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(2018/C 134/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fifth Chamber) of 21 February 2018 (request for a preliminary ruling from Cour du travail de Bruxelles — Belgium) — Ville de Nivelles v Rudy Matzak

(Case C-518/15) ([1])

(Reference for a preliminary ruling — Directive 2003/88/EC — Protection of the safety and health of workers — Organisation of working time — Article 2 — Concepts of 'working time' and 'rest periods' — Article 17 — Derogations — Firefighters — Stand-by times — Stand-by times at home)

(2018/C 134/02)

Language of the case: French

Referring court

Cour du travail de Bruxelles

Parties to the main proceedings

Applicant: Ville de Nivelles

Defendant: Rudy Matzak

Operative part of the judgment

1. *Article 17(3)(c)(iii) of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time must be interpreted as meaning that the Member States may not derogate, with regard to certain categories of firefighters recruited by the public fire services, from all the obligations arising from the provisions of that directive, including Article 2 thereof, which defines, in particular, the concepts of 'working time' and 'rest periods'.*

2. *Article 15 of Directive 2003/88 must be interpreted as not permitting Member States to maintain or adopt a less restrictive definition of the concept of 'working time' than that laid down in Article 2 of that directive.*

3. *Article 2 of Directive 2003/88 must be interpreted as not requiring Member States to determine the remuneration of periods of stand-by time such as those at issue in the main proceedings according to the prior classification of those periods as 'working time' or 'rest period'.*

4. *Article 2 of Directive 2003/88 must be interpreted as meaning that stand-by time which a worker spends at home with the duty to respond to calls from his employer within 8 minutes, very significantly restricting the opportunities for other activities, must be regarded as 'working time'.*

([1]) OJ C 414, 14.12.2015.

Judgment of the Court (Grand Chamber) of 20 February 2018 — Kingdom of Belgium v European Commission

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

(Appeal — Consumer protection — Online gambling services — Protection of consumers and players and prevention of minors from gambling online — Commission Recommendation 2014/478/EU — EU act which is not legally binding — Article 263 TFEU)

(2018/C 134/03)

Language of the case: Dutch

Parties

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

Other party to the proceedings: European Commission (represented by: F. Wilman and H. Tserepa-Lacombe, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

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

([1]) OJ C 145, 25.4.2016.

Judgment of the Court (Third Chamber) of 22 February 2018 (request for a preliminary ruling from the Tribunal Superior de Justicia de Cataluña — Spain) — Jessica Porras Guisado v Bankia SA and Others

(Case C-103/16) ([1])

(Reference for a preliminary ruling — Social policy — Directive 92/85/EEC — Measures to encourage improvements in the safety and health of pregnant workers and workers who have recently given birth or are breastfeeding — Article 2(a) — Article 10(1) to (3) — Prohibition of dismissal of a worker during the period from the beginning of her pregnancy to the end of her maternity leave — Scope — Exceptional cases not connected with the pregnant worker's condition — Directive 98/59/EC — Collective redundancies — Article 1(1)(a) — Reasons not related to the individual workers concerned — Pregnant worker dismissed in the context of a collective redundancy procedure — Reasons for the dismissal — Priority for retention of the post of the pregnant worker — Priority for redeployment)

(2018/C 134/04)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Cataluña

Parties to the main proceedings

Applicant: Jessica Porras Guisado

Defendants: Bankia SA, Sección Sindical de Bankia de CCOO, Sección Sindical de Bankia de UGT, Sección Sindical de Bankia de ACCAM, Sección Sindical de Bankia de SATE, Sección Sindical de Bankia de CSICA, Fondo de Garantía Salarial (Fogasa)

Joined party: Ministério Fiscal

Operative part of the judgment

1. *Article 10(1) of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) must be interpreted as not precluding national legislation which permits the dismissal of a pregnant worker because of a collective redundancy within the meaning of Article 1(1)(a) of Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies.*

2. *Article 10(2) of Directive 92/85 must be interpreted as not precluding national legislation which allows an employer to dismiss a pregnant worker in the context of a collective redundancy without giving any grounds other than those justifying the collective dismissal, provided that the objective criteria chosen to identify the workers to be made redundant are cited.*

3. *Article 10(1) of Directive 92/85 must be interpreted as precluding national legislation which does not prohibit, in principle, the dismissal of a worker who is pregnant, has recently given birth or is breastfeeding as a preventative measure, but which provides, by way of reparation, only for that dismissal to be declared void when it is unlawful.*

4. *Article 10(1) of Directive 92/85 must be interpreted as not precluding national legislation which, in the context of a collective redundancy within the meaning of Directive 98/59, makes no provision for pregnant workers and workers who have recently given birth or who are breastfeeding to be afforded, prior to that dismissal, priority status in relation to being either retained or redeployed, but as not excluding the right of Member States to provide for a higher level of protection for such workers.*

([1]) OJ C 165, 10.5.2016.

Judgment of the Court (Fifth Chamber) of 21 February 2018 — LL v European Parliament

(Case C-326/16 P) ([1])

(Appeal — Action for annulment — Sixth paragraph of Article 263 TFEU — Admissibility — Time limit for instituting proceedings — Calculation — Former Member of the European Parliament — Decision relating to the recovery of parliamentary assistance allowances — Implementing Measures for the Statute for Members of the European Parliament — Article 72 — Complaint procedure within the European Parliament — Notification of the decision adversely affecting a Member of the European Parliament — Registered letter not collected by its addressee)

(2018/C 134/05)

Language of the case: Lithuanian

Parties

Appellant: LL (represented by: J. Petrulionis, advokatas)

Other party to the proceedings: European Parliament (represented by: G. Corstens and S. Toliušis, acting as Agents)

Operative part of the judgment

The Court:

1. *Sets aside the order of the General Court of the European Union of 19 April 2016, LL v Parliament (T-615/15, not published, EU:T:2016:432);*

2. *Refers the case back to the General Court of the European Union for a decision on the merits;*

3. *The costs are reserved.*

(1) OJ C 343, 19.9.2016.

Judgment of the Court (Third Chamber) of 22 February 2018 — European Commission v Hellenic Republic

(Case C-328/16) (1)

(Failure of a Member State to fulfil obligations — Directive 91/271/EEC — Urban waste-water treatment — Judgment of the Court establishing a failure to fulfil obligations — Non-implementation — Article 260(2) TFEU — Pecuniary penalties — Lump sum — Periodic penalty payment)

(2018/C 134/06)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: G. Zavvos, E. Manhaeve and D. Triantafyllou, acting as Agents)

Defendant: Hellenic Republic (represented by: E. Skandalou, acting as Agent)

Operative part of the judgment

The Court:

1. *Declares that, by failing to adopt the measures necessary to comply with the judgment of 24 June 2004, Commission v Greece (C-119/02, not published, EU:C:2004:385) the Hellenic Republic failed to fulfil its obligations under Article 260(1) TFEU.*

2. *Orders that, if the failure to fulfil obligations found in point 1 has continued until the day of delivery of the present judgment, the Hellenic Republic be required to pay to the European Commission a penalty payment of EUR 3 276 000 for each six-month period of delay in implementing the measures necessary to comply with the judgment of 24 June 2004, Commission v Greece (C-119/02, not published, EU:C:2004:385), from the date of delivery of the present judgment until the judgment of 24 June 2004, Commission v Greece (C-119/02, not published, EU:C:2004:385) has been complied with in full, the actual amount of which must be calculated at the end of each six-month period by reducing the total amount relating to each of those periods by a percentage corresponding to the proportion representing the number of population equivalent units that have actually been brought into compliance with the judgment of 24 June 2004, Commission v Greece (C-119/02, not published, EU:C:2004:385), in the Thriasio Pedio area, at the end of the period in question, in comparison to the number of population equivalent units that have not been brought into compliance with the judgment of 24 June 2004, Commission v Greece (C-119/02, not published, EU:C:2004:385), on the day of delivery of the present judgment.*

3. *Orders the Hellenic Republic to pay to the European Commission a lump sum of EUR 5 million.*

4. *Orders the Hellenic Republic to pay the costs of the proceedings.*

(1) OJ C 402, 31.10.2016.

Judgment of the Court (Third Chamber) of 22 February 2018 — European Commission v Republic of Poland

(Case C-336/16) ([1])

(Failure of a Member State to fulfil obligations — Directive 2008/50/EC — Ambient air quality — Article 13(1) — Article 22(3) — Annex XI — Concentration of particulate matter PM10 in ambient air — Exceedance of limit values in certain zones and agglomerations — Article 23(1) — Air quality plans — Exceedance period 'as short as possible' — Absence of appropriate actions in ambient air quality protection programmes — Incorrect transposition)

(2018/C 134/07)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: K. Herrmann, K. Petersen and E. Manhaeve, acting as Agents)

Defendant: Republic of Poland (represented by: B. Majczyna, D. Krawczyk and K. Majcher, acting as Agents)

Operative part of the judgment

The Court:

1. *The Republic of Poland has failed to fulfil its obligations under, respectively, Article 13(1), in conjunction with Annex XI, the second subparagraph of Article 23(1), and Article 22(3) of, in conjunction with Annex XI to, Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe, for the following reasons:*

   — *since 2007 and up to 2015 inclusive, the daily limit values for particulate matter PM10 concentrations were exceeded in 35 zones for the assessment and management of ambient air quality and the annual limit values for particulate matter PM10 concentrations were exceeded in 9 zones for the assessment and management of ambient air quality;*

   — *no appropriate measures have been incorporated in ambient air quality programmes to ensure that the exceedance period of particulate matter PM10 concentrations limit values is kept as short as possible;*

   — *the daily limit values for particulate matter PM10 concentrations in ambient air, increased by the margin of tolerance, were exceeded from 1 January 2010 to 10 June 2011 in the Radom, Pruszków-Żyrardów, Kędzierzyn-Koźle zones, as well as from 1 January 2011 to 10 June 2011 in the Ostrów-Kępno zone; and*

   — *the second subparagraph of Article 23(1) of Directive 2008/50 was not correctly implemented.*

2. *The Republic of Poland is ordered to pay the costs.*

([1]) OJ C 343, 19.9.2016.

Judgment of the Court (First Chamber) of 22 February 2018 (request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije — Slovenia) — T — 2, družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme, d.o.o. (in insolvency) v Republika Slovenija

(Case C-396/16) ([1])

(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Articles 184 and 185 — Adjustment of the deduction of input tax paid — Change in the factors used to determine the amount to be deducted — Notion of 'transactions remaining totally or partially unpaid' — Effect of a decision approving an arrangement with creditors having the force of res judicata)

(2018/C 134/08)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Applicant: T — 2, družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme, d.o.o. (in insolvency)

Defendant: Republika Slovenija

Operative part of the judgment

1. *Article 185(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted to the effect that the reduction of a debtor's obligations resulting from the final approval of an arrangement with creditors constitutes a change in the factors used to determine the amount to be deducted, for the purposes of that provision.*

2. *The first subparagraph of Article 185(2) of Directive 2006/112 must be interpreted to the effect that the reduction of a debtor's obligations resulting from the final approval of an arrangement with creditors does not constitute a case of a transaction remaining totally or partially unpaid that does not give rise to an adjustment of the initial deduction, where that reduction is definitive, although that is a matter for the referring court to determine.*

3. *The second subparagraph of Article 185(2) of Directive 2006/112 must be interpreted to the effect that, in order to implement the option provided for in that provision, a Member State is not required to make express provision for an obligation to adjust the deductions in the case of transactions remaining totally or partially unpaid.*

([1]) OJ C 335, 12.9.2016.

Judgment of the Court (First Chamber) of 22 February 2018 (requests for a preliminary ruling from the Hoge raad der Nederlanden — Netherlands) — X BV (C-398/16), X NV (C-399/16) v Staatssecretaris van Financiën

(Joined Cases C-398/16 and C-399/16) ([1])

(Reference for a preliminary ruling — Articles 49 and 54 TFEU — Freedom of establishment — Tax legislation — Corporation tax — Advantages linked to the formation of a single tax entity — Exclusion of cross-border groups)

(2018/C 134/09)

Language of the case: Dutch

Referring court

Hoge raad der Nederlanden

Parties to the main proceedings

Applicants: X BV (C-398/16), X NV (C-399/16)

Defendant: Staatssecretaris van Financiën

Operative part of the judgment

1. *Articles 49 and 54 TFEU must be interpreted as precluding national legislation, such as that at issue in the main proceedings, pursuant to which a parent company established in a Member State is not allowed to deduct interest in respect of a loan taken out with a related company in order to finance a capital contribution to a subsidiary established in another Member State, whereas if the subsidiary were established in the same Member State, the parent company could avail itself of that deduction by forming a tax-integrated entity with it.*

2. *Articles 49 and 54 TFEU must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, pursuant to which a parent company established in a Member State is not allowed to deduct from its profits capital losses derived from fluctuations in the exchange rate, in connection with the value of its shares in a subsidiary established in another Member State, where the same legislation does not provide, symmetrically, for tax to be levied on capital gains derived from those fluctuations.*

([1]) OJ C 371, 10.10.2016.

Judgment of the Court (Sixth Chamber) of 22 February 2018 (request for a preliminary ruling from the First-tier Tribunal (Tax Chamber) — United Kingdom) — Kubota (UK) Limited, EP Barrus Limited v Commissioners for her Majesty's Revenue & Customs

(Case C-545/16) ([1])

(Reference for a preliminary ruling — Common Customs Tariff — Tariff headings — Motor vehicles for the transport of goods — Subheadings 8704 10 10 and 8704 21 91 — Regulation (EU) 2015/221 — Validity)

(2018/C 134/10)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicant: Kubota (UK) Limited, EP Barrus Limited

Defendant: Commissioners for her Majesty's Revenue & Customs

Operative part of the judgment

The examination of the questions referred has disclosed no factor capable of affecting the validity of Commission Implementing Regulation (EU) 2015/221 of 10 February 2015 concerning the classification of certain goods in the Combined Nomenclature.

([1]) OJ C 14, 16.1.2017.

Judgment of the Court (First Chamber) of 22 February 2018 (request for a preliminary ruling from the Verwaltungsgericht Berlin — Germany) — INEOS Köln GmbH v Bundesrepublik Deutschland

(Case C-572/16) ([1])

(Reference for a preliminary ruling — Environment — Scheme for greenhouse gas emission allowance trading within the European Union — Directive 2003/87/EC — Article 10a — Decision 2011/278/EU — Transitional rules for harmonised free allocation of emission allowances — Period 2013-2020 — Allocation application — Incorrect data — Correction — Mandatory time limit)

(2018/C 134/11)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: INEOS Köln GmbH

Defendant: Bundesrepublik Deutschland

Operative part of the judgment

Article 10a of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, as amended by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009, and Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87, must be interpreted as meaning that they do not preclude a national provision, such as that at issue in the main proceedings, which lays down, for the submission of an application for free allocation of emission allowances for the period 2013-2020, a mandatory time limit after which the applicant has no means of correcting or supplementing its application, since that time limit is not liable to render impossible in practice or excessively difficult the submission of such an application.

([1]) OJ C 53, 20.2.2017.

Judgment of the Court (Ninth Chamber) of 21 February 2018 (request for a preliminary ruling from the Bundesfinanzgericht — Austria) — Kreuzmayr GmbH v Finanzamt Linz

(Case C-628/16) ([1])

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Successive supplies relating to the same goods — Place of the second supply — Information provided by the first supplier — VAT identification number — Right to deduct — Legitimate expectation on the part of the taxable person regarding the existence of the conditions giving rise to the right to deduct)

(2018/C 134/12)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Applicant: Kreuzmayr GmbH

Defendant: Finanzamt Linz

Operative part of the judgment

1. *In circumstances such as those in the main proceedings, the first paragraph of Article 32 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that it applies to the second of two successive supplies of the same goods which gave rise to only one intra-Community transport.*

2. *Where the second supply in a chain of two successive supplies involving a single intra-Community transport is an intra-Community supply, the principle of the protection of legitimate expectations must be interpreted as meaning that the person ultimately acquiring the goods, who wrongly claimed a right to deduct input value added tax, may not deduct, as input value added tax, the value added tax paid to the supplier solely on the basis of the invoices provided by the intermediary operator which incorrectly classified its supply.*

([1]) OJ C 95, 27.3.2017.

Judgment of the Court (Ninth Chamber) of 21 February 2018 (request for a preliminary ruling from the Bundesgerichtshof, Germany) — Peugeot Deutschland GmbH v Deutsche Umwelthilfe eV

(Case C-132/17) ([1])

(Reference for a preliminary ruling — Freedom to provide services — Directive 2010/13/EU — Definitions — Concept of 'audiovisual media service' — Scope — Channel available on YouTube for videos promoting new passenger car models)

(2018/C 134/13)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant: Peugeot Deutschland GmbH

Respondent: Deutsche Umwelthilfe eV

Operative part of the judgment

Article 1(1)(a) of Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (the Audiovisual Media Services Directive) must be interpreted as meaning that the definition of 'audiovisual media service' covers neither a video channel, such as that at issue in the main proceedings, on which internet users can view short promotional videos for new passenger car models, nor a single video of that kind considered in isolation.

([1]) OJ C 213, 3.7.2017.

Judgment of the Court (Seventh Chamber) of 22 February 2018 (request for a preliminary ruling from the Kúria — Hungary) — Nagyszénás Településszolgáltatási Nonprofit Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-182/17) ([1])

(Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Article 2(1)(c), Article 9 and Article 13(1) — Treatment as a non-taxable person — Definition of 'body governed by public law' — Commercial company 100 % owned by a municipality and responsible for performing certain public tasks incumbent on that municipality — Those tasks and their remuneration determined in a contract between the company and the municipality)

(2018/C 134/14)

Language of the case: Hungarian

Referring court

Kúria

Parties to the main proceedings

Applicant: Nagyszénás Településszolgáltatási Nonprofit Kft.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Operative part of the judgment

1. *Article 2(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning, subject to verification of the relevant facts by the referring court, that an activity such as that at issue in the main proceedings, whereby a company performs certain public tasks under a contract concluded between that company and a municipality, constitutes a supply of services effected for consideration and subject to VAT under that provision.*

2. *Article 13(1) of Directive 2006/112 must be interpreted as meaning that, subject to verification of the relevant matters of fact and national law by the referring court, an activity such as that at issue in the main proceedings, whereby a company performs certain public municipal tasks under a contract concluded between that company and a municipality, does not fall within the scope of the rule of treatment as a non-taxable person for VAT purposes laid down by that provision, if that activity constitutes an economic activity within the meaning of Article 9(1) of that directive.*

([1]) OJ C 221, 10.7.2017.

Judgment of the Court (Tenth Chamber) of 22 February 2018 (request for a preliminary ruling from the Administrativen sad — Varna — Bulgaria) — Mitnitsa Varna v SAKSA OOD

(Case C-185/17) ([1])

(Reference for a preliminary ruling — Common Customs Tariff — Classification of goods — Harmonised European standard EN 590:2013 — Subheading 2710 19 43 of the Combined Nomenclature — Relevant criteria for the classification of goods as gas oil)

(2018/C 134/15)

Language of the case: Bulgarian

Referring court

Administrativen sad — Varna

Parties to the main proceedings

Appellant: Mitnitsa Varna

Respondent: SAKSA OOD

Operative part of the judgment

The Combined Nomenclature contained in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the version resulting from Commission Implementing Regulation (EU) No 1101/2014 of 16 October 2014 must be interpreted as meaning that a mineral oil, such as that at issue in the main proceedings, may not, on account of its distillation characteristics, be classified as gas oil under subheading 2710 19 43 of that nomenclature, even when that oil meets the requirements referred to in harmonised standard EN 590:2013, in the version of the month of September 2013, relating to gas oil for arctic or severe winter climates.

([1]) OJ C 213, 3.7.2017.

Request for a preliminary ruling from the Sąd Okręgowy w Gorzowie Wielkopolskim (Poland) lodged on 24 November 2017 — WB

(Case C-658/17)

(2018/C 134/16)

Language of the case: Polish

Referring court

Sąd Okręgowy w Gorzowie Wielkopolskim

Applicant in the main proceedings

WB

Questions referred

1. Must Article 46(3)(b) of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, ([1]) in conjunction with Article 39(2) thereof, be interpreted as meaning that the issuing of an attestation concerning a decision in a matter of succession, the model for which is set out in Annex 1 to Commission Implementing Regulation (EU) No 1329/2014 of 9 December 2014 establishing the Forms referred to in Regulation (EU) No 650/2012, ([2]) is permissible also in relation to decisions which declare the status of heir but are not enforceable (even in part)?

2. Must Article 3(1)(g) of Regulation (EU) No 650/2012 be interpreted as meaning that a deed of certification of succession drawn up by a notary in accordance with a non-contentious application by all the parties to the certification proceedings, which produces the legal effects of a final court order declaring succession — such as a deed of certification of succession drawn up by a Polish notary — constitutes a decision within the meaning of that provision?

   and consequently:

   must the first sentence of Article 3(2) of Regulation (EU) No 650/2012 be interpreted as meaning that the notary drawing up that kind of deed of certification of succession must be regarded as a court within the meaning of that provision?

3. Must the second sentence of Article 3(2) of Regulation (EU) No 650/2012 be interpreted as meaning that notification effected by a Member State pursuant to Article 79 of the regulation has informational value and is not a condition for regarding a legal professional with competence in matters of succession who exercises judicial functions as a court within the meaning of the first sentence of Article 3(2) of the regulation, where he satisfies the conditions arising from the latter provision?

4. In the event that the answer to Question 1, 2 or 3 is in the negative:

   Must Article 3(1)(i) of Regulation (EU) No 650/2012 be interpreted as meaning that if a national procedural instrument certifying the status of heir, such as the Polish deed of certification of inheritance, is regarded as a decision within the meaning of Article 3(1)(g) of Regulation (EU) No 650/2012, it cannot be regarded as an authentic instrument?

5. In the event that the answer to Question 4 is in the affirmative:

   Must Article 3(1)(i) of Regulation (EU) No 650/2012 be interpreted as meaning that a deed of certification of succession drawn up by a notary in accordance with a non-contentious application by all the parties to the certification proceedings — such as a deed of certification of succession drawn up by a Polish notary — constitutes an authentic instrument within the meaning of that provision?

(1) OJ 2012 L 201, p. 107.
(2) Commission Implementing Regulation (EU) No 1329/2014 of 9 December 2014 establishing the Forms referred to in Regulation (EU) No 650/2012 of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ 2014 L 359, p. 30).

Appeal brought on 13 December 2017 by Mr Toni Klement against the judgment of the General Court (Sixth Chamber) delivered on 10 October 2017 in Case T-211/14 RENV *Toni Clement* v *European Union Intellectual Property Office (EUIPO)*

(Case C-698/17 P)

(2018/C 134/17)

Language of the case: German

Parties

Appellant: Toni Klement (represented by: J. Weiser, Rechtsanwalt)

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

Form of order sought

The appellant claims that the Court should:

1. set aside the contested judgment of the General Court of 10 October 2017 in Case T-211/14 RENV; and

2. order the respondent to pay the costs.

Grounds of appeal and main arguments

The appellant relies, in essence, on three grounds of appeal.

In his first ground of appeal, the appellant argues that the statement of reasons in respect of the finding that the three-dimensional mark at issue has a distinctive character is inadequate. The judgment under appeal, he submits, does not provide any statement of reasons whatsoever as to why the three-dimensional mark at issue has a particularly high degree of distinctiveness, although its shape is purely technical. In that regard, the statement of reasons in the judgment is not clear and comprehensible in respect of an essential point and is therefore legally defective.

In his second ground of appeal, the appellant argues that the statement of reasons for the finding that the word element 'Bullerjan', added to the mark at issue when in use, has a distinctive character is contradictory and inadequate. The judgment under appeal, he contends, failed to state what degree of distinctiveness the General Court attributed to the added word element. Without a finding as to the degree of distinctiveness of the added element, it is impossible to make a finding as to whether the distinctiveness of the mark at issue had been influenced by that element. The judgment under appeal is also, he argues, contradictory in that regard. The General Court thus, on the one hand, took the view that the word element makes it easier to determine the commercial origin of the goods, while, on the other hand, it stated that that element has no effect on the distinctiveness of the three-dimensional mark at issue. A facilitation of determination of commercial origin and an absence of effect on the degree of distinctiveness are, however, mutually exclusive.

In his third ground of appeal, the appellant argues that an incorrect legal test was applied in determining the distinctiveness of the three-dimensional mark at issue. For the purpose of determining the degree of distinctiveness of a three-dimensional mark, the protected shape has to be compared with the shapes available on the market. The General Court, however, bases its reasoning, not on the available shapes, but on 'the shape of an oven in general'. Such an average shape of an oven does not, however, exist.

Request for a preliminary ruling from the Amtsgericht Hamburg (Germany) lodged on 19 December 2017 — Anke Hartog v British Airways plc

(Case C-711/17)

(2018/C 134/18)

Language of the case: German

Referring court

Amtsgericht Hamburg

Parties to the main proceedings

Applicant: Anke Hartog

Defendant: British Airways plc

Question referred

Must the condition laid down in Article 3(2)(a) for the applicability of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 ([1]) be interpreted as meaning that passengers, who have a confirmed reservation, have 'present[ed] themselves for check-in' if, where no time is indicated, they have joined the queue for the check-in desks used by the air carrier for the check-in in question no later than 45 minutes before the published departure time?

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

Request for a preliminary ruling from the Wojewódzki Sąd Administracyjny w Kielcach (Poland) lodged on 29 December 2017 — ECO-WIND Construction S.A., established in Warsaw v Samorządowe Kolegium Odwoławcze w Kielcach

(Case C-727/17)

(2018/C 134/19)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny w Kielcach

Parties to the main proceedings

Appellant: ECO-WIND Construction S.A., established in Warsaw

Public administrative authority: Samorządowe Kolegium Odwoławcze w Kielcach

Questions referred

1. Should Article 1(1)(f) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services ([1]) … be interpreted as meaning that a statutory provision which introduces a restriction on the location of wind farms by establishing a minimum distance between a wind farm and a residential building or mixed-use building used for residential purposes, stating that this distance is to be equal to or greater than ten times the height of the wind farm measured from ground level … to the highest point of the structure, including technical elements, in particular the rotor and rotor blades, is a 'technical regulation', a draft of which should be communicated to the Commission pursuant to Article 5(1) of that directive?

2. Should Article 15(2)(a) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ([2]) … be interpreted as meaning that a statutory provision which introduces a restriction on the location of wind farms by establishing a minimum distance between a wind farm and a residential building or mixed-use building used for residential purposes, stating that this distance is to be equal to or greater than ten times the height of the wind farm measured from ground level to the highest point of the structure, including technical elements, in particular the rotor and rotor blades, is a provision that makes access to a service activity or the exercise of it subject to territorial restrictions, in particular in the form of limits fixed according to a minimum geographical distance between providers, of which a Member State is to notify the Commission pursuant to Article 15(7) of that directive?

3. Should the first subparagraph of Article 3(1) and the first subparagraph of Article 13(1) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC ([3]) … be interpreted as precluding national legislation which introduces a restriction on the location of wind farms by establishing a minimum distance between a wind farm and a residential building or mixed-use building used for residential purposes, stating that this distance is to be equal to or greater than ten times the height of the wind farm measured from ground level to the highest point of the structure, including technical elements, in particular the rotor and rotor blades?

([1]) OJ 2015 L 241, p. 1.
([2]) OJ 2006 L 376, p. 36.
([3]) OJ 2009 L 140, p. 16.

Request for a preliminary ruling from the Oberlandesgericht Karlsruhe (Germany) lodged on 4 January 2018 — Criminal proceedings against Detlef Meyn

(Case C-9/18)

(2018/C 134/20)

Language of the case: German

Referring court

Oberlandesgericht Karlsruhe

Parties to the main proceedings

Accused party: Detlef Meyn

Question referred

Does the obligation of recognition under Article 2(1) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences ([1]) — the third driving licences directive ('the Driving Licences Directive') — also apply following the exchange of a driving licence by a Member State of the European Union without a test of fitness to drive, in the case where the previous driving licence is not subject to the obligation of recognition (in this case: the previous licence issued by another Member State of the European Union was for its part based on the exchange of a driving licence from a third country (third sentence of Article 11(6) of the Driving Licences Directive))?

([1]) OJ 2006 L 403, p. 18.

Request for a preliminary ruling from the Vestre Landsret (Denmark) lodged on 2 February 2018 — Skatteministeriet (Danish Ministry of Taxation) v KPC Herning

(Case C-71/18)

(2018/C 134/21)

Language of the case: Danish

Referring court

Vestre Landsret

Parties to the main proceedings

Applicant: Skatteministeriet (Danish Ministry of Taxation)

Defendant: KPC Herning

Question referred

Is it compatible with Article 135(1)(j), cf. Article 12(1)(a) and (2), read in conjunction with Article 135(1)(k), cf. Article 12 (1)(b) and (3), of the VAT Directive ([1]) for a Member State, in circumstances such as those in the main proceedings, to consider a supply of land on which at the time of supply there is a building as a sale of building land subject to value added tax (VAT), when it is the parties' intention that the building is to be demolished completely or partially in order to make room for a new building?

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

Request for a preliminary ruling from the Visoki upravni sud (Croatia) lodged on 8 February 2018 — Hrvatska banka za obnovu i razvitak (HBOR) v Povjerenik za informiranje Republike Hrvatske

(Case C-90/18)

(2018/C 134/22)

Language of the case: Croatian

Referring court

Visoki upravni sud

Parties to the main proceedings

Applicant: Hrvatska banka za obnovu i razvitak (HBOR)

Defendant: Povjerenik za informiranje Republike Hrvatske

Question referred

Must the provisions of the second subparagraph of Article 15(3) TFEU and Articles 4(1) and (2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43) be interpreted as precluding national legislation providing that access to information regarding the use of public funds must always be permitted, without exceptions, even when access to that information is restricted on account of its constituting a trade (banking) secret?

Reference for a preliminary ruling from the Supreme Court of the United Kingdom (United Kingdom) made on 19 February 2018 — SM v Entry Clearance Officer, UK Visa Section

(Case C-129/18)

(2018/C 134/23)

Language of the case: English

Referring court

Supreme Court of the United Kingdom

Parties to the main proceedings

Applicant: SM

Defendant: Entry Clearance Officer, UK Visa Section

Interveners: Coram Children's Legal Centre (CCLC) and Centre for Advice on Individual Rights in Europe (AIRE)

Questions referred

1. Is a child who is in the permanent legal guardianship of a Union citizen or citizens, under 'kefalah' or some equivalent arrangement provided for in the law of his or her country of origin, a 'direct descendant' within the meaning of Article 2.2(c) of Directive 2004/38 ([1])?

2. Can other provisions in the Directive, in particular Articles 27 and 35, be interpreted so as to deny entry to such children if they are the victims of exploitation, abuse or trafficking or are at risk of such?

3. Is a Member State entitled to enquire, before recognising a child who is not the consanguineous descendant of the EEA national as a direct descendant under Article 2.2(c), into whether the procedures for placing the child in the guardianship or custody of that EEA national was such as to give sufficient consideration to the best interests of that child?

([1]) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004, L 158, p. 77).

GENERAL COURT

Judgment of the General Court of 27 February 2018 — Gramberg v EUIPO — Mahdavi Sabet (Case for a mobile phone)

(Case T-166/15) ([1])

(Community design — Invalidity proceedings — Registered Community design representing a case for a mobile phone — Disclosure of the design — Article 7(1) of Regulation (EC) No 6/2002 — Evidence submitted for the first time before the General Court)

(2018/C 134/24)

Language of the case: German

Parties

Applicant: Claus Gramberg (Essen, Germany) (represented: initially by S. Kettler, and subsequently by F. Klopmeier and G. Becker, lawyers)

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: Sorouch Mahdavi Sabet (Paris, France)

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 13 January 2015 (Case R 460/2013-3), relating to invalidity proceedings between Mr Gramberg and Mr Mahdavi Sabet.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Third Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 13 January 2015 (Case R 460/2013-3);*

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

3. *Orders EUIPO to bear its own costs and to pay those incurred by Mr Claus Gramberg, including the expenses necessarily incurred for the purposes of the proceedings before the Board of Appeal of EUIPO.*

([1]) OJ C 198, 15.6.2015.

Judgment of the General Court of 27 February 2018 — Hansen Medical v EUIPO — Covidien (MAGELLAN)

(Case T-222/16) ([1])

(EU trade mark — Revocation proceedings — EU word mark MAGELLAN — Genuine use — Burden of proof — Article 15 and Article 51(1)(a) of Regulation (EC) No 207/2009 (now Article 18 and Article 58 (1)(a) of Regulation (EU) 2017/1001) — Procedural irregularity committed by the Cancellation Division — Obligation to state reasons — Article 75 of Regulation No 207/2009 (now Article 94 of Regulation 2017/1001) — Oral proceedings — Article 77 of Regulation No 207/2009 (now Article 96 of Regulation 2017/1001))

(2018/C 134/25)

Language of the case: English

Parties

Applicant: Hansen Medical, Inc. (Mountain View, California, United States) (represented by: R. Kunze, G. Würtenberger and T. Wittmann, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Covidien AG (Neuhausen am Rheinfall, Switzerland) (represented by: R. Ingerl and D. Wiedemann, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 3 February 2016 (Cases R 3092/2014-2 and R 3118/2014-2), relating to revocation proceedings between Hansen Medical and Covidien.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Hansen Medical, Inc. to pay the costs.*

([1]) OJ C 270, 25.7.2016.

Judgment of the General Court of 27 February 2018 — CEE Bankwatch Network v Commission

(Case T-307/16) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to a Commission decision on granting a Euratom loan in support of the Ukraine safety upgrade program of nuclear power units — Partial refusal of access — Exception concerning the protection of the public interest in the field of international relations — Exception concerning the protection of commercial interests — Overriding public interest — Regulation (EC) No 1367/2006 — Application to documents relating to decisions taken under the EAEC Treaty)

(2018/C 134/26)

Language of the case: English

Parties

Applicant: CEE Bankwatch Network (Prague, Czech Republic) (represented by: C. Kiss, lawyer)

Defendant: European Commission (represented by: C. Zadra, F. Clotuche-Duvieusart and C. Cunniffe, acting as Agents)

Intervener in support of the defendant: United Kingdom of Great Britain and Northern Ireland (represented by: initially M. Holt and D. Robertson, and subsequently S. Brandon, acting as Agents)

Re:

Application based on Article 263 TFEU and seeking annulment of Commission Decision C(2016) 2319 final of 15 April 2016 refusing, on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43), access to several documents relating to Commission Decision C(2013) 3496 final of 24 June 2013 on granting a Euratom loan in support of the Ukraine safety upgrade program of nuclear power units.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders CEE Bankwatch Network to bear its own costs and pay those incurred by the European Commission;*

3. *Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs.*

(1) OJ C 305, 22.8.2016.

Judgment of the General Court of 27 February 2018 — Zink v Commission

(Case T-338/16 P) (1)

(Appeal — Civil service — Officials — Remuneration — Expatriation allowance — No payment of the allowance for a number of years following an administrative error — Article 90(1) of the Staff Regulations — Reasonable period of time)

(2018/C 134/27)

Language of the case: French

Parties

Appellant: Richard Zink (Bamako, Mali) (represented by: N. de Montigny and J.-N. Louis, lawyers)

Other party to the proceedings: European Commission (represented by: T. Bohr and F. Simonetti, acting as Agents)

Re:

Appeal brought against the judgment of the Civil Service Tribunal of the European Union (Second Chamber) of 11 April 2016, *Zink* v *Commission* (F-77/15, EU:F:2016:74), seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the Civil Service Tribunal of the European Union (Second Chamber) of 11 April 2016, Zink v Commission (F-77/15);*

2. *Annuls the decision of 23 July 2014 of the Office for 'Administration and Payment of Individual Entitlements' (PMO) of the European Commission to the extent that, pursuant to that decision, the Commission had refused to pay Mr Richard Zink the expatriation allowance relating to the period between 1 September 2007 and 30 April 2009;*

3. *Dismisses, as to the remainder, the action brought before the Civil Service Tribunal, registered as Case F-77/15;*

4. *Orders the Commission to pay the costs of the proceedings on appeal and at first instance.*

([1]) OJ C 305, 22.8.2016.

Order of the President of the General Court of 20 February 2018 — Iberdrola v Commission

(Case T-260/15 R)

(Application for interim measures — State aid — Aid scheme provided for under Spanish tax legislation — Application for suspension of operation of a measure — No urgency)

(2018/C 134/28)

Language of the case: Spanish

Parties

Applicant: Iberdrola, SA (Bilbao, Spain) (represented by: J. Ruiz Calzado and J. Domínguez Pérez, lawyers)

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

Re:

Application based on Articles 278 TFEU and 279 TFEU seeking suspension of operation of Commission Decision (EU) 2015/314 of 15 October 2014 on 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 rejected.*

2. *The order of 24 November 2017, Iberdrola v Commission (T-260/15 R), is revoked.*

3. *The costs are reserved.*

Action brought on 22 November 2017 – Autoridad Portuaria de Vigo v Commission

(Case T-764/17)

(2018/C 134/29)

Language of the case: Spanish

Parties

Applicant: Autoridad Portuaria de Vigo (Vigo, Spain) (representative: J. Costas Alonso, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— Annul the corrigendum to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004) (corrected version in OJ L 226, 25.6.2004), published in the *Official Journal of the European Union* L 243, 21 September 2017;

— Annul the corrigendum to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ L 139, 30.4.2004) (corrected version in OJ L 226, 25.6.2004), published in the *Official Journal of the European Union* L 243, 21 September 2017.

Pleas in law and main arguments

In support of the action, the applicant contends that:

1. It is surprising that the Commission has implicitly consented to the divergent application of the import rules for products of animal origin by Member States in well-defined cases, such as containers of frozen fishery products from China, all of which has a negative impact on fair competition between Member States.

2. The main problem has been identified with respect to the import of products of animal origin and the requirement of the so-called 'double listing' of vessels which supply third-state establishments.

3. A food business operator who imports products of animal origin from outside the European Union may only import fishery products from a third country if the third county in question, from where the products are dispatched, and the establishment from which the product is sent and in which the product has been obtained or prepared, are both listed.

Action brought on 30 January 2018 — Tassi v Court of Justice

(Case T-50/18)

(2018/C 134/30)

Language of the case: English

Parties

Applicant: Smaro Tassi (Berlin, Germany) (represented by: E. Kleani, lawyer)

Defendant: Court of Justice of European Union

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Court of Justice of 23 November 2017 (reference 20173192) rejecting the applicant's tender submitted in respect of the freelance translator contract notice 2017/S 002-001564 for the Greek language.

Pleas in law and main arguments

In support of the action, the applicant maintains that the contested decision was not accompanied by either a determinate set of criteria establishing the quality level of translations requested in the tender procedure or any kind of a correction sheet or a comparative report which might substantiate why, in the defendant's view, the test translation submitted by the applicant failed to attain the minimum benchmark required. The applicant argues, in that regard, that the contested decision was not properly reasoned and that the selection procedure lacked transparency.

Action brought on 30 January 2018 — Kleani v Court of Justice

(Case T-51/18)

(2018/C 134/31)

Language of the case: English

Parties

Applicant: Efterpi Kleani (Berlin, Germany) (represented by: S. Tassi, lawyer)

Defendant: Court of Justice of European Union

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Court of Justice of 23 November 2017 (reference 20172046) rejecting the applicant's tender submitted in respect of the freelance translator contract notice 2017/S 002-001564 for the Greek language.

Pleas in law and main arguments

In support of the action, the applicant maintains that the contested decision was not accompanied by either a determinate set of criteria establishing the quality level of translations requested in the tender procedure or any kind of a correction sheet or a comparative report which might substantiate why, in the defendant's view, the test translation submitted by the applicant failed to attain the minimum benchmark required. The applicant argues, in that regard, that the contested decision was not properly reasoned and that the selection procedure lacked transparency.

Action brought on 5 February 2018 — Rodriguez Prieto v Commission

(Case T-61/18)

(2018/C 134/32)

Language of the case: French

Parties

Applicant: Amador Rodriguez Prieto (Steinsel, Luxembourg) (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission

Form of order sought

Declare and rule:

— principally, that the Commission is ordered to remedy the losses suffered and therefore to pay the applicant the sum of EUR 68 831 in respect of his pecuniary loss and EUR 100 000 in respect of his non-pecuniary loss;

— in the alternative, that the decision of 28 March 2017 refusing assistance is annulled;

— in any event, that the Commission is ordered to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant alleges, principally, that the Commission committed a faute de service in disregarding his status as a whistle-blower, which caused the applicant pecuniary and non-pecuniary harm which it is for the institution to remedy. In the alternative, the applicant argues that the institution failed to have regard to Article 24 of the Staff Regulations by refusing to grant him the assistance provided for in that article after the criminal proceedings.

Action brought on 6 February 2018 — Torro Entertainment v EUIPO — Grupo Osborne (TORRO Grande Meat in Style)

(Case T-63/18)

(2018/C 134/33)

Language in which the application was lodged: English

Parties

Applicant: Torro Entertainment (Plovdiv, Bulgaria) (represented by: A. Kostov, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Grupo Osborne, SA (El Puerto de Santa María, Spain)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: Application for EU figurative mark TORRO Grande Meat in Style — Application for registration No 14 744 452

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 20 December 2017 in Case R 1776/2017-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in part where it dismisses the appeal against the decision of the Opposition division;

— order EUIPO and Grupo Osborne S.A. to bear the costs of 'Torro Entertainment' Ltd. in relation to the proceeding before the Court and in relation to the appeal and opposition proceedings.

Pleas in law

— Infringement of Article 8(1)(b) of Regulation No 2017/1001;

— Infringement of the duty to state reasons and of the duty of diligence.

Action brought on 6 February 2018 — Venezuela v Council

(Case T-65/18)

(2018/C 134/34)

Language of the case: English

Parties

Applicant: Bolivarian Republic of Venezuela (represented by: F. Di Gianni and L. Giuliano, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Regulation (EU) 2017/2063 of 13 November 2017 concerning restrictive measures in view of the situation in Venezuela, insofar as its provisions concern the Applicant; and

— order the Council to bear the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that, by adopting the restrictive measures without previously informing the Applicant of its intention, and without previously hearing the position of the Applicant on the facts allegedly justifying the restrictive measures, the Council infringed the Applicant's right to be heard.

2. Second plea in law, alleging that the Council infringed its obligation to state the reasons and to provide sufficient evidence for the adoption of the restrictive measures.

3. Third plea in law, alleging that the Council committed a manifest error of assessment as concerns the facts on which the restrictive measures are based.

4. Fourth plea in law, alleging that the restrictive measures constitute unlawful countermeasures under customary international law.

Action brought on 29 January 2018 — Tsapakidou v Court of Justice

(Case T-66/18)

(2018/C 134/35)

Language of the case: English

Parties

Applicant: Argyro Tsapakidou (Berlin, Germany) (represented by: E. Kleani, lawyer)

Defendant: Court of Justice of the European Union

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Court of Justice of 23 November 2017 (reference 20173939) rejecting the applicant's tender submitted in respect of the freelance translator contract notice 2017/S 002-001564 for the Greek language;

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

Pleas in law and main arguments

In support of the action, the applicant maintains that the contested decision breaches the general principles of EU law, according to which administrative acts must be sufficiently justified and state the principles on which they are based. It fails to meet these criteria. The applicant argues, in particular, that the justification provided by the defendant was insufficient in light of Article 4.3.1. of the tender specifications. Moreover, the information provided to the applicant did not enable her to assess the validity of the result obtained in the test translation in question. She lacked information regarding the evaluation guidelines or criteria on the basis of which the contested decision was adopted.

Action brought on 9 February 2018 — CN v Parliament

(Case T-76/18)

(2018/C 134/36)

Language of the case: French

Parties

Applicant: CN (represented by: C. Bernard-Glanz and A. Tymen, lawyers)

Defendant: European Parliament

Form of order sought

— Declare this application admissible;

— Order the defendant to produce the findings of the APA Committee, the minutes of the testimony of the witnesses heard by the APA Committee and the file sent to the President of the European Parliament under Article 10 of the internal rules of the APA Committee;

— Annul the contested decision and, in so far as necessary, the decision rejecting the claim;

— Order the defendant to pay EUR 68 500 in compensation for the applicant's various non-pecuniary losses;

— Order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 41 of the Charter of Fundamental Rights of the European Union ('the Charter'), Article 24 of the Staff Regulations of Officials of the European Union ('the Staff Regulations') and of the obligation to state reasons, the principle of sound administration, the right to be heard and the rights of the defence, the duty of care, which vitiates the contested decision in this case, namely the decision of the European Parliament to reject the applicant's application for assistance.

2. Second plea in law, alleging a manifest error of assessment, infringement of Article 31 of the Charter, Article 12a of the Staff Regulations and Article 24 of the Staff Regulations and of the duty of care.

Action brought on 12 February 2018 — VE v ESMA

(Case T-77/18)

(2018/C 134/37)

Language of the case: English

Parties

Applicant: VE (represented by: L. Levi and N. Flandin, lawyers)

Defendant: European Securities and Markets Authority (ESMA)

Form of order sought

The applicant claims that the Court should:

— declare the present appeal admissible and founded;

— annul the applicant's 2016 appraisal report in so far as it assesses the applicant's performance as 'unsatisfactory';

— together with, and so far as necessary, annul the decision of ESMA of 6 November 2017 which rejects the applicant's complaint;

— order the compensation of the moral prejudice suffered by the Applicant, evaluated *ex aequo et bono* to 10,000 Euros; and

— order the reimbursement of all the costs incurred by his lawyers for the present appeal.

Pleas in law and main arguments

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

1. Plea of illegality in that the appraisal manual has been adopted by ESMA without having been submitted beforehand to the Staff Committee in accordance with Article 110 of the Staff Regulations.

2. Breach of Article 43(1) of the Staff Regulations and Appraisal Manual in that the defendant made several manifest errors of assessment:

   — manifest errors of assessment in relation to the main activities of the applicant as regard the criteria 'Efficiency', 'Abilities' and 'Conduct'; and

   — as regard the errors of assessment committed by the defendant in relation to the other activities of the applicant.

3. Breach of the duty of care and of good administration as regards the applicant's health problems and as regard the lack of guidance provided to the applicant and adverse working conditions and the absence of adequate trainings.

Action brought on 9 February 2018 — Bekat v EUIPO — Borbet (ARBET)

(Case T-79/18)

(2018/C 134/38)

Language in which the application was lodged: German

Parties

Applicant: Arif Oliver Bekat (Esslingen, Germany) (represented by: P. Kohl, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Borbet GmbH (Hallenberg, Germany)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: Application for EU figurative mark ARBET — Application for registration No 14 320 915

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 6 December 2017 in Case R 1117/2017-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and dismiss the intervener's appeal of 26 May 2017 against the decision of the Opposition Division of 30 March 2017;

— order the intervener to pay the costs, including those incurred in the proceedings before the Board of Appeal.

Plea in law

— Infringement of Article 8(1)(b) of Regulation 2017/1001.

Action brought on 13 February 2018 — Husky CZ v EUIPO — Husky of Tostock (HUSKY)

(Case T-82/18)

(2018/C 134/39)

Language in which the application was lodged: English

Parties

Applicant: Husky CZ s.r.o. (Prague, Czech Republic) (represented by: L. Lorenc, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Husky of Tostock Ltd (Woodbridge, United Kingdom)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark HUSKY in the colours of blue, black and white — Application for registration No 4 442 431

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 18 January 2018 in Case R 812/2017-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

— The Board of Appeal did not properly take into consideration arguments and evidence submitted by the applicant and, therefore, it incorrectly considered what earlier rights the opposition was based on.

Action brought on 9 February 2018 — CH v Parliament

(Case T-83/18)

(2018/C 134/40)

Language of the case: French

Parties

Applicant: CH (represented by: C. Bernard-Glanz and A. Tymen, lawyers)

Defendant: European Parliament

Form of order sought

— Declare this application admissible;

— Order the defendant to produce the findings of the APA Committee, the minutes of the testimony of the witnesses heard by the APA Committee and the file sent to the President of the European Parliament under Article 10 of the internal rules of the APA Committee;

— Annul the contested decision and, in so far as necessary, the decision rejecting the claim;

— Order the defendant to pay EUR 68 500 in compensation for the applicant's various non-pecuniary losses;

— Order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 41 of the Charter of Fundamental Rights of the European Union ('the Charter'), Article 24 of the Staff Regulations of Officials of the European Union ('the Staff Regulations') and of the obligation to state reasons, the principle of sound administration, the right to be heard and the rights of the defence, the duty of care, which vitiates the contested decision in this case, namely the decision of the European Parliament to reject the applicant's application for assistance.

2. Second plea in law, alleging a manifest error of assessment, infringement of Article 31 of the Charter, Article 12a of the Staff Regulations and Article 24 of the Staff Regulations and of the duty of care.

Action brought on 19 February 2018 — Gruppo Armonie v EUIPO (ARMONIE)

(Case T-88/18)

(2018/C 134/41)

Language of the case: Italian

Parties

Applicant: Gruppo Armonie SpA (Casalgrande, Italy) (represented by: G. Medri, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: European Union word mark 'ARMONIE' — Application for registration No 16 430 068

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 15 December 2017 in Case R 2063/2017-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision.

Plea in law

— Infringement of Article 7(1)(b) and (c) of Regulation No 2017/1001.

Action brought on 19 February 2018 — Guiral Broto v EUIPO — Gastro & Soul (Café del Sol)

(Case T-89/18)

(2018/C 134/42)

Language in which the application was lodged: Spanish

Parties

Applicant: Ramón Guiral Broto (Marbella, Spain) (represented by: J. de Castro Hermida, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Gastro & Soul GmbH (Hildesheim, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark 'Café del Sol' — European Union trade mark No 6 105 985

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 4 December 2017 in Case R 1095/2017-4

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision and declare the opposition based on the earlier trade mark belonging to the opponent, Mr Ramón Guiral Broto, Spanish trade mark No 2348110, in Class 42 of the International Classification, well founded.

— Uphold the decision of the Opposition Division refusing Community trade mark application No 6/105/985 CAFÉ DEL SOL, filed by the German company GASTRO & SOUL GmbH, in respect of 'services for the provision of food and drink, temporary accommodation, catering' in Class 43 of the International Classification, on the ground that there is a likelihood of confusion on the part of consumers as a result of the coexistence of the marks at issue given the strong verbal similarity and the identity in terms of their application. In the alternative, if the General Court lacks jurisdiction in that regard, it should refer the matter back to the Board of Appeal of the Office for Harmonisation in the Internal Market, provided that the opposition is deemed to be well founded.

— In the further alternative, (i) annul the contested decision because of inconsistency and infringement of the applicant's rights of defence and legal certainty by having expressly denied him the possibility of submitting a full translation of the opponent's earlier trade mark in the context of Case R 1095/2017-4, thereby defeating one of the main purposes of the referral of the case back to EUIPO's Board of Appeal ordered by the General Court on 13 December 2016 in Case T-548/15, and (ii) order a further referral back to EUIPO's Board of Appeal to remedy that situation and settle the dispute.

Plea in law

— Infringement of Article 8(1)(b) of Regulation No 2017/1001.

Action brought on 19 February 2018 — Guiral Broto v EUIPO — Gastro & Soul (CAFE DEL SOL)

(Case T-90/18)

(2018/C 134/43)

Language in which the application was lodged: Spanish

Parties

Applicant: Ramón Guiral Broto (Marbella, Spain) (represented by: J. de Castro Hermida, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Gastro & Soul GmbH (Hildesheim, Germany)

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 'Café del Sol' — European Union trade mark No 6 104 608

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 4 December 2017 in Case R 1096/2017-4

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision and declare the opposition based on the earlier trade mark belonging to the opponent, Mr Ramón Guiral Broto, Spanish trade mark No 2348110, in Class 42 of the International Classification, well founded.

— Uphold the decision of the Opposition Division refusing Community trade mark application No 6 104 608, filed by the German company gastro & soul GmbH, in respect of 'services for the provision of food and drink, temporary accommodation, catering' in Class 43 of the International Classification, on the ground that there is a likelihood of confusion on the part of consumers as a result of the coexistence of the marks at issue given the strong verbal similarity and the identity in terms of their application. In the alternative, if the General Court lacks jurisdiction in that regard, it should refer the matter back to the Board of Appeal of the Office for Harmonisation in the Internal Market, provided that the opposition is deemed to be well founded.

— In the further alternative, (i) annul the contested decision because of inconsistency and infringement of the applicant's rights of defence and legal certainty by having expressly denied him the possibility of submitting a full translation of the opponent's earlier trade mark in the context of Case R 1096/2017-4, thereby defeating one of the main purposes of the referral of the case back to EUIPO's Board of Appeal ordered by the General Court on 13 December 2016 in Case T-549/15, and (ii) order a further referral back to EUIPO's Board of Appeal to remedy that situation and settle the dispute.

Plea in law

— Infringement of Article 8(1)(b) of Regulation No 2017/1001.

Action brought on 16 February 2018 — Equity Cheque Capital Corporation v EUIPO (DIAMOND CARD)

(Case T-91/18)

(2018/C 134/44)

Language of the case: English

Parties

Applicant: Equity Cheque Capital Corporation (Victoria, Canada) (represented by: I. Berkeley, barrister, P. Wheeler and C. Rani, solicitors)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark DIAMOND CARD — Application for registration No 15 775 422

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 14 December 2017 in Case R 1544/2017-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 7(1)(b) of Regulation No 2017/1001.

Action brought on 19 February 2018 — Multifit Tiernahrungs v EUIPO (fit+fun)

(Case T-94/18)

(2018/C 134/45)

Language of the case: German

Parties

Applicant: Multifit Tiernahrungs GmbH (Krefeld, Germany) (represented by: N. Weber and L. Thiel, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark fit+fun — Application No 15 996 432

Contested decision: Decision of the First Board of Appeal of EUIPO of 7 December 2017 in Case R 847/2017-1

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 2017/1001.

Action brought on 19 February 2018 — Cabell v EUIPO — Zorro Productions (ZORRO)

(Case T-96/18)

(2018/C 134/46)

Language in which the application was lodged: English

Parties

Applicant: Robert W. Cabell (Renton, Washington, United States) (represented by: K. Bröcker, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Zorro Productions, Inc. (Berkeley, California, United States)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark ZORRO — EU trade mark No 5 399 787

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 19 December 2017 in Case R 1637/2015-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— uphold the application for a declaration of partial invalidity of European Union trade mark registration No 5 399 787 for all the contested goods and services;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 7(1)(b) and (c) in conjunction with Article 59(1)(a) of Regulation No 2017/1001.

Action brought on 16 February 2018 — DeepMind Technologies v EUIPO (STREAMS)

(Case T-97/18)

(2018/C 134/47)

Language of the case: English

Parties

Applicant: DeepMind Technologies Ltd (London, United Kingdom) (represented by: T. St Quintin, barrister, K. Gilbert and G. Lodge, solicitors)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark STREAMS — Application for registration No 15 166 176

Contested decision: Decision of the First Board of Appeal of EUIPO of 27 November 2017 in Case R 35/2017-1

Form of order sought

The applicant claims that the Court should:

— alter the contested decision because it infringes Article 7 EUTMR, alternatively;

— annul the contested decision on the same basis;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 7 of Regulation No 2017/1001.

Action brought on 20 February 2018 — Multifit Tiernahrungs v EUIPO (MULTIFIT)

(Case T-98/18)

(2018/C 134/48)

Language of the case: German

Parties

Applicant: Multifit Tiernahrungs GmbH (Krefeld, Germany) (represented by: N. Weber and L. Thiel, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark MULTIFIT — Application No 15 996 291

Contested decision: Decision of the First Board of Appeal of EUIPO of 15 November 2017 in Case R 846/2017-1

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 2017/1001.

Action brought on 19 February 2018 — Stamatopoulos v ENISA

(Case T-99/18)

(2018/C 134/49)

Language of the case: English

Parties

Applicant: Grigorios Stamatopoulos (Athens, Greece) (represented by: S. Pappas, lawyer)

Defendant: European Union Agency for Network and Information Security (ENISA)

Form of order sought

The applicant claims that the Court should:

— annul the ENISA HR Team decision of 25/07/2017, with which the applicant's application for the position of Head of Finance and Procurement at ENISA pursuant to the vacancy notice 'ENISA-TA16-AD-2017-03', was rejected, so that the Agency repeats the evaluation of the applicant's candidacy in a fair and transparent way;

— order the defendant to compensate the applicant for the moral damage he suffered from the illegalities vitiating the contested act with an amount of at least five thousand (5 000) euros; and

— order the defendant to bear its costs as well as the applicant's costs for the current proceedings.

Pleas in law and main arguments

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

1. With the first plea, the applicant claims that the contested act violates the defendant's duty to state reasons, as it lacks sufficient reasoning for the rejection of his candidacy. While ENISA provided the applicant with his score for each selection criterion and his total score, the evaluation of all the candidates was comparative in nature and thus the points awarded to each applicant were the result of such a comparative analysis. The applicant thus contends that, in view of the fact that ENISA failed to communicate to him a specific reasoning for the points awarded to him for each criterion, including the comparative advantages of the successful candidates who advanced to the interviews and tests stage, it failed to provide a sufficient reasoning that would allow the applicant to ascertain whether the act adversely affecting him was well founded and whether it was appropriate to bring proceedings before the Tribunal and, secondly, to enable the Tribunal to review the legality of the act.

2. With the second plea, the applicant contends that the Selection Committee's evaluation of his abilities was vitiated by a manifest error of assessment, particularly in the evaluation of the selection criteria: 'High degree of organisational skills, accuracy and ability to analyse, compile and summarize complex financial information'; 'Excellent negotiation and problem-solving skills'; 'Strong ability to manage people and conflicts'; 'Strong communication skills in English both orally and in writing'; and 'Ability to remain effective under a heavy workload and to meet programmatic deadlines consistently regardless of working environment's changes'.

3. With the third plea, the applicant contends that the contested act violates the principles of equal treatment and transparency. As the threshold set by the Selection Committee for the candidates' advancing to the round of interviews and tests was determined in an arbitrary and unlawful manner. The applicant contends that the vacancy notice did not contain any conditions regarding when the threshold would be set and what criteria the Selection Committee would have to take into consideration for determining it. Accordingly, the Selection Committee never provided any reasoning as to how it determined its level and communicated it to the candidates only after the conclusion of the evaluation.

4. Finally, in view of the above illegalities, the applicant requests a compensation for the moral damage he suffered from participating in the flawed and unlawful procedure and from the lack of justification of his rejection, which can only be considered as a complete lack of respect for him and disregard for his right to having a fair administration.

Action brought on 19 February 2018 — Knauf v EUIPO (upgrade your personality)

(Case T-102/18)

(2018/C 134/50)

Language of the case: German

Parties

Applicant: Martin Knauf (Berlin, Germany) (represented by: H. Jaeger, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark 'upgrade your personality' — Application for registration No 15 750 029

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 18 December 2017 in Case R 1011/2017-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— register the EU trade mark 'upgrade your personality' for the following goods in Classes 9 and 28:

Class 9 — Recorded computer programs; Computer programs [downloadable software]; Software; Games software; Software programs for video games; Computer programmes for data processing; Computer graphics software; Virtual reality game software; Virtual reality software; Optical data carriers bearing recorded software; Pre-recorded magnetic data carriers; Video game cassettes; Videotapes; Pre-recorded videos

Class 28 — Games consoles.

Plea in law

— Infringement of Article 7(1)(b) of Regulation 2017/1001.

Action brought on 19 February 2018 — S & V Technologies v EUIPO — Smoothline (Smoothline)

(Case T-103/18)

(2018/C 134/51)

Language in which the application was lodged: German

Parties

Applicant: S & V Technologies GmbH (Hennigsdorf, Germany) (represented by: T. Schmitz and M. Breuer, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

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

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark 'Smoothline' — International registration No 958 169 designating the European Union

Proceedings before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of EUIPO of 7 December 2017 in Case R 115/2017-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 95 of Regulation 2017/1001;

— Infringement of Article 7(1)(b) of Regulation 2017/1001;

— Infringement of Article 7(1)(c) of Regulation 2017/1001.

Action brought on 22 February 2018 — Fundación Tecnalia Research & Innovation v REA

(Case T-104/18)

(2018/C 134/52)

Language of the case: Spanish

Parties

Applicant: Fundación Tecnalia Research & Innovation (Donostia-San Sebastián, Spain) (representatives: P. Palacios Pesquera and M. Rius Coma, lawyers)

Defendant: Research Executive Agency (REA)

Form of order sought

The applicant claims that the General Court should:

— Declare the application, and the pleas in law contained therein, admissible;

— Uphold the pleas in law put forward in that application and, accordingly, annul the contested decision stating that the repayment of the amounts corresponding to the tasks performed by TECNALIA is not required;

— Order the REA to pay the costs of the proceedings.

Pleas in law and main arguments

The present application has been brought against the outcome of the inter partes financial recovery procedure in respect of the project FP7-SME-2013-605879-FOODWATCH grant agreement. The decision to terminate the FoodWatch grant agreement has its origin in the alleged failure to inform the applicant of the existence of the BreadGuard Project which, in the REA's view, bore strong similarities to the FoodWatch project in terms of objectives, working methods and expected results.

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

1. The first plea in law, alleging a failure to give reasons for the contested decision because of the failure to take into account the exculpatory evidence highlighted by TECNALIA during the inter partes investigation procedure.

2. The second plea in law, alleging infringement of the content of Annex II to the FoodWatch grant agreement, on account of the defendant's failure to disclose the identity of the independent experts who endorsed the expert reports on which the contested decision was founded, thereby preventing TECNALIA from challenging those reports.

3. The third plea in law, alleging breach of the principle of fault, on account of the defendant's failure to take into account the degree of TECNALIA's involvement in the commission of the facts alleged.

4. The fourth plea in law, alleging breach of the principle of legality, given the correct implementation of the projects and the absence, on TECNALIA's part, of infringement of, or failure to fulfil, the commitments contracted.

5. The fifth plea in law, alleging breach of the principle of proportionality, on account of the failure to take into account the degree of fault on the part of each of the participants in the conduct alleged.

Action brought on 22 February 2018 — Deray v EUIPO — Charles Claire (LILI LA TIGRESSE)

(Case T-105/18)

(2018/C 134/53)

Language in which the application was lodged: English

Parties

Applicant: André Deray (Bry-sur-Marne, France) (represented by: S. Santos Rodríguez, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Charles Claire LLP (Weybridge Surrey, United Kingdom)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark LILI LA TIGRESSE — Application for registration No 015 064 462

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 13 December 2017 in Case R 1244/2017-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs;

— order EUIPO and Charles Claire LLP to pay the costs incurred by the applicant in the administrative proceedings before EUIPO.

Plea in law

— Infringement of article 8(1)(b) of the Regulation No 2017/1001.

Action brought on 20 February 2018 — Aytekin v EUIPO — Dienne Salotti (Dienne)

(Case T-107/18)

(2018/C 134/54)

Language in which the application was lodged: English

Parties

Applicant(s): Erkan Aytekin (Ankara, Turkey) (represented by: V. Martín Santos, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Dienne Salotti SRL a socio unico (Altamura, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for EU figurative mark Dienne — Application for registration No 15 080 302

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 15 December 2017 in Case R 1444/2017-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order Applicant/Intervener and/or the EUIPO to pay the costs incurred by the Appellant in connection with this appeal, and all procedural costs generated by EUIPO decisions.

Plea in law

— Infringement of Article 8(1)(b) of Regulation No 2017/1001.

Order of the General Court of 22 February 2018 — France v Commission

(Case T-116/07) ([1])

(2018/C 134/55)

Language of the case: French

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

([1]) OJ C 140, 23.6.2007.

Order of the General Court of 22 February 2018 — Alcan France v Commission

(Case T-288/07) ([1])

(2018/C 134/56)

Language of the case: French

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

([1]) OJ C 235, 6.10.2007.

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