

— order the Commission to pay the costs.

Action brought on 18 January 2010 — Nastvogel v Council

(Case F-4/10)

(2010/C 63/95)

Language of the case: French

Parties

Applicant: Christiana Nastvogel (Brussels, Belgium) (represented by: S. Orlandi, A. Coolen, H.-N. Louis and E Marchal, lawyers)

Defendant: Council of the European Union

Subject-matter and description of the proceedings

Annulment of the decision establishing the applicant's staff report for the period from 1 July 2006 to 31 December 2007.

Forms of order sought

— Annulment of the decision establishing the applicant's staff report for the period from 1 July 2006 to 31 December 2007.

— Costs order against the Council of the European Union.

Action brought on 19 January 2010 — Nicole Clarke v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case F-5/10)

(2010/C 63/96)

Language of the case: German

Parties

Applicant(s): Nicole Clarke (Alicante, Spain) (represented by: H. Tettenborn, Rechtsanwalt)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Subject-matter and description of the proceedings

Application for first, a declaration of invalidity of the clause of the applicant's contract providing for the automatic termination

of the employment contract in the event that the applicant is not selected in an external selection procedure for the OHIM, and second a declaration that selection procedures OHMI/AD/01/07, OHMI/AD/02/07, OHMI/AST/01/07 and OHMI/AST/02/02 have no effect on the contract of the applicant. In addition, application for damages.

Form of order sought

— The Tribunal should set aside the letter from OHIM of 12 March 2009 and the decisions of OHIM contained in it, according to which the applicant's employment relationship is terminated with eight months' notice as of 16 March 2009, and declare that the applicant's employment relationship with the OHIM continues and has not been terminated. To the extent that the Tribunal considers it necessary, the applicant claims that the Tribunal should also set aside further letters from OHIM, classified by the applicant as related, of 3 August 2009 (setting a deadline of three months) and of 9 October 2009 (rejection of complaint).

— The Tribunal should set aside or declare invalid the cancellation clause in Article 5 of the applicant's employment contract with OHIM, and in the alternative,

declare that the applicant's contract of employment cannot in future be terminated on the basis of the cancellation clause in her employment contract;

in the further alternative, declare that, in any event, the selection procedures referred to in the letter from OHIM of 12 March 2009 were not capable of entailing negative consequences on the basis of the cancellation clause.

— The Tribunal should order OHIM to pay to the applicant damages of an appropriate amount at the discretion of the Tribunal for the non-material damage arising from the decisions referred to in paragraph 1 of the application.

— In the event that, at the time of the Tribunal's decision, the actual employment of the applicant and/or the payment by OHIM of salary owed to the applicant have already ceased as a result of the unlawful conduct of OHIM despite the continued existence of an employment relationship:

the Tribunal should declare that OHIM is under an obligation to continue to employ the applicant under the same conditions as hitherto and to reinstate her and order OHIM to compensate the applicant fully for the material damage suffered by her, in particular by paying any outstanding salary and all other expenses incurred by the applicant as a result of OHIM's unlawful conduct (after deduction of unemployment benefit received),