

— make any other order as may be appropriate in the circumstances of the case.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision should be annulled because its central finding of a single and continuous infringement covering air cargo services on all routes to and from the EU is vitiated by serious errors of law and factual appreciation.

According to the applicants, the contested decision fails to establish in particular: (i) the existence of a worldwide cartel; (ii) jurisdiction over conduct involving air cargo sales outside the EU; (iii) application of Article 101 TFEU to conduct regulated or required by foreign governments; (iv) a sufficient link between conduct involving the three alleged elements of the single and continuous infringement, being fuel surcharges, security surcharges, and alleged refusal to pay commissions on surcharges; and (v) a sufficient link between airline contacts at headquarters level and conduct in local markets.

2. Second plea in law, alleging that the contested decision should be annulled insofar as it finds an infringement related to coordination regarding payment of commission to forwarders on surcharge revenue.
3. Third plea in law, alleging that the contested decision should be annulled to the extent that the finding on an infringement involving the applicants relies on evidence involving contacts exclusively between members of the WOW air cargo alliance.

According to the applicants, the contested decision applies the incorrect legal test to assessing a full cooperation airline alliance and makes fundamental errors in assessing how the WOW alliance functioned. The applicants further submit that their contacts with WOW partners were part of a genuine effort to create a successful alliance and therefore were not manifestations of the common scheme or plan that was the supposed basis for the single and continuous infringement.

4. Fourth plea in law, alleging that the contested decision should be annulled because it fails to establish participation by the applicants in the single and continuous infringement.
5. Fifth plea in law, alleging that if (contrary to the arguments set out in the fourth plea), the applicants participated in some aspects of the single and continuous infringement, the contested decision does not establish that the applicants were aware of all other aspects of conduct described in the contested decision, notably the clearly unlawful core group coordination, or that it should have been aware of such conduct as required by the case law.
6. Sixth plea in law, alleging that, if the contested decision is not annulled in full, the fine against the applicants should be reduced because the Commission has failed to follow the clear requirements of the Fining Guidelines⁽¹⁾ for identifying the relevant turnover, and because the fine imposed does not reflect the applicants limited participation in the single and continuous infringement and lesser gravity of the applicants' conduct (as shown in the third, fourth and fifth pleas).

⁽¹⁾ Guidelines on the method of setting fines imposed pursuant to Article 32(2)(a) of Regulation No 1/2003 (OJ 2006, C 210, p. 2).

Action brought on 2 June 2017 — Korwin-Mikke v Parliament

(Case T-352/17)

(2017/C 239/80)

Language of the case: French

Parties

Applicant: Janusz Korwin-Mikke (Jozefow, Poland) (represented by: M. Cherchi, A. Daoût and M. Dekleermaker, lawyers)

Defendant: European Parliament

Form of order sought

— Declare this action admissible and well-founded;

Consequently:

- Annul the decision of the Bureau of the European Parliament of 3 April 2017;
- Annul the earlier decision of the President of the Parliament of 14 March 2017;
- Order reparation of the pecuniary and non-pecuniary loss caused by the contested decisions, or award the applicant the sum of EUR 19 180;
- In any event, order the European Parliament to pay all 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 11 of the Charter of Fundamental Rights of the European Union ('the Charter'), the general principle of freedom of expression, read in conjunction with Article 10 of the European Convention on Human Rights and Article 52 of the Charter, with the particular circumstance that the remarks referred to in the contested decisions were made by a Member of the European Parliament in the exercise of his functions and inside the premises of the European Union institutions, and infringement of Article 166 of the Rules of Procedure of the European Parliament, of Article 41 of the Charter, of the principle that reasons must be stated for acts of the EU institutions, of Article 296 TFEU, a manifest error of assessment and an act *ultra vires*.
2. Second plea in law, alleging infringement of Article 41 of the Charter, the principle that reasons must be stated for acts of the EU institutions, the general principle of proportionality, a manifest error of assessment and an act *ultra vires*.

Action brought on 2 June 2017 — Daico International v EUIPO — American Franchise Marketing (RoB)

(Case T-355/17)

(2017/C 239/81)

Language in which the application was lodged: English

Parties

Applicant: Daico International BV (Amsterdam, Netherlands) (represented by: M. Kassner, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

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

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark 'RoB' — EU trade mark No 5 284 104

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Second Board of Appeal of EUIPO of 9 March 2017 in Case R 1405/2016-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;