first instance decision under art. 17 of regulation 604/2013 such that an appeal or equivalent remedy must be made available against such a decision and/or such that national legislation providing for an appellate procedure against a first instance decision under the regulation should be construed as encompassing an appeal from a decision under art. 17?

5) Does art. 20(3) of regulation 604/2013 have the effect that in the absence of any evidence to displace a presumption that it is in the best interests of a child to treat his or her situation as indissociable from that of the parents, the national decision maker is not required to consider such best interests separately from the parents as a discrete issue or as a starting point for consideration of whether the transfer should be take place?

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

Appeal brought on 27 November 2017 by the European Commission against the order of the General Court (Second Chamber) delivered on 12 September 2017 in Case T-247/16: Trasta Komercbanka AS and Others v European Central Bank

(Case C-665/17 P)

(2018/C 042/10)

Language of the case: English

Parties

Appellant: European Commission (represented by: V. Di Bucci, A. Steiblytė, K.-Ph. Wojcik, Agents)

Other parties to the proceedings: Trasta Komercbanka AS, Ivan Fursin, Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV, Rikam Holding SA, European Central Bank

Form of order sought

The applicant claims that the Court should:

— set aside the order of the General Court (Second Chamber) of 12 September 2017 in case T-247/16, Trasta Komercbanka AS, Mr Ivan Fursin, Mr Igors Buimisters, SIA C & R Invest, Figon Co Limited, G.C.K J Holding Netherlands B.V. and Rikam Holding S.A. — SPF against European Central Bank insofar as it dismisses the objection of inadmissibility as regards the application brought by the shareholders of Trasta Komercbanka AS;

— dismiss the action brought by Mr Ivan Fursin, Mr Igors Buimisters, SIA C & R Invest, Figon Co Limited, G.C.K J Holding Netherlands B.V. and Rikam Holding S.A. — SPF as inadmissible;

— order the applicants to pay the costs.

Pleas in law and main arguments

The General Court has erroneously considered that it was necessary to declare admissible an application for annulment brought by shareholders of a credit institution in liquidation against a decision to withdraw the authorisation of the credit institution in order to provide an effective remedy. In so doing, it has neglected the other remedies available to the credit institution, in the form of a timely application for annulment and of a request for interim measures, and to the shareholders, in the form of an action for damages against the European Central Bank before the European Courts and possibly in the form of other actions before national courts.

The appeal is based on the following two pleas:

1) The applicant submits that the General Court has violated Article 263 TFEU in respect of the condition of legal interest. By holding that the direct shareholders were prevented from exercising their rights to determine the management and policy of the company in liquidation as they would have done if a company was still of going concern, the General Court has erroneously departed from the case-law according to which the shareholders have no legal interest separate from the one of their company. The General Court has further failed to consider that even shareholders of an active company, and certainly minority shareholders, have no right to force the management of the company to bring an action. It has also failed to distinguish between the effects of a decision by the banking supervisor to withdraw a banking authorisation and those of the later decision by a national court to institute liquidation proceedings. Finally, it has wrongly considered that the shareholders of a company in liquidation should be able to exercise their membership rights in the same way as shareholders of an active company.

2) The applicant submits that the General Court has violated the fourth paragraph of Article 263 TFEU in respect of the conditions of individual and direct concern.

Concerning the first condition, the General Court firstly failed to consider that the possibility to determine more or less precisely the number, or even the identity, of the persons to whom a measure applies by no means implies that it must be regarded as being of individual concern to them as long as that measure is applied by virtue of an objective legal or factual situation defined by it. Secondly, it erroneously held that a decision to withdraw a banking authorisation concerns the shareholders of a credit institution, while it only concerns the credit institution itself. Thirdly, it erroneously considered that the decision by the European Central Bank affected the shareholders by reason of certain qualities peculiar to them or of a factual situation which differentiates them from any other persons, while that decision only concerned the credit institution and did not affect the rights of the shareholders. Finally, even assuming that the sole shareholder of a company may be individually concerned by a decision the [European Central Bank] addressed to that company, the General Court wrongly assimilated the situation of individual minority shareholders to the situation of the sole shareholder.

Concerning the second condition, the General Court firstly erred in law when holding that the shareholders were directly concerned by the withdrawal of the banking authorisation by failing to distinguish between the effects of that withdrawal and those of a decision by a national court to initiate liquidation proceedings. Secondly, it wrongly held that the decision of the European Central Bank directly concerned the shareholders because of the intensity of its effects. In so doing, the General Court failed to distinguish between the legal effect of the decision, which are confined to the credit institution, and its economic consequences, which may well extend to shareholders.

Appeal brought on 28 November 2017 by Trasta Komercbanka AS, Ivan Fursin, Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV, Rikam Holding SA against the order of the General Court (Second Chamber) delivered on 12 September 2017 in Case T-247/16: Trasta Komercbanka AS and Others v European Central Bank

(Case C-669/17 P)

(2018/C 042/11)

Language of the case: English

Parties

Appellants: Trasta Komercbanka AS, Ivan Fursin, Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV, Rikam Holding SA (represented by: O.H. Behrends, L. Feddern, M. Kirchner, Rechtsanwälte)

Other party to the proceedings: European Central Bank

Form of order sought

The appellants claim that the Court should:

— set aside no. 1 of the order, i.e. the decision by the General Court that there is no need to adjudicate on the action for annulment of Trasta Komercbanka AS (TKB);

— declare that the action for annulment of TKB is not devoid of purpose;

— declare that the action for annulment is admissible;

— refer the case back to the General Court for it to determine the action for annulment, and

— order the European Central Bank (ECB) to pay the appellants' costs and the costs of the appeal.

Pleas in law and main arguments

By the first ground of appeal, the appellants claim that the General Court erred in assuming that TKB's remedy is entrusted to the liquidator. The appellants claim that this assumption is irreconcilable with Art. 263 TFEU and the guarantee of an effective remedy as well as a number of related principles.

By the second ground of appeal, the appellants claim that the General Court erred in assuming that the shareholders' action is a substitute for the shareholders' ability to defend TKB's license through an action by TKB itself.

By the third ground of appeal, the appellants claim a number of further substantive errors including a failure to apply the nemo auditur-principle because of the ECB's interference with TKB's remedy.

By the fourth ground of appeal, the appellants claim that the General Court failed to take into account the requirements (including form requirements) for a valid revocation of the power of attorney originally issued by TKB.

By the fifth ground of appeal, the appellants claim that the General Court erroneously applied Art. 51(1) rather than Art. 131 of the Rules of Procedure as well as a number of further procedural errors.

Appeal brought on 20 November 2017 by the Hellenic Republic against the judgment of the General Court (First Chamber) delivered on 19 September 2017 in Case T-327/15 Hellenic Republic v European Commission

(Case C-670/17 P)

(2018/C 042/12)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: G. Kanellopoulos, I. Pachi and A. Vasilopoulou)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that its appeal should be admitted, that the judgment under appeal of the General Court of the European Union of 19 September 2017 in Case T-327/15 should be set aside, that the action brought on 2 June 2015 by the Hellenic Republic should be upheld and that the Commission Implementing Decision of 25 March 2015 on applying financial correction on the EAGGF Guidance Section of the Operational Programme CCI No 2000GR061PO021 (GREECE — Objective 1 — Rural Reconstruction), which was published as C(2015) 1936 final, should be annulled.

Pleas in law and main arguments

In support of the appeal the appellant relies on five grounds of appeal.

The first ground of appeal is based on the misinterpretation and misapplication of the transitional provisions of Regulations (EC) 1083/2006 ([1]) and (EU) 1303/2013 ([2]) read together with the provisions of Regulation (EC) 1290/2005 ([3]), and also an error of law, with respect to the application of the provisions of Regulation 1260/1999 ([4]) to the EAGGF — Guidance Section after 01.01.2007 — Insufficient and defective statement of reasons in the judgment under appeal.

The second ground of appeal is based on a misinterpretation and misapplication of Article 39 of Regulation (EC) 1260/1999 — Contradictory and insufficient statement of reasons.

The third ground of appeal is based on the misinterpretation and erroneous and selective application of the procedural provisions of Articles 144 and 145 of Regulation (EU) 1303/2013 that were held in the judgment under appeal to be applicable, while the judgment under appeal fails to give effect to the procedural safeguard of Article 52(4)(c) of Regulation (EU) 1306/2013 ([5]) which defines in this case the competence *ratione temporis* of the Commission — Contradictory and insufficient statement in the judgment under appeal.

The fourth ground of appeal is based on the interpretation and application of the principles of legal certainty and the protection of the legitimate expectations of the Member State in the framework of its sincere cooperation with the Commission in the assessment of the consequences of the express acceptance of the final report on the programme which was issued nine months late and the delayed initiation of the procedure for the imposition of a financial correction, contrary to the Commission's self-imposed obligation to achieve clearance and final payment of operational programmes within a reasonable time.

Last, the fifth ground of appeal is based on the wholly insufficient statement of reasons, in the opinion of the appellant, for the dismissal of the submissions of the Hellenic Republic with respect to the imposition of the multiple and therefore disproportionate financial correction.

([1]) Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (*OJ 2006, L 210, p. 25*).

([2]) Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (*OJ 2013, L 347,p. 320*).

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

([4]) Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (*OJ 1999, L 161, p. 1*).

([5]) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (*OJ 2013, L 347, p. 549*).

GENERAL COURT

Judgment of the General Court of 14 December 2017 — AETMD v Council

(Case T-460/14) ([1])

(Dumping — Prepared or preserved sweetcorn in kernels originating in Thailand — Partial interim review — Amendment of the definitive anti-dumping duty — Association representing EU producers — Infringement of procedural rights — Rights of the defence)

(2018/C 042/13)

Language of the case: English

Parties

Applicant: Association européenne des transformateurs de maïs doux (AETMD) (Paris, France) (represented initially by: A. Willems, S. De Knop and J. Charles, and subsequently by: A. Willems, S. De Knop and C. Zimmerman, lawyers)

Defendant: Council of the European Union (represented by: S. Boelaert, acting as Agent, S. Gubel, lawyer, and B. O'Connor, Solicitor)

Interveners in support of the defendant: European Commission (represented by: J.-F. Brakeland, A. Stobiecka-Kuik and A. Demeneix, acting as Agents) and River Kwai International Food Industry Co. Ltd (Kaeng Sian, Thailand) (represented by: J. Cornelis and F. Graafsma, lawyers)

Re:

Application on the basis of Article 263 TFEU seeking the annulment of Council Implementing Regulation (EU) No 307/2014 of 24 March 2014 amending Implementing Regulation (EU) No 875/2013 imposing a definitive anti-dumping duty on imports of certain prepared or preserved sweetcorn in kernels originating in Thailand following an interim review pursuant of Article 11(3) of Regulation (EC) No 1225/2009 (OJ 2014 L 91, p. 1).

Operative part of the judgment

The Court:

1. *Annuls Council Implementing Regulation (EU) No 307/2014 of 24 March 2014 amending Implementing Regulation (EU) No 875/2013 imposing a definitive anti-dumping duty on imports of certain prepared or preserved sweetcorn in kernels originating in Thailand following an interim review pursuant of Article 11(3) of Regulation (EC) No 1225/2009;*

2. *Dismisses the remainder of the action;*

3. *Orders the Council of the European Union to bear its own costs and to pay the costs incurred by the Association européenne des transformateurs de maïs doux (AETMD);*

4. *Orders the European Commission and River Kwai International Food Industry Co. Ltd to bear their own costs.*

([1]) OJ C 303, 8.9.2014.

Judgment of the General Court of 14 December 2017 — Evropaïki Dynamiki v European Parliament

(Case T-136/15) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Requests for quotation concerning all the lots covered by a call for tenders — Refusal to grant access — Absence of specific, individual examination of the documents requested — Exception relating to the protection of public security — Exception relating to the protection of commercial interests — Exception relating to the protection of privacy — Exception relating to the protection of the decision-making process — General presumption — Unreasonable workload)

(2018/C 042/14)

Language of the case: English

Parties

Applicant: Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: I. Ampazis and M. Sfyri, and subsequently by M. Sfyri and C.-N. Dede, lawyers)

Defendant: European Parliament (represented by: N. Görlitz, N. Rasmussen and L. Darie, and subsequently by N. Görlitz, L. Darie and C. Burgos, acting as Agents)

Intervener in support of the applicant: Kingdom of Sweden (represented by: E. Karlsson, L. Swedenborg, A. Falk, C. Meyer-Seitz, U. Persson and N. Otte Widgren, acting as Agents)

Re:

Application on the basis of Article 263 TFEU seeking the annulment of the decision of the European Parliament of 13 February 2015 refusing to grant access to the requests for quotation in all lots of Call for Tenders ITS08 — External service provision for IT services 2008/S 149-199622.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE to bear its own costs and to pay those incurred by the European Parliament;*

3. *Orders the Kingdom of Sweden to pay its own costs.*

([1]) OJ C 228, 13.7.2015.

Judgment of the General Court of 14 December 2017 — European Dynamics Luxembourg and Evropaïki Dynamiki v Parliament

(Case T-164/15) ([1])

(Public service contracts — Public procurement procedure — External provision of information technology services to the Parliament and other institutions and bodies of the EU — Ranking of a tenderer in the cascade procedure — Award criteria — Obligation to state reasons — Non-contractual liability)

(2018/C 042/15)

Language of the case: Greek

Parties

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

Defendant: European Parliament (represented initially by: B. Simon, L. Darie and I. Anagnostopoulou, and subsequently by: L. Darie, Z. Nagy and I. Anagnostopoulou, acting as Agents)

Re:

Firstly, application on the basis of Article 263 TFEU seeking the annulment of Decision D(2015) 7680 of the European Parliament, sent to the applicants by letter of 13 February 2015, to rank their bid in third place in the cascade for Lot No 3 'Development and maintenance of production information systems' in the open procurement procedure PE/ITEC-ITS 14 'External provision of IT services' and, secondly, application on the basis of Article 268 TFEU seeking compensation for the loss allegedly suffered by the applicants.

Operative part of the judgment

The Court:

1. *Annuls Decision D(2015) 7680 of the European Parliament sent to the applicants by letter of 13 February 2015, to rank the bid of European Dynamics Luxembourg SA and Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE in third place in the cascade for Lot No 3 'Development and maintenance of production information systems' in the open procurement procedure PE/ITEC-ITS 14 'External provision of IT services';*

2. *Dismisses the remainder of the action;*

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

([1]) OJ C 228, 13.7.2015.

Judgment of the General Court of 13 December 2017 — Greece v Commission

(Case T-314/15) ([1])

(State aid — Aid in favour of an undertaking which has concluded a concession to operate container terminals in the Port of Piraeus — Decision declaring the aid to be incompatible with the internal market — Right of defence — Duty to give reasons — Concept of State aid — Aid to facilitate the development of certain economic activities or of certain economic areas — Incentive effect of the aid — Necessity of the aid — Determination of the amount of aid)

(2018/C 042/16)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: K. Boskovits and L. Kotroni, acting as Agents)

Defendant: European Commission (represented by: A. Bouchagiar and B. Stromsky, agents acting as Agents)

Re:

Action under Article 263 TFEU for the annulment of Commission Decision (EU) 2015/1827 of 23 March 2015, in relation to the State aid SA.28876 (12/C) (ex CP 202/2009) which Greece granted to the undertakings Piraeus Container Terminal SA and Cosco Pacific Ltd (OJ 2015 L 269, p. 93)

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

([1]) OJ C 279, 24.8.2015.

Judgment of the General Court of 13 December 2017 — Oltis Group v Commission

(Case T-497/15) ([1])

(Research and development — Framework Programme for Research and Innovation 2014-2020 (Horizon 2020) — Stimulation and coordination of EU research and innovation investments in the rail sector — Establishment of the Shift2Rail Joint Undertaking — Associate membership of the Shift2Rail Joint Undertaking — Call for expressions of interest — Rejection of candidature — Obligation to state reasons — Manifest error of assessment — Misuse of powers)

(2018/C 042/17)

Language of the case: Czech

Parties

Applicant: Oltis Group a.s. (Olomouc, Czech Republic) (represented by: P. Konečný, lawyer)

Defendant: European Commission (represented by: J. Hottiaux and Z. Malůšková, acting as Agents)

Re:

Action based on Article 263 TFEU and seeking annulment of Commission Decision Ares (2015) 2691017 of 26 June 2015 concerning the request for a review of the rejection of the applicant's application to become an associate member of the Shift2Rail Joint Undertaking.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Oltis Group a.s. to pay the costs.*

([1]) OJ C 389, 23.11.2015.

Judgment of the General Court of 13 December 2017 — HTTS v Council

(Case T-692/15) ([1])

(Common foreign and security policy — measures adopted against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Duty to provide reasons — Contractual liability — Sufficiently serious breach of a rule of law conferring rights on individuals)

(2018/C 042/18)

Language of the case: German

Parties

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

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

Intervener in support of the defendant: European Commission (represented by: S. Bartelt and R. Tricot, and subsequently by R. Tricot and T. Scharf, acting as Agents)

Re:

Action based on Article 268 TFEU and seeking compensation for the losses which the applicant allegedly suffered following the listing of its name, first, by Council Implementing Regulation (EU) No 668/2010 of 26 July 2010 implementing Article 7(2) of Regulation (EC) No 423/2007 concerning restrictive measures against Iran (OJ 2010 L 195, p. 25) in Annex V to Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1) and, secondly, by Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation No 423/2007 (OJ 2010 L 281, p. 1) in Annex VIII to Regulation No 961/2010.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders HTTS Hanseatic Trade Trust & Shipping GmbH to bear its own costs and to pay those of the Council of the European Union;*

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

(1) OJ C 59, 15.2.2016.

Judgment of the General Court of 13 December 2017 — Crédit mutuel Arkéa v ECB

(Case T-712/15) (1)

(Economic and monetary policy — Prudential supervision of credit institutions — Article 4(3) of Regulation (EU) No 1024/2013 — Prudential supervision at the consolidated level — Group subject to prudential supervision — Institutions permanently affiliated to a central body — Article 2(21)(c) of Regulation (EU) No 468/2014 — Article 10 of Regulation (EU) No 575/2013 — Capital requirements — Article 16(1)(c) and (2)(a) of Regulation No 1024/2013)

(2018/C 042/19)

Language of the case: French

Parties

Applicant: Crédit mutuel Arkéa (Le Relecq Kerhuon, France) (represented by: H. Savoie and P. Mele, lawyers)

Defendant: European Central Bank (ECB) (represented by: K, Lackhoff, R. Bax and C. Olivier, acting as Agents, and D. Martin, M. Pittie and M. Françon, lawyers)

Intervener in support of the defendant: European Commission (represented by: V. Di Bucci and K.-P. Wojcik, acting as Agents)

Re:

Application based on Article 263 TFEU seeking the annulment of Decision ECB/SSM/2015 — 9695000CG 7B84NLR5984/28 of the ECB of 4 October 2015 setting out the prudential requirements for the Crédit Mutuel group.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Crédit mutual Arkéa to bear its own costs and to pay those incurred by the European Central Bank (ECB).*

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

(1) OJ C 59, 15.2.2016.

Judgment of the General Court of 13 December 2017 — Crédit mutuel Arkéa v ECB

(Case T-52/16) ([1])

(Economic and monetary policy — Prudential supervision of credit institutions — Article 4(3) of Regulation (EU) No 1024/2013 — Prudential supervision at the consolidated level — Group subject to prudential supervision — Institutions permanently affiliated to a central body — Article 2(21)(c) of Regulation (EU) No 468/2014 — Article 10 of Regulation (EU) No 575/2013 — Capital requirements — Article 16(1)(c) and (2)(a) of Regulation No 1024/2013)

(2018/C 042/20)

Language of the case: French

Parties

Applicant: Crédit mutuel Arkéa (Le Relecq Kerhuon, France) (represented by: H. Savoie and P. Mele, lawyers)

Defendant: European Central Bank (ECB) (represented by: K, Lackhoff, R. Bax and C. Olivier, acting as Agents, and M. Pittie, lawyer)

Intervener in support of the defendant: European Commission (represented by: V. Di Bucci and K.-P. Wojcik, acting as Agents)

Re:

Application based on Article 263 TFEU seeking the annulment of Decision ECB/SSM/2015 — 9695000CG 7B84NLR5984/40 of the ECB of 4 December 2015 setting out the prudential requirements for the Crédit Mutuel group.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Crédit mutual Arkéa to bear its own costs and to pay those incurred by the European Central Bank (ECB).*

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

([1]) OJ C 111, 29.3.2016.

Judgment of the General Court of 13 December 2017 — Delfin Wellness v EUIPO — Laher (Infrared and sauna cabins)

(Case T-114/16) ([1])

(Community design — Invalidity proceedings — Registered community designs representing infrared and sauna cabins — Earlier designs — Ground for invalidity — Lack of novelty — Article 5 and Article 25(1)(b) of Regulation (EC) No 6/2002 — Disclosure of the earlier designs before the date of priority — Article 7(1) and (2) of Regulation No 6/2002 — Right to be heard — Article 64(1) of Regulation No 6/2002)

(2018/C 042/21)

Language of the case: German

Parties

Applicant: Delfin Wellness GmbH (Leonding, Austria) (represented by: T. Riedler, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Sabine Laher (Weyer, Austria) (represented by: P. Pfeil, lawyer)

Re:

Action brought against three decisions of the Third Board of Appeal of EUIPO of 12 January 2016 (Cases R 849/2014–3, R 850/2014–3 and R 851/2014–3), relating to invalidity proceedings between Delfin Wellness and Ms Laher.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Delfin Wellness GmbH to pay the costs, including the costs necessarily incurred by Ms Sabine Laher for the purposes of the three sets of proceedings before the Board of Appeal of the European Union Intellectual Property Office (EUIPO).*

([1]) OJ C 165, 10.5.2016.

Judgment of the General Court of 14 December 2017 — GeoClimaDesign v EUIPO — GEO (GEO)

(Case T-280/16) ([1])

(EU trade mark — Invalidity proceedings — EU word mark GEO — Absolute grounds for refusal — Distinctive character — Lack of descriptive character — Article 7(1)(b) and (c) of Regulation (EC) No 207/2009 (now Article 7(1)(b) and (c) of Regulation (EU) 2017/1001) — Article 52(1)(a) of Regulation No 207/2009 (now Article 59(1)(a) of Regulation 2017/1001))

(2018/C 042/22)

Language of the case: German

Parties

Applicant: GeoClimaDesign AG (Fürstenwalde/Spree, Germany) (represented by: B. Lanz, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: GEO Gesellschaft für Energie und Oekologie GmbH (Langenhorn, Germany)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 29 March 2016 (Case R 1679/2015-4) relating to invalidity proceedings between GEO and GeoClimaDesign.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

([1]) OJ C 260, 18.7.2016.

Judgment of the General Court of 13 December 2017 — Arango Jaramillo and Others v EIB

(Case T-482/16 RENV) ([1])

(Civil service — EIB Staff — Time limit for bringing an action — Reasonable period of time — Pension — 2008 Reform — Contractual nature of the employment relationship — Proportionality — Obligation to state reasons — Legal certainty — Liability — Non-material damage)

(2018/C 042/23)

Language of the case: French

Parties

Applicants: Oscar Orlando Arango Jaramillo (Luxembourg, Luxembourg) and the 33 other applicants whose names appear in the annex to the judgment (represented by: C. Cortese and B. Cortese, lawyers)

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

Re:

Application under Article 270 TFEU seeking, first, annulment of the decisions of the EIB, contained in the applicants' payslips for the month of February 2010, to increase their pension contribution rates and, secondly, an order that the EIB pay a symbolic EUR 1 by way of compensation for the non-material harm allegedly suffered by the applicants.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Oscar Orlando Arango Jaramillo and the other staff members of the European Investment Bank (EIB) whose names appear in the annex to pay the costs of these proceedings.*

3. *Orders the EIB to pay the costs incurred in Cases F-34/10, T-234/11 P and T-234/11 P RENV–RX.*

([1]) OJ C 234, 28.8.2010 (case initially registered before the European Union Civil Service Tribunal under Case No F-34/10).

Judgment of the General Court of 14 December 2017 — Martinez De Prins and Others v EEAS

(Case T-575/16) ([1])

(Civil service — Officials — Agents — Remuneration — EEAS staff posted to a third country — Article 10 of Annex X to the Staff Regulations — Annual assessment of the allowance for living conditions — Decision to reduce the allowance for living conditions in Ghana from 25 % to 20 % — Plea of illegality)

(2018/C 042/24)

Language of the case: French

Parties

Applicants: David Martinez De Prins (Accra, Ghana) and the 9 other applicants whose names are annexed to the judgment (represented by: N. de Montigny and J.-N. Louis, lawyers)

Defendant: European External Action Service (represented by: S. Marquardt, acting as Agent, and M. Troncoso Ferrer, F.-M. Hislaire and S. Moya Izquierdo, lawyers)

Re:

Application based on Article 270 TFEU seeking the annulment of the applicants' salary statements of the month of March 2015 as well as their subsequent salary statements, to the extent that those statements apply the decision of the EEAS of 23 February 2015 to reduce, from 1 January 2015, the allowance for living conditions paid to EU staff posted to Ghana.

Operative part of the judgment

1. *The salary statements of Mr David Martinez De Prins and the other officials and agents of the European External Action Service (EEAS) whose names are in annex established by the EEAS for the month of March 2015 are annulled to the extent that those statements apply the decision of the EEAS of 23 February 2015 to reduce, from 1 January 2015, the allowance for living conditions paid to EU staff posted to Ghana.*

2. *The action is dismissed for the remainder.*

3. *The EEAS is ordered to pay the costs.*

([1]) OJ C 111, 29.3.2016 (case initially registered before the Civil Service Tribunal of the European Union under the number F-153/15 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 14 December 2017 — Campo and Others v EEAS

(Case T-577/16) ([1])

(Civil Service — Officials — Agents — Remuneration — EEAS staff posted to a third country — Article 10 of Annex X to the Staff Regulations — Annual assessment of the allowance for living conditions — Decision reducing the allowance for living conditions in Montenegro from 15 % to 10 % — Plea of illegality)

(2018/C 042/25)

Language of the case: French

Parties

Applicants: Alessandro Campo (Podgorica, Montenegro) and the 12 other applicants whose names are set out in the annex to the judgment (represented by: N. de Montigny and J.-N. Louis, lawyers)

Defendant: European External Action Service (EEAS) (represented by: S. Marquardt, Agent, and M. Troncoso Ferrer, F.-M. Hislaire and S. Moya Izquierdo, lawyers)

Re:

Application under Article 270 TFEU for annulment of the applicants' salary slips in respect of March 2015 and of those drawn up afterwards in so far as those salary slips apply the decision of the EEAS of 23 February 2015 reducing, with effect from 1 January 2015, the allowance for living conditions paid to EU staff posted to Montenegro.

Operative part of the judgment

The Court:

1. *Annuls the salary slips for March 2015 of Mr Alessandro Campo and of the other officials and agents of the European External Action Service (EEAS), whose names are set out in the annex drawn up by the EEAS on the date on which the action was brought, in so far as those slips apply the decision of the EEAS of 23 February 2015 reducing, with effect from 1 January 2015, the allowance for living conditions paid to EU staff posted to Montenegro;*

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

3. *Orders the EEAS to pay the costs.*

(1) OJ C 145, 25.4.2016 (case initially registered before the European Union Civil Service Tribunal as Case F-6/16, transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 13 December 2017 — HQ v CPVO

(Case T-592/16) (1)

(Civil Service — Members of the temporary staff — Fixed-term contract — Decision not to renew — Manifest error of assessment — Duty of care — Principle of sound administration — Right to be heard — Psychological harassment — Misuse of powers — Liability)

(2018/C 042/26)

Language of the case: French

Parties

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

Defendants: Community Plant Variety Office (CPVO) (represented by: A. Verdini, acting as Agent, assisted by D. Waelbroeck and de A. Duron, lawyers)

Re:

Application under Article 270 TFEU, seeking, first, annulment of the CPVO decisions of 24 June 2015 not to renew the applicant's contract and of 20 January 2016 rejecting the complaint and, secondly, compensation for the harm allegedly suffered by the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders HQ to bear the costs.*

(1) OJ C 251, of 11.7.2016 (case initially registered before the European Union Civil Service Tribunal under Case No F-22/16 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 13 December 2017 — CJ v ECDC

(Case T-602/16) (1)

(Civil service — Members of the contract staff — Career evaluation report — Assessment exercise 2012 — Drawing up — Application for annulment of the decision closing appraisal report)

(2018/C 042/27)

Language of the case: English

Parties

Applicant: CJ (represented by: V. Kolias, lawyer)

Defendant: European Centre for Disease Prevention and Control (ECDC), (represented by J. Mannheim and A. Daume, acting as Agents, and by D. Waelbroeck and A. Duron, lawyers)

Re:

Action brought under Article 270 TFEU, seeking annulment of the decision of the appeal assessor of the ECDC of 21 September 2015 finalising the applicant's appraisal report for the year 2011 and, insofar as necessary, the decision of the ECDC of 20 April 2016 rejecting the complaint lodged by the applicant against that decision of the appeal assessor.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders CJ to pay the costs.*

([1]) OJ C 296, 16.8.2016 (case initially registered before the European Union Civil Service Tribunal under case No F-32/16 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 14 December 2017 — Trautmann v EEAS

(Case T-611/16) ([1])

(Civil service — Officials — Remuneration — Family allowances — Education allowance — Article 15 of Annex X to the Staff Regulations — Conditions for grant — Article 3(1) of Annex VII to the Staff Regulations — Regular full-time attendance at an educational establishment which charges fees — Article 85 of the Staff Regulations — Recovery of sums overpaid — Obligation to state reasons — Right to be heard)

(2018/C 042/28)

Language of the case: German

Parties

Applicant: Ernst Ulrich Trautmann (Kraainem, Belgium) (represented by: M. Meyer, lawyer)

Defendant: European External Action Service (EEAS) (represented by: S. Marquardt and R. Weiss, acting as Agents)

Re:

Application based on Article 270 TFEU seeking, first, the annulment (i) of the decision of the appointing authority of the EEAS of 18 November 2015 to reassess the amount of the education allowance due to the applicant, (ii) of the decision of the Office for the Administration and Payment of Individual Entitlements (PMO) of 12 January 2016 to recover, by means of deductions from pay, the sums unduly paid to the applicant, (iii) of the decision of 12 May 2016 rejecting the complaints against those decisions, and, second, and an order requiring the EEAS to return to the applicant the sums previously paid in accordance with his right to the education allowance.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Ernst Ulrich Trautmann to pay the costs.*

([1]) OJ C 371, 10.10.2016 (case initially registered before the Civil Service Tribunal of the European Union under the number F-41/16 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 13 December 2017 — CJ v ECDC

(Case T-692/16) ([1])

(Civil service — Members of the contract staff — Fixed-term contract — Article 47(b) of the CEOS — Annulment of early termination decision — Article 266 TFEU — Compliance with a judgment of the Civil Service Tribunal — Adoption of new early termination decision — Retroactive effect)

(2018/C 042/29)

Language of the case: English

Parties

Applicant: CJ (represented by: V. Kolias, lawyer)

Defendant: European Centre for Disease Prevention and Control (ECDC) (represented by J. Mannheim and A. Daume, acting as Agents, and by D. Waelbroeck and A. Duron, lawyers)

Re:

Action brought under Article 270 TFEU seeking, on the one hand, the annulment, first, of the ECDC decision of 2 December 2015 terminating, with retroactive effect as from 30 April 2012, the applicant's contract as a member of the contract staff and, secondly, of the ECDC decision of 27 June 2016 rejecting the complaint lodged by the applicant against that termination decision and, on the other hand, compensation for the loss allegedly suffered by the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders CJ to pay the costs.*

([1]) OJ C 441, 28.11.2016.

Judgment of the General Court of 13 December 2017 — Laboratorios Ern v EUIPO — Ascendo Medienagentur (SLIMDYNAMICS)

(Case T-700/16) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark SLIMDYNAMICS — Earlier national word mark DYNAMIN — Relative ground for refusal — Likelihood of confusion — Similarity of the goods — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2018/C 042/30)

Language of the case: English

Parties

Applicant: Laboratorios Ern, SA (Barcelona, Spain) (represented by: S. Correa Rodríguez, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Ascendo Medienagentur AG (Gamprin-Bendern, Liechtenstein)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 22 July 2016 (Joined Cases R 1814/2015-4 and R 1780/2015-4) relating to opposition proceedings between Laboratorios Ern and Ascendo Medienagentur.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Laboratorios Ern, SA to pay the costs.*

(1) OJ C 462, 12.12.2016.

Judgment of the General Court of 13 December 2017 — CJ v ECDC

(Case T-703/16 RENV) (1)

(Civil service — Members of the contract staff — Fixed-term contract — Early termination — Article 47 (b)(ii) of the CEOS — Terms of notice — Liability — Non-material damage)

(2018/C 042/31)

Language of the case: English

Parties

Applicant: CJ (represented by: V. Kolias, lawyer)

Defendant: European Centre for Disease Prevention and Control (ECDC) (represented by: J. Mannheim and A. Daume, acting as Agents, and by D. Waelbroeck and A. Duron, lawyers)

Re:

Application based on Article 270 TFEU and seeking compensation for the harm suffered by the applicant arising from the decision of the director of the ECDC, communicated to him on 24 February 2012, to terminate early his contract as a member of the contract staff.

Operative part of the judgment

The Court:

1. *Orders the European Centre for Disease Prevention and Control (ECDC) to pay CJ, in respect of non-material damage, the sum of EUR 2 000;*

2. *Dismisses the remainder of the action in Case F-161/12;*

3. *Orders CJ and the ECDC to bear their own costs in the original proceedings before the European Union Civil Service Tribunal in Case F-161/12, the appeal proceedings in Case T-370/15 P and the present proceedings on referral.*

(1) OJ C 311, 21.9.2015.

Judgment of the General Court of 14 December 2017 — Consejo Regulador 'Torta del Casar' v EUIPO — Consejo Regulador 'Queso de La Serena' (QUESO Y TORTA DE LA SERENA)

(Case T-828/16) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative trade mark QUESO Y TORTA DE LA SERENA — Protection of the designation of origin 'Torta del Casar' — Relative ground for refusal — Article 2(2), Article 3(1) and Article 13(1) of Regulation (EC) No 510/2006 — Article 8(4) of Regulation (EC) No 207/2009 (now Article 8(4) of Regulation (EU) 2017/1001))

(2018/C 042/32)

Language of the case: Spanish

Parties

Applicant: Consejo Regulador de la Denominación de Origen 'Torta del Casar' (Casar de Cáceres, Spain) (represented by: A. Pomares Caballero and M. Pomares Caballero, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Consejo Regulador de la Denominación de Origen Protegida 'Queso de La Serena' (Castuera, Spain)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 26 September 2016 (Case R 2573/2014–4), concerning opposition proceedings between Consejo Regulador de la Denominación de Origen 'Torta del Casar' and Consejo Regulador de la Denominación de Origen Protegida 'Queso de La Serena'.

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 26 September 2016 (Case R 2573/2014–4);*

2. *Orders EUIPO to bear its own costs and to pay those of the Consejo Regulador de la Denominación de Origen 'Torta del Casar'.*

([1]) OJ C 22, 23.1.2017.

Judgment of the General Court of 14 December 2017 — RRTec v EUIPO — Mobotec (RROFA)

(Case T-912/16) ([1])

(European Union trade mark — Opposition proceedings — Application for EU figurative mark RROFA — Prior EU word mark ROFA — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2018/C 042/33)

Language of the case: English

Parties

Applicant: RRTec sp. z o.o. (Gliwice, Poland) (represented by: T. Gawrylczyk, lawyer)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and M.M. Baldares, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the General Court: Mobotec AB (Gothenburg, Sweden) (represented by: N. Köster, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 5 October 2016 (Case R 2392/2015-1) concerning opposition proceedings between Mobotec and RRTec.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders RRTec sp. z o.o. to pay the costs.*

([1]) OJ C 63, 27.2.2017.

Judgment of the General Court of 13 December 2017 — Coedo Suárez v Council

(Case T-4/17) ([1])

(Civil service — Civil servants — Automatic retirement — Application for recognition of the occupational origin of the invalidity — Classification of the claim — Reasonable period — Irregularity of the prior administrative procedure — Inadmissibility — Liability)

(2018/C 042/34)

Language of the case: French

Parties

Applicant: Ángel Coedo Suárez (Brussels, Belgium) (represented by: S. Rodrigues and C. Bernard-Glanz, lawyers)

Defendant: Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Re:

Application based on Article 270 TFEU and seeking, first, annulment of the Council decision of 4 March 2016 refusing to recognise the occupational origin of the applicant's invalidity and, second, compensation for the damage allegedly suffered by the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Ángel Coedo Suárez to pay the costs.*

([1]) OJ C 78, 13.3.2017.

Order of the General Court of 28 November 2017 — Staelen v Ombudsman

(Case T-217/11 REV) ([1])

(Non-contractual liability — Application for revision — Consequences of a subsequent judgment of the Court of Justice partially setting aside a judgment of the General Court — No new facts — Inadmissibility)

(2018/C 042/35)

Language of the case: French

Parties

Applicant: Claire Staelen (Bridel, Luxembourg) (represented by: V. Olona, lawyer)

Other party to the proceedings: European Ombudsman (represented by: initially G. Grill, then L. Papadias, acting as Agents, and A. Duron and D. Waelbroeck, lawyers)

Re:

Application for revision of the judgment of 29 April 2015, *Staelen* v *Ombudsman* (T-217/11, EU:T:2015:238)

Operative part of the order

1. *The application for revision is dismissed as inadmissible.*

2. *Ms Claire Staelen is ordered to pay the costs.*

([1]) OJ C 204, 9.7.2011.

Order of the President of the General Court of 29 November 2017 — Ferrovial and Others v Commission

(Case T-252/15 R)

(Application for interim measures — Aid scheme provided for under Spanish tax legislation — Corporate tax provision which enables Spanish undertakings to write off the goodwill resulting from the acquisition of a shareholding in foreign undertakings — New administrative interpretation — Inclusion in the register of direct acquisitions of shareholdings in foreign companies — Application for a stay of execution — No urgency)

(2018/C 042/36)

Language of the case: Spanish

Parties

Applicants: Ferrovial, SA (Madrid, Spain), Ferrovial Servicios, SA (Madrid) and Amey UK plc (Oxford, United Kingdom) (represented by: M. Muñoz Pérez and M. Linares Gil, lawyers)

Defendant: European Commission

Re:

Application under Articles 278 TFEU and 279 TFEU seeking suspension of operation of Commission Decision (EU) 2015/314 of 15 October 2014 on the State aid SA.35550 (13/C) (ex 13/NN) (ex 12/CP) implemented by Spain Scheme for the tax amortisation of financial goodwill for foreign shareholding acquisitions (OJ 2015 L 56, p. 38).

Operative part of the order

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

2. *The costs are reserved.*

Order of the General Court of 27 November 2017 — HeidelbergCement v Commission

(Case T-902/16) ([1])

(Actions for annulment — Competition — Concentrations — Grey cement market in Croatia — Decision to initiate the in-depth examination phase pursuant to Article 6(1)(c) of Regulation (EC) No 139/2004 — Act not amenable to review — Preparatory act — Inadmissibility)

(2018/C 042/37)

Language of the case: English

Parties

Applicant: HeidelbergCement AG (Heidelberg, Germany) (represented by: U. Denzel, C. von Köckritz, P. Pichler and H. Weiß, lawyers)

Defendant: European Commission (represented by: A. Dawes, H. Leupold and T. Vecchi, acting as Agents)

Re:

Action under Article 263 TFEU for the annulment of Commission Decision C(2016) 6591 final of 10 October 2016 to initiate the in-depth examination phase, pursuant to Article 6(1)(c) of Council Regulation (EC) No 139/2004, aimed at assessing the compatibility with the internal market of the acquisition of the control of Cemex Hungária Építőanyagok Kft. and Cemex Hrvatska d.d. by HeidelbergCement and Schwenk Zement KG through Duna-Dráva Cement Kft.

Operative part of the order

1. *The action is dismissed as inadmissible;*

2. *HeidelbergCement AG is ordered to bear its own costs and to pay those incurred by the European Commission.*

(1) OJ C 53, 20.2.2017.

Order of the General Court of 27 November 2017 — Schwenk Zement v Commission

(Case T-907/16) (1)

(Action for annulment — Competition — Mergers — Market for grey cement in Croatia — Decision to initiate the detailed examination phase in accordance with Article 6(1)(c) of Regulation (EC) No 139/2004 — Act not open to challenge — Preparatory act — Inadmissibility)

(2018/C 042/38)

Language of the case: German

Parties

Applicant: Schwenk Zement KG (Ulm, Germany) (represented by: U. Soltész, M. Raible and G. Wecker, lawyers)

Defendant: European Commission (represented by: A. Dawes, H. Leupold and T. Vecchi, acting as Agents)

Re:

Action brought under Article 270 TFEU, seeking annulment of Commission Decision C(206) 6591 final of 10 October 2016, to initiate the detailed examination phase in accordance with Article 6(1)(c) of Council Regulation (EC) No 139/2004, seeking to assess the compatibility with the internal market of the acquisition of control of Cemex Hungária Épitöanyagok Kft. and Cemex Hrvatska d.d. by HeidelbergCement AG and Schwenk Zement through Duna-Dráva Cement Kft.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Schwenk Zement KG is ordered to bear its own costs as well as those incurred by the European Commission.*

(1) OJ C 63, 27.2.2017.

Order of the General Court of 7 December 2017 — Troszczynski v Parliament

(Case T-148/17) (1)

(Action for annulment — Rules governing the payment of expenses and allowances to Members of the European Parliament — Parliamentary assistance allowance — Recovery of undue payments — Partial inadmissibility — Partial non-suit)

(2018/C 042/39)

Language of the case: French

Parties

Applicant: Mylène Troszczynski (Noyon, France) (represented by: initially, M. Ceccaldi and, subsequently, F. Wagner, lawyers)

Defendant: European Parliament (represented by: G. Corstens and S. Seyr, Agents)

Intervener in support of the defendant: Council of the European Union (represented by: A. Jensen, M. Bauer and R. Meyer, Agents)

Re:

Application under Article 263 TFEU for annulment of the decision of the Secretary General of the Parliament of 23 June 2016 concerning recovery from the applicant of the amount of EUR 56 554 unduly paid in respect of parliamentary assistance, of the related debit note, and of the decision of the Quaestors of 13 December 2016 dismissing the applicant's appeal against the decision of 23 June 2016.

Operative part of the order

1. *The action is dismissed as inadmissible inasmuch as it relates to the application for annulment of the decision of the Secretary General of the European Parliament of 23 June 2016 concerning the recovery from Ms Mylène Troszczynski of the amount of EUR 56 554 unduly paid in respect of parliamentary assistance, and of the related debit note, and to the claim that the Parliament should be ordered to pay the applicant the amount of EUR 50 000 as reimbursement of recoverable costs.*

2. *There is no longer any need to adjudicate on the action inasmuch as it relates to the application for annulment of the decision of the Quaestors of 13 December 2016 dismissing the applicant's appeal against the decision of 23 June 2016.*

3. *Ms Troszczynksi shall bear her own costs and also pay those incurred by the Parliament.*

4. *The Council of the European Union shall bear its own costs.*

([1]) OJ C 144, 8.5.2017.

Order of the General Court of 7 December 2017 — Acsen v Parliament and Council

(Case T-381/17) ([1])

(Action for annulment — Directive 2011/35/EU — Merger of public limited liability companies — Nullity of the merger — No distinction between absolute nullity and relative nullity of the merger — Time-limit for bringing an action — Delay — Manifest inadmissibility)

(2018/C 042/40)

Language of the case: Romanian

Parties

Applicant: Ibram Acsen (Bucharest, Romania) (represented by: C. Gagu, lawyer)

Defendants: European Parliament (represented by: M. Pencheva and C. Ionescu Dima, acting as Agents) and Council of the European Union (represented by: S. Petrova Cerchia and A. Varnav, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking the partial annulment of Article 22(1)(c) of Directive 2011/35/EU of the European Parliament and of the Council of 5 April 2011 concerning mergers of public limited liability companies (OJ 2011, L 110, p. 1).

Operative part of the order

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

2. *Mr Ibram Acsen is ordered to pay the costs.*

(1) OJ C 269, 14.8.2017.

Action brought on 25 September 2017 — Hernando Avendaño and Others v SRB

(Case T-669/17)

(2018/C 042/41)

Language of the case: Spanish

Parties

Applicants: María Hernando Avendaño (Madrid, Spain), Ignacio Ruiz-Rivas Hernando (Madrid), Juan Ruiz-Rivas Cuesta (Madrid), Lucía Ruiz-Rivas Cuesta (Madrid) (represented by: P. Gabeiras Vázquez, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

— Declare the present action for annulment admissible, together with the evidence submitted and measures sought;

— Annul Decision SRB/EES/2017/08;

— Order the payment of compensation for the harm caused.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos* v *Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL* v *Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde* v *Commission and Single Resolution Board*, T-483/17, *García Suárez and Others* v *Commission and Single Resolution Board*, T-484/17, *Fidesban and Others* v *Single Resolution Board*, T-497/17, *Sáchez del Valle and Calatrava Real State 2015* v *Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda* v *Commission and Single Resolution Board*.

Action brought on 31 October 2017 — Asociación de Usuarios de Bancos, Cajas y Seguros de España v SRB

(Case T-735/17)

(2018/C 042/42)

Language of the case: Spanish

Parties

Applicant: Asociación de Usuarios de Bancos, Cajas y Seguros de España (Adicae Consumidores Críticos y Responsables) (Zaragoza, Spain) (represented by: J. Llanos Acuña, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the General Court should annul the contested decision and declare it null and void.

Pleas in law and main arguments

The present action is brought against the decision of the Single Resolution Board adopted in its executive session of 7 June 2017 (Decision SRB/EES/2017/08) ordering the activation of the Single Resolution Mechanism and its application to the Spanish institution Banco Popular Español, S.A..

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos* v *Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL* v *Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde* v *Commission and Single Resolution Board*, T-483/17, *García Suárez and Others* v *Commission and Single Resolution Board*, T-484/17, *Fidesban and Others* v *Single Resolution Board*, T-497/17, *Sáchez del Valle and Calatrava Real State 2015* v *Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda* v *Commission and Single Resolution Board*.

Action brought on 14 November 2017 — Kerkosand v Commission

(Case T-745/17)

(2018/C 042/43)

Language of the Case: German

Parties

Applicant: Kerkosand spol. s.r.o. (Šajdíkové Humence, Slovak Republic) (represented by: A. Rosenfeld and C. Holtmann, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul European Commission Decision C(2017)5050 final of 20 July 2017 in State aid Case SA.38121 (2016/FC) — Slovak Republic 'Investment aid to the Slovak glass sand producer NAJPI a.s.';

— in the alternative, annul the letter of notification of 5 September 2017 sent to the applicant's representatives by the European Commission in Case SA.38121 (2014/CP) 'Alleged State aid to Slovak glass sand producer NAJPI a.s.'; and

— order the European Commission 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: infringement of an essential procedural requirement in the form of the first sentence of Article 15(1), in conjunction with Article 4, of Regulation (EU) 2015/1589 ([1])

   According to the applicant, the defendant takes the view that the aid meets the requirements of Regulation (EU) No 651/2014. ([2]) This, in the defendant's view, precludes it from carrying out a preliminary investigation procedure and adopting a decision within the meaning of Article 4(2), (3) or (4) of Regulation (EU) 2015/1589. That view is vitiated by an error of law, since the defendant is authorised to subject aid based on Regulation (EU) No 651/2014 to a preliminary investigation. The more than three and a half year-long investigation procedure crossed the threshold between a prima facie examination and a preliminary investigation. The defendant was therefore obliged, pursuant to the first sentence of Article 15(1) of Regulation (EU) 2015/1589, to adopt a decision within the meaning of Article 4(2), (3) or (4) of Regulation (EU) 2015/1589. The defendant, however, infringed that obligation, in so far as it rejected the complaint as unfounded without establishing that the aid at issue raises no doubts as to its compatibility with the internal market.

2. Second plea in law: infringement of the TFEU and of the rules of law relating to its application in the form of Article 107 (3)(a) TFEU, Article 109 TFEU in conjunction with Article 58(1) of Regulation (EU) No 651/2014 and Article 108(2) TFEU in conjunction with Article 4(4) of Regulation (EU) 2015/1589

— The defendant takes the view that its discretion to examine is limited, in respect of aid based on Regulation (EU) No 651/2014, to the examination of the conditions for exemption set out by that regulation. That view is erroneous in law since, according to the case-law of the EU Courts, compliance with the conditions of Regulation (EU) No 651/2014 has the sole consequence that there is a primacy of a presumption of compatibility over an individual examination. That primacy does not apply in cases such as the present, in which the aid is, prima facie, to be attributed particular importance in respect of its effects on competition. In such cases, the defendant is entitled to carry out an individual assessment outside the framework of Regulation (EU) No 651/2014 in compliance with primary law and the general principles of EU law. The defendant has infringed Article 107(3)(a) TFEU by failing to exercise that discretion.

— Furthermore, the defendant has infringed Article 109 TFEU in conjunction with Article 58(1) of Regulation (EU) No 651/2014, inasmuch as it retroactively applied that regulation to the present case, even though the conditions for doing so were not met. The aid is ad hoc aid for a large company. The incentive effect of such aid is subject to particularly strict requirements in accordance with Article 6(3)(a) of Regulation (EU) No 651/2014. The proof necessary for the Slovak authorities to satisfy themselves, pursuant to the documents of the aid recipient, that those requirements had been satisfied before they approved the aid has not been adduced.

— Lastly, the defendant has infringed Article 108(2) TFEU in conjunction with Article 4(4) of Regulation (EU) 2015/1589, since it has not opened the formal investigation procedure. The defendant assessed the SME status of the aid recipient assumed by it only insufficiently and incompletely during the more than three and a half year-long investigation procedure. In addition, the defendant expressly mentioned difficulties in a meeting in regard to the assessment whether the case concerned aid granted on the basis of an aid scheme or ad hoc aid. The defendant was entitled to leave that question open only if it had sufficiently assessed and correctly established that the aid recipient had SME status. That, however, was not done. Moreover, it was only in the contested decision that the defendant acknowledged that there was no compatibility in accordance with Regulation (EC) No 800/2008, ([3]) after having claimed the opposite for several years.

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

([2]) Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ 2014 L 187, p. 1).

([3]) Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the [EC] Treaty (OJ 2008 L 214, p. 3).

Action brought on 15 November 2017 — Chambre de commerce et d'industrie métropolitaine Bretagne-ouest (port de Brest) v Commission

(Case T-754/17)

(2018/C 042/44)

Language of the case: French

Parties

Applicant: Chambre de commerce et d'industrie métropolitaine Bretagne-ouest (port de Brest) (Brest, France) (represented by: J. Vanden Eynde and E. Wauters, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— rule that the application is admissible and therefore annul the Commission decision with the reference C(2017) 5176 final concerning aid scheme No SA.38398 (2016/C, ex 2015/E) implemented by France — Taxation of French ports;

— declare the present action admissible and well-founded;

— consequently, annul the decision of the European Commission that the fact that the economic activities of the Chambre de commerce et d'industrie métropolitaine Bretagne-ouest are not subject to corporation tax constitutes State aid incompatible with the internal market;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the principle of sound administration, in that the action in Case T-39/17, *Chambre de commerce et d'industrie métropolitaine Bretagne-ouest (port de Brest)* v *Commission*, brought by the applicant concerning the right to have access to the administrative file is still pending. Thus, since the Commission has allegedly relied on documents that are essential to establish its allegations against the applicant, without, however, disclosing those documents to the applicant, despite numerous requests on the part of the latter, the decision that provides an analysis of such documents must be vitiated by unlawfulness.

2. Second plea in law, alleging an error of assessment regarding the classification of the activities carried out by the port of Brest. This plea is divided into two parts.

   — The first part is based on the assertion that the activities of the port of Brest are services in the public interest. The applicant argues that, in that context, the exemption from corporation tax cannot be contested by the defendant unless it can show that the exemption constitutes State aid applied to a competitive activity.

   — The second part, submitted in the alternative, alleges that if the port activities are not services in the public interest, they are nevertheless services of general economic interest that could, in compliance with EU law, be subsidised, inter alia by fiscal measures. The applicant claims that, in such circumstances, it is not appropriate to apply the competition rules in the present case.

3. Third plea in law, alleging a lack of justification and a manifest error of assessment regarding the classification by the Commission of the measure at issue as State aid. This plea is divided into two parts:

   — In the first part, the applicant claims that the exception to the application of Article 106(2) TFEU must be combined with Article 93 TFEU, which provides that aids are compatible with the treaties if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.

   — In the second part, the applicant alleges a manifest error of assessment and lack of sufficient justification as regards the application of Article 107 TFEU. First, the contested decision is lacking in sufficient justification in that it provides no evidence to establish or demonstrate how the aid scheme in question affects, or may affect, trade between Member States with respect to French ports and, in particular, the port of Brest. Second, the decision is vitiated by a manifest error of assessment in that it classifies as State aid a measure benefitting the port of Brest even though the condition that trade be affected is not satisfied.

Action brought on 30 November 2017 — United Wineries v EUIPO — Compañía de Vinos Miguel Martín (VIÑA ALARDE)

(Case T-779/17)

(2018/C 042/45)

Language in which the application was lodged: Spanish

Parties

Applicant: United Wineries, SA (Cenicero, Spain) (represented by: J. Oria Sousa-Montes, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Compañía de Vinos Miguel Martín, SL (Cigales, Spain)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: United Wineries, SA

Trade mark at issue: European Union word mark 'VIÑA ALARDE' — Application for registration No 13 390 521

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 25 September 2017 in Case R 281/2017-5

Form of order sought

The applicant claims that the Court should:

— declare the present action, together with its annexes, admissible;

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 30 November 2017 — Kraftpojkarna v Commission

(Case T-781/17)

(2018/C 042/46)

Language of the case: English

Parties

Applicant: Kraftpojkarna AB (Västerås, Sweden) (represented by: Y. Melin, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

1. invalidate

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

— Article 2(2) of Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China;

2. annul

— Article 2 of Commission Implementing Regulation (EU) 2017/1524 of 5 September 2017 withdrawing the acceptance of the undertaking for two exporting producers under Implementing Decision 2013/707/EU confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures, as far as it applies to the applicant; and

3. order the Commission, and any intervener who may be allowed to support the Commission in the course of the proceedings, to bear the costs of these proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law:

The Commission breached Article 8(1), (9) & (10) and Article 10(5) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ([1]), and Article 13(1), (9) & (10) and Article 16(5) of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ([2]), when it invalidated undertaking invoices and then directed customs to collect duties, as if no valid undertaking invoices had been issued and communicated to customs at the time the goods were declared for release in free circulation.

This plea in law is based on a plea of illegality of Article 3(2) of Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China ([3]), and Article 2(2) of Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China ([4]), which give to the Commission the power to declare undertaking invoices invalid.

([1]) OJ 2013 L 176, p. 21.
([2]) OJ 2016 L 176, p. 55.
([3]) OJ 2013 L 325, p. 1.
([4]) OJ 2013 L 325, p. 66.

Action brought on 30 November 2017 — Wuxi Saijing Solar v Commission

(Case T-782/17)

(2018/C 042/47)

Language of the case: English

Parties

Applicant): Wuxi Saijing Solar Co. Ltd (Yixing, Chine) (represented by: Y. Melin, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

1. invalidate

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

   — Article 2(2) of Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China;

2. annul

   — Article 2 of Commission Implementing Regulation (EU) 2017/1524 of 5 September 2017 withdrawing the acceptance of the undertaking for two exporting producers under Implementing Decision 2013/707/EU confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures, as far as it applies to the applicant; and

3. order the Commission, and any intervener who may be allowed to support the Commission in the course of the proceedings, to bear the costs of these proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law:

The Commission breached Article 8(1), (9) & (10) and Article 10(5) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ([1]), and Article 13(1), (9) & (10) and Article 16(5) of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ([2]), when it invalidated undertaking invoices and then directed customs to collect duties, as if no valid undertaking invoices had been issued and communicated to customs at the time the goods were declared for release in free circulation.

This plea in law is based on a plea of illegality of Article 3(2) of Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China ([3]), and Article 2(2) of Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China ([4]), which give to the Commission the power to declare undertaking invoices invalid.

([1]) OJ 2013 L 176, p. 21.
([2]) OJ 2016 L 176, p. 55.
([3]) OJ 2013 L 325, p. 1.
([4]) OJ 2013 L 325, p. 66.

Action brought on 1 December 2017 — GE Healthcare v Commission

(Case T-783/17)

(2018/C 042/48)

Language of the case: English

Parties

Applicant: GE Healthcare A/S (Oslo, Norway) (represented by: D. Scannell, Barrister, G. Castle and S. Oryszczuk, Solicitors)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the European Commission's decision C(2017) 7941 final of 23 November 2017 suspending the applicant's marketing authorisations for Omniscan (INN gadodiamide);

— order the defendant to pay the applicant's legal and other costs and expenses in relation to the present matter.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision infringes Article 116 of Directive 2001/83/EC ([1])

2. Second plea in law, alleging that the contested decision infringes the precautionary principle.

3. Third plea in law, alleging that the contested decision breaches the principle of non-discrimination.

4. Fourth plea in law, alleging that the contested decision is in any event disproportionate.

5. Fifth plea in law, alleging that the contested decision infringes the general principle of good administration.

(1) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001 L 311, p. 67).

Action brought on 4 December 2017 — BTC v Commission

(Case T-786/17)

(2018/C 042/49)

Language of the case: German

Parties

Applicant: BTC GmbH (Bolzano, Italy) (represented by: L. von Lutterotti and A. Frei, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul European Commission Measure Ares (2017) 4799558 of 27 September 2017 concerning the recovery of funds granted and the corresponding Debit Note No 3241712708 of 2 October 2017, together with the notification Ares (2017) 4790311 of 2 October 2017, all of which were notified by email on 4 October 2017 to info@btc-srl.com, as well as all further legal acts (including those which are unknown) which preceded the two mentioned above, which are related thereto or which are designed to ensure their execution;

— in the alternative, declare, in the context of arbitration proceedings on the basis of Article 272 TFEU and Article 5(2) of Grant Agreement No C046311 of 29 June 2007, that the amount which the European Commission requested from the applicant in Debit Note No 3241712708 of 2 October 2017 is not owed, the applicant consequently being entitled to withhold that amount;

— in the further alternative, declare, also in the context of arbitration proceedings on the basis of Article 272 TFEU and Article 5(2) of Grant Agreement No C046311 of 29 June 2007, and only in the event that the applicant might owe an amount to the European Community pursuant to Grant Agreement No C046311 of 29 June 2007, that any sum which may be payable by the applicant is lower than the amount indicated by the European Commission in Debit Note No 3241712708 of 2 October 2017;

— in any event, order the defendant to bear the costs of the proceedings pursuant to Article 134 of the Rules of Procedure, those costs being assessed at EUR 30 000 on the basis of the Italian parameters governing the payment of lawyers' fees, in accordance with Ministerial Decree No 55/2014 of the Italian Justice Ministry, together with a 15 % flat-rate reimbursement of fees under Article 15 of Ministerial Decree No 55/2014 of the Italian Justice Ministry, a 4 % statutory contribution to the lawyers' fund and 22 % VAT, in so far as it is due, subject to a subsequent, more precise assessment, in the course of the proceedings, of the expenditure incurred.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested measures are invalid as having been adopted out of time pursuant to the fourth subparagraph of Article 3(1) of Regulation (EC, Euratom) No 2988/95. (1)

2. Second plea in law, alleging that the contested measures are invalid due to infringement of Article 296 TFEU and Article 41 of the Charter of Fundamental Rights of the European Union by reason of the disproportionately long processing time taken to adopt the measure and the abovementioned debit note (infringement of the principle of legal certainty and of the principle of the reasonable duration of proceedings).

3. Third plea in law, alleging that the contested measures are invalid due to infringement of Article 296 TFEU and Articles 41 and 42 of the Charter of Fundamental Rights of the European Union by reason of the errors committed in the establishment of the facts, the erroneous, inadequate and contradictory nature of the statement of reasons for the measure and infringement of the right to access documents.

4. Fourth plea in law, alleging that the contested measures are invalid due to infringement of Articles 2 and 4 of Regulation (EC, Euratom) No 2988/95 and infringement of Article 296 TFEU and Article 41 of the Charter of Fundamental Rights of the European Union by reason of the disproportionate nature of the amount requested to be repaid, the lack, or erroneous nature, of the establishment of the facts, and the inadequate or contradictory statement of reasons for the measure.

5. Fifth plea in law, alleging that the amount which the Commission claimed from the applicant in Debit Note No 3241712708 of 2 October 2017 is not owed because the Commission infringed the contractual principle of good faith, established the facts in a tardy and inadequate manner, and failed to assess, or assessed incorrectly, the evidence available.

6. Sixth plea in law, alleging that the amount which the Commission requested from the applicant in Debit Note No 3241712708 of 2 October 2017 is not owed, as the conclusions drawn by the Commission on the basis of the OLAF report do not tally with the facts.

7. Seventh plea in law, alleging that the amount which the Commission claimed from the applicant in Debit Note No 3241712708 of 2 October 2017 was not, in any event, owed to that extent on the grounds that, pursuant to Article 19 of Annex II to the Grant Agreement, only amounts which have in fact been received in error have to be repaid, while those amounts which were paid out on the basis of an invoice which is correct and complies with the contractual conditions do not have to be repaid (infringement of the principle of good faith and of the principle of proportionality).

([1]) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ 1995 L 312, p. 1).

Action brought on 29 November 2017 — TecAlliance v EUIPO — Siemens (TecDocPower)

(Case T-789/17)

(2018/C 042/50)

Language in which the application was lodged: German

Parties

Applicant: TecAlliance GmbH (Ismaning, Germany) (represented by: P. Engemann, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Siemens AG (Munich, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark 'TecDocPower' — EU trade mark No 13 402 326

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 14 September 2017 in Case R 2433/2016-1

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 8(1)(b) and Article 47(2) of Regulation No 207/2009.

Action brought on 05 December 2017 — St. Andrews Links v EUIPO (ST ANDREWS)

(Case T-790/17)

(2018/C 042/51)

Language of the case: English

Parties

Applicant: St. Andrews Links Ltd (St. Andrews, United Kingdom) (represented by: B. Hattier, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'ST ANDREWS' — Application for registration No 9 586 348

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 2 October 2017 in Case R 92/2017-4

Form of order sought

The applicant claims that the Court should:

— consider the present appeal admissible;

— annul the contested decision insofar as it dismissed the appeal for the following services in class 41: 'Arranging and conducting entertainment conferences, congresses, events, competitions and seminars; Club services (entertainment or education); Providing a website featuring information regarding conferences, congresses, events, competitions and seminars; Special event planning; Organization of cultural events and of exhibitions for cultural or educational purposes, Publication of books, electronic books and journals on-line; Vocational guidance and instructions services (education or training advice)';

— allow the European Union trademark application No. 9 586 348 for registration for the above-mentioned services; and

— order EUIPO to bear the fees and costs incurred by the Applicant in the course of the present proceeding.

Plea in law

— The Board of Appeal made a wrong appreciation of the distinctive character of the European Union trademark application No. 9 586 348 in relation with certain services in class 41.

Action brought on 5 December 2017 — St. Andrews Links v EUIPO (ST ANDREWS)

(Case T-791/17)

(2018/C 042/52)

Language of the case: English

Parties

Applicant: St. Andrews Links Ltd (St. Andrews, United Kingdom) (represented by: B. Hattier, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'ST ANDREWS' — Application for registration No 11 176 773

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 2 October 2017 in Case R 93/2017-4

Form of order sought

The applicant claims that the Court should:

— consider the present appeal admissible;

— annul the contested decision insofar as it dismissed the appeal for the following services in class 41: 'Arranging and conducting entertainment conferences, congresses, events, competitions and seminars; Club services (entertainment or education); Providing a website featuring information regarding conferences, congresses, events, competitions and seminars; Special event planning; Organization of cultural events and of exhibitions for cultural or educational purposes, Publication of books, electronic books and journals on-line; Vocational guidance and instructions services (education or training advice)';

— allow the European Union trademark application No. 11 176 773 for registration for the above-mentioned services; and

— order EUIPO to bear the fees and costs incurred by the Applicant in the course of the present proceeding.

Plea in law

— The Board of Appeal made a wrong appreciation of the distinctive character of the European Union trademark application No. 11 176 773 in relation with certain services in class 41.

Action brought on 5 December 2017 — Man Truck & Bus v EUIPO — Halla Holdings (MANDO)

(Case T-792/17)

(2018/C 042/53)

Language in which the application was lodged: German

Parties

Applicant: Man Truck & Bus AG (Munich, Germany) (represented by: C. Röhl, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Halla Holdings Corp. (Yongin-si, Republic of Korea)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark 'MANDO' — Application for registration No 11 276 301

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 14 September 2017 in Case R 1677/2016-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea(s) in law

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

Action brought on 6 December 2017 — Star Television Productions v EUIPO — Marc Dorcel (STAR)

(Case T-797/17)

(2018/C 042/54)

Language in which the application was lodged: English

Parties

Applicant: Star Television Productions Ltd (Tortola, British Virgin Islands) (represented by: D. Farnsworth, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Marc Dorcel SA (Paris, France)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark containing the word element 'STAR' — EU trade mark No 1 992 510

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Second Board of Appeal of EUIPO of 14 September 2017 in Case R 1519/2016-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— refuse the application for revocation and;

— order EUIPO to pay the costs incurred by the Appellant in connection with this appeal.

Plea in law

— Infringement of Article 58(1)(a) of Regulation No 207/2009.

Action brought on 8 December 2017 — De Masi and Varoufakis v ECB

(Case T-798/17)

(2018/C 042/55)

Language of the case: German

Parties

Applicants: Fabio De Masi (Hamburg, Germany) and Yanis Varoufakis (Athens, Greece) (represented by: Professor A. Fischer-Lescano)

Defendant: European Central Bank

Form of order sought

The applicants claim that the Court should:

— annul the decision of the Executive Board of the European Central Bank, notified by letter of 16 October 2017, by which the applicants' application for access to the European Central Bank document 'Responses to questions concerning the interpretation of Article 14.4 of the Statute of the ESCB and of the ECB' of 23 April 2015 was rejected;

— order the defendant to pay the costs of the proceedings, including the costs of any intervening party, pursuant to Article 87(2) of the Rules of Procedure of the General Court.

Pleas in law and main arguments

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

1. First plea in law: Incorrect application of the second indent of Article 4(2) of Decision of the European Central Bank of 4 March 2004 on public access to European Central Bank documents (ECB/2004/3) ([1])

   — The applicants claim that the publication of the legal opinion in question would not undermine the defendant's legal advice and that there is an overriding public interest in its disclosure. Furthermore, there was a lack of consideration and a failure to state adequate reasons.

2. Second plea in law: Incorrect application of Article 4(3) of Decision of the European Central Bank of 4 March 2004 on public access to European Central Bank documents (ECB/2004/3)

   — Publication of the legal opinion in question would not undermine its internal use as part of deliberations and preliminary consultations within the European Central Bank, or for exchanges of views between the European Central Bank and national central banks.

([1]) Decision of the European Central Bank of 4 March 2004 on public access to European Central Bank documents (ECB/2004/3) (OJ 2004 L 80, p. 42).

Action brought on 11 December 2017 — Scania and Others v Commission

(Case T-799/17)

(2018/C 042/56)

Language of the case: English

Parties

Applicants: Scania AB (Södertälje, Sweden), Scania CV AB (Södertälje) and Scania Deutschland GmbH (Koblenz, Germany) (represented by: D. Arts, F. Miotto, C. Pommiès, K. Schillemans, C. Langenius, L. Ulrichs and P. Hammarskiöld, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— adopt a measure of organisation of procedure pursuant to Article 88(1) and Article 89(3)(d) of the Rules of Procedure requesting the Commission to produce the written submissions of DAF and Iveco to the statement of objections;

— annul the decision of the European Commission of 27 September 2017 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (AT.39824 — Trucks)(the contested decision);

— in the alternative, partially annul the contested decision and reduce the fine imposed on the Applicants under Article 261 TFEU and Article 31 of Regulation 1/2003;

— in any event, substitute its own appraisal for the Commission's as regards the amount of the fine and reduce the fine imposed on the Applicants under Article 261 TFEU and Article 31 of Regulation 1/2003; and

— order the Commission to pay the costs pursuant to Article 134 of the Rules of Procedure.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision violates the Applicants' rights of defence as deriving from Article 48 (2) of the EU Charter of Fundamental Rights, Articles 27(1) and 27(2) of Regulation 1/2003, the duty of EU institutions to conduct an impartial investigation, as deriving from Article 41(1) of the EU Charter of Fundamental Rights, and the principle of the presumption of innocence, as laid down in Article 48(1) of the EU Charter of Fundamental Rights.

2. Second plea in law, alleging that the Commission violated Articles 27(1) and 27(2) of Regulation 1/2003, and Article 48 (2) of the Charter in denying Scania access to potential new exculpatory evidence contained in DAF's and Iveco's replies to the Statement of Objections.

3. Third plea in law, alleging that the contested decision misapplies Article 101 TFEU and Article 53 of the EEA Agreement by finding that the exchanges of information in the Test & Drive circle constitute an infringement.

4. Fourth plea in law, alleging that the contested decision violates Article 296 TFEU because it provides an inconsistent reasoning in relation to the alleged agreement or concerted practice on the introduction on the market of emission technologies, as well as misapplies Article 101 TFEU and Article 53 EEA Agreement in finding that the Applicants have entered into an agreement or concerted practice on the timing of the introduction on the market of emission technologies.

5. Fifth plea in law, alleging that the contested decision misapplies Article 101 TFEU and Article 53 of the EEA Agreement by incorrectly characterising the information exchange within the German circle as a 'by object' infringement.

6. Sixth plea in law, alleging that the contested decision misapplies Article 101 TFEU and Article 53 of the EEA Agreement because, in holding the geographic scope of the infringement concerning the German circle to be EEA-wide, it commits a manifest error in the assessment of the facts and in their legal characterisation.

7. Seventh plea in law, alleging that the contested decision misapplies Article 101 TFEU and Article 53 of the EEA Agreement because, in holding that the identified behaviour amounts to a single and continuous infringement and in determining that the Applicants are liable in that regard, it commits a manifest error in the assessment of the facts and in their legal characterisation.

8. Eighth plea in law, alleging that the contested decision misapplies Article 101 TFEU and Article 53 of the EEA Agreement, as well as Article 25 of Regulation 1/2003, by imposing a fine in relation to conduct that is time-barred and, in any event, by not taking into account that the conduct was not continuous.

9. Ninth plea in law, alleging that the contested decision violates the principle of proportionality and the principle of equal treatment with respect to the level of the fine, and the Court should, in any event, reduce the amount of the fine by application of Article 261 TFEU and Article 31 of Regulation 1/2003.

Action brought on 11 December 2017 — Brown Street Holdings v EUIPO — Enesan (FIGHT LIFE)

(Case T-800/17)

(2018/C 042/57)

Language in which the application was lodged: German

Parties

Applicant: Brown Street Holdings Ltd (Auckland, New Zealand) (represented by: C. Hufnagel, M. Kleespies, A. Bender and J. Clayton-Chen, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Enesan AG (Zurich, Switzerland)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration No 1 112 642 designating the European Union in respect of the word mark 'FIGHT LIFE'

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 26 September 2017 in Case R 36/2017-2

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 the second sentence of Article 75 of Regulation No 207/2009;

— Infringement of the first sentence of Article 75 of Regulation No 207/2009;

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

Action brought on 6 December 2017 — Dermatest v EUIPO (ORIGINAL excellent dermatest 3-star-guarantee.de)

(Case T-801/17)

(2018/C 042/58)

Language of the case: German

Parties

Applicant: Dermatest Gesellschaft für allergologische Forschung u. Vertrieb von Körperpflegemitteln mbH (Münster, Germany) (represented by: J. Bühling and D. Graetsch, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU figurative mark containing the word elements 'ORIGINAL excellent dermatest 3-star-guarantee.de' — Application for registration No 15 073 381

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 25 September 2017 in Case R 524/2017-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs, including the costs incurred in the appeal proceedings.

Plea in law

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

Action brought on 7 December 2017 — Dermatest v EUIPO (ORIGINAL excellent dermatest 5-star-guarantee.de CLINICALLY TESTED)

(Case T-802/17)

(2018/C 042/59)

Language of the case: German

Parties

Applicant: Dermatest Gesellschaft für allergologische Forschung u. Vertrieb von Körperpflegemitteln mbH (Münster, Germany) (represented by: J. Bühling and D. Graetsch, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU figurative mark containing the word elements 'ORIGINAL excellent dermatest 5-star-guarantee.de CLINICALLY TESTED' — Application for registration No 15 073 398

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 25 September 2017 in Case R 525/2017-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs, including the costs incurred in the appeal proceedings.

Plea in law

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

Action brought on 7 December 2017 — Dermatest v EUIPO (ORIGINAL excellent dermatest)

(Case T-803/17)

(2018/C 042/60)

Language of the case: German

Parties

Applicant: Dermatest Gesellschaft für allergologische Forschung u. Vertrieb von Körperpflegemitteln mbH (Münster, Germany) (represented by: J. Bühling and D. Graetsch, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU figurative mark containing the word elements 'ORIGINAL excellent dermatest' — Application for registration No 15 073 364

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 25 September 2017 in Case R 526/2017-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs, including the costs incurred in the appeal proceedings.

Plea in law

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

Action brought on 11 December 2017 — Stada Arzneimittel v EUIPO (Representation of two facing arches)

(Case T-804/17)

(2018/C 042/61)

Language of the case: German

Parties

Applicant: Stada Arzneimittel AG (Bad Vilbel, Germany) (represented by: J.-C. Plate and R. Kaase)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: European Union figurative mark — Application for registration No 15 625 437

Contested decision: Decision of the First Board of Appeal of EUIPO of 20 September 2017 in Case R 1887/2016-1

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) of Regulation No 207/2009.

Action brought on 11 December 2017 — Pethke v EUIPO

(Case T-808/17)

(2018/C 042/62)

Language of the case: German

Parties

Applicant: Ralph Pethke (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

Defendant: European Union Intellectual Property Office

Form of order sought

The applicant claims that the Court should:

— annul the applicant's 2016 appraisal report in the version which was notified to him on 10 April 2017;

— annul, as relevant, the Decision of the Management Board of EUIPO on the complaint under Article 90(2) of the Staff Regulations of Officials of the European Union of 18 October 2017;

— order EUIPO 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.

First plea in law: Error of appraisal on the part of the applicant's immediate superior

— The applicant claims that his reporting officer undertook no independent assessment or critical appraisal of the Executive Directive's contribution to the report regarding the applicant's performance during the part of the period of assessment from 1 January 2016 to 17 October 2016 and thereby infringed Commission Decision No C(2013) 8985 final of 16 December 2013 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations and EUIPO's staff assessment instructions.

Second and third plea in law: Appeal body's lack of jurisdiction to decide on the complaint and lack of impartiality

— The Executive Director cannot be regarded as an independent appeal body as far as concerns the applicant's appraisal report procedure since the Executive Directive played a decisive role in the drawing up of that report. EUIPO's staff assessment instructions provide that, if the Executive Director acts as reporting officer, the appeal assessor is to be a committee.

Fourth plea in law: Arbitrary termination of the complaint dialogue

— An ordinary complaint dialogue was not held, in particular due to an arbitrary termination of the dialogue by the Executive Director, which constitutes an infringement of the rules of the complaints procedure, namely the Commission Decision and the staff assessment instructions adopted by EUIPO pursuant to that decision. There was no effective administrative pre-contentious legal protection.

Fifth plea in law: Failure to state reasons in the appraisal report

— The Executive Director's contribution, and therefore also the 2016 appraisal report itself, substantially fails to state reasons, which, to a certain degree, makes it impossible for applicant to evaluate it. The Executive Director's appraisal of the applicant's performance lacks substance. The appraisal is in large part implausible. The applicant's performance as manager of the Operations Department was assessed as significantly poorer than, almost without exception, all previous appraisals of the applicant. The reasons given do not meet the resulting higher standard required.

Sixth plea in law: Manifest errors of assessment

— There are manifest errors of assessment in the 2016 appraisal report containing the Executive Director's contribution in that it provides incomplete and arbitrarily selected performance data. The assessment of the material facts is completely implausible.

— The appraisal report itself contains no analysis of the figures relating to the applicant's performance as far as concerns the period in question, since the applicant's reporting officer did not expressly analyse those figures in the appraisal report.

— The Executive Director's contribution to the appraisal report, and therefore necessarily the appraisal report itself, contains untruths and provides incomplete and unilaterally-determined biased performance data. The Executive Director relies on arbitrary and irrelevant bases of assessment and generally does not refer to the key indicators set out in the objectives. The Executive Director's contribution distorts the material facts to such an extent that it in no way reflects the applicant's performance. It cannot be legitimate to make a negative assessment at the end of a year without having given the applicant any opportunity to address any failings in his performance.

Order of the General Court of 5 December 2017 — FE v Commission

(Case T-616/16) ([1])

(2018/C 042/63)

Language of the case: French

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

([1]) OJ C 371, 10.10.2016 (case initially registered before the European Union Civil Service Tribunal under Case No F-46/16 and transferred to the General Court of the European Union on 1.9.2016).

Order of the General Court (Fifth Chamber) of 29 November 2017 — Lions Gate Entertainment v EUIPO (DIRTY DANCING)

(Case T-64/17) ([1])

(2018/C 042/64)

Language of the case: English

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

([1]) OJ C 104, 3.4.2017.

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