

**Form of order sought**

The applicant claims that the Court should:

- Annul the EUIPO's decision not to recognize the applicant's total permanent incapacity to perform duties and its refusal to declare that he shall be retired

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the defendant infringed the relevant provisions of the Staff Regulations, namely Articles 7-9, 13, 33, and 78 thereof, and Articles 13-16 of Annex VIII to those Regulations and in particular Article 53 of the Staff Regulations.
2. Second plea in law, alleging that the defendant breached its fiduciary duty and the principle of sound administration (Articles 41(1), 41 (2)(a), (b) and (c), Charter of Fundamental Rights of the EU) as well as the applicant's procedural rights, also by basing the Contested Decision on distorted facts:
3. Third plea in law, alleging that the defendant breached Article 3(1) of the Charter of Fundamental Rights of the EU.

In support of the above pleas, the applicant argues in particular that the Appointing Authority does not have any discretion within the procedure for invalidity according to the relevant stipulations of the Staff Regulations to recognise or not recognise the permanent incapacity of an official to perform his duties, since the decision of the Invalidation Committee is binding and, even on the assumption that the Appointing Authority has a discretion within this procedure, there was no justified reason in the case of the applicant not to recognize his permanent incapacity.

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**Action brought on 28 October 2016 — Novolipetsk Steel v Commission**

(Case T-752/16)

(2017/C 014/47)

*Language of the case: English*

**Parties**

*Applicant:* PAO Novolipetsk Steel (Lipetsk, Russia) (represented by: B. Evtimov, lawyer and D. O'Keefe, Solicitor)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul Commission Implementing Regulation (EU) 2016/1328 of 29 July 2016 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cold rolled flat steel products originating, inter alia, in the Russian Federation, published in the OJ L 210 of 04/08/2016 in its entirety insofar as it affects the Applicant;
- order the Commission to pay the costs of and occasioned by these proceedings.

**Pleas in law and main arguments**

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

1. First plea in law, alleging a breach of the right to a fair hearing, including the rights of defence, the principle of equality of arms, and the principle of good administration.

2. Second plea in law, alleging that the Commission breached Article 18 of the Basic Regulation <sup>(1)</sup>, Article 6.8 and Annex II of the ADA <sup>(2)</sup>, the principle of proportionality and made an error in law and a manifest error of assessment by considering the Applicant a non-cooperating producer and applying facts available to it.
3. Third plea in law, alleging that the Commission breached Article 3(2) and 3(5) of the Basic Regulation and Article 3.1 of the ADA, distorted the evidence before it and made manifest errors of assessment, by wrongly assessing the injury indicators and not carrying out an objective examination of the state of the Union industry.
  - The Applicant puts forward that the Commission relied only on selected economic indicators of the state of the Union industry and neglected key indicators which would have revealed a different, more positive state of the Union industry.
  - The Applicant further puts forward that the Commission took a biased approach favoring its injury findings and distorting evidence before it by failing to examine the 'free' and 'captive' markets of the product concerned as a whole in violation of its duty to conduct an objective evaluation under Article 3(2) of the Basic Regulation.
4. Fourth plea in law, alleging that the Commission breached Article 3(7) of the Basic Regulation, as it wrongly assessed the causal link between allegedly dumped imports and the situation of the Union industry. The Applicant further puts forward that the Commission failed in its duty not to attribute other factors causing injury to the allegedly dumped imports and overlooked other factors which jointly and severally were capable of breaking the causal link.
5. Fifth plea in law, alleging that the Commission wrongly determined the injury elimination level, breaching Articles 2(9), 9(4) of the Basic Regulation and making a manifest error of assessment. In particular, according to the Applicant, the Commission determined an unreasonable and excessive profit margin for the Union industry and committed a manifest error of assessment in applying, for injury margin purposes, and by analogy, the adjustment for reasonable selling, general and administrative costs and a profit of an unrelated importer, foreseen in Article 2(9) of the Basic Regulation.

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<sup>(1)</sup> Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, p. 51).

<sup>(2)</sup> WTO Anti-dumping Agreement.

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### Action brought on 28 October 2016 — Severstal v Commission

(Case T-753/16)

(2017/C 014/48)

*Language of the case: English*

#### Parties

*Applicant:* PAO Severstal (Cherepovets, Russia) (represented by: B. Evtimov, lawyer and D. O'Keeffe, Solicitor)

*Defendant:* European Commission

#### Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Regulation (EU) 2016/1328 of 29 July 2016 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cold rolled flat steel products originating, inter alia, in the Russian Federation, published in the OJ L 210 of 04/08/2016 in its entirety insofar as it affects the Applicant;
- order the Commission to pay the costs of and occasioned by these proceedings.