

- Order payment of all legal costs, fees and disbursements, details of which will be provided, arising out of the present proceedings.

Pleas in law and main arguments

The applicants, who are sea-fishermen, and their union seek compensation for the loss which they consider they have suffered because of the adoption of Commission Regulation (EC) No 530/2008 ⁽¹⁾ prohibiting fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45° W, and in the Mediterranean Sea by purse seiners flying the Greek, French, Italian, Cypriot, Maltese or Spanish flag or registered in those Member States.

In support of their action, the applicants put forward a number of pleas in law and arguments alleging, respectively:

- breach of the principles of the Code of Conduct annexed to the internal rules of the Commission, since the Commission did not hold a meeting with the Syndicat des thoniers méditerranéens, despite having promised to do so;
- failure to compensate the applicant whose fishing activities are prohibited even though they have not yet filled their quota;
- that the measures adopted by the Commission do not constitute a mere risk inherent to the sector of activity for which the applicants should not be compensated;
- a lack of evidence of the need for the measures adopted, since those measures were adopted on the basis of mathematical extrapolations which do not constitute proof;
- that the measures at issue were not adopted on the basis of a serious threat;
- breach of the principle of legal certainty, since the Regulation at issue closing fishing of bluefin tuna was adopted in a very short time and annulled provisions which had just opened the fishing season;
- breach of the fundamental rights guaranteed by the Charter of fundamental rights of the European Union ⁽²⁾, more specifically of the right to engage in work and the right to property.

⁽¹⁾ Commission Regulation (EC) No 530/2008 of 12 June 2008 establishing emergency measures as regards purse seiners fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45° W, and in the Mediterranean Sea (OJ 2008 L 155, p. 9).

⁽²⁾ OJ 2000 C 364, p. 1.

Action brought on 29 December 2008 — Perusahaan Otomobil Nasional v OHIM — Proton Motor Fuel Cell (PM PROTON MOTOR)

(Case T-581/08)

(2009/C 69/95)

Language in which the application was lodged: English

Parties

Applicant: Perusahaan Otomobil Nasional Sdn. BHD (Shah Alam, Malaysia) (represented by: J. Blind, C. Kleiner and S. Ziegler, lawyers)

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

Other party to the proceedings before the Board of Appeal: Proton Motor Fuel Cell GmbH (Starnberg, Germany)

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 9 October 2008 in case R 1675/2007-1, uphold the opposition No 501 306 for all goods and services and reject the application for the Community trade mark No 2 296 408; and
- Order the defendant and, if the case might be, the other party to the proceedings before the Board of Appeal to pay the costs of proceedings and the costs of appeal incurred before the defendant.

Pleas in law and main arguments

Applicant for the Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark 'PM PROTON MOTOR', for goods and services in classes 7, 9 and 42 — application No 2 296 408

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited: Community trade mark registration No 198 564 of the word mark 'PROTON' for goods and services in classes 12 and 37; Community trade mark registration No 1 593 201 of the figurative mark 'PROTON' for goods and services in classes 12 and 37; United Kingdom trade mark registration No 1 322 343 of the series of marks 'PROTON' for services in class 37; United Kingdom trade mark registration No 2 227 660 of the figurative mark 'PROTON' for goods and services in classes 12 and 37; United Kingdom trade mark registration No 2 182 057 of the word mark 'PROTON DIRECT' for goods in class 12; Registration of the word mark 'PROTON' in Benelux, Denmark, Finland, Germany, Greece, Ireland, Portugal and Spain

Decision of the Opposition Division: Allowed the opposition in its entirety

Decision of the Board of Appeal: Annulled the contested decision and dismissed the opposition

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation 40/94 as the Board of Appeal wrongly assessed that there was no likelihood of confusion between the trade marks concerned; Infringement of Article 8(5) of Council Regulation 40/94 as the Board of Appeal failed to find that the trade mark cited in the opposition proceedings has reputation in the United Kingdom.

Action brought on 30 December 2008 — Carpent Languages v Commission

(Case T-582/08)

(2009/C 69/96)

Language of the case: French

Parties

Applicant: Carpent Languages SPRL (Brussels, Belgium) (represented by: P. Goergen, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- Declare the action admissible and well founded;
- Accordingly, annul the decision to reject the applicant's tender;
- Annul the decision awarding the contract to ADIE TECH-NICS SPRL;
- In the alternative, in the event that the Court does not grant the application for annulment of the contested decision, order the Commission to pay the applicant the sum of EUR 200 000 (two hundred thousand Euros) as compensation for the applicant's pecuniary and non-pecuniary losses;
- Order the Commission of the European Communities to pay all the costs.

Pleas in law and main arguments

The applicant contests the decision of the Commission to reject its tender made in respect of the call for tenders for lot No 4 of the contract notice 'Multiple framework contracts for meeting and conference organisation services' (OJ 2008 S 58-77561), and the decision to award the contract to another tenderer. The applicant also seeks compensation for the loss allegedly caused by the contested decision.

In support of its action, the applicant raises three pleas in law, alleging:

- breach of the duty to state reasons, since the Commission stated neither the number of points obtained by the successful tenderer nor the advantages of the successful tender over that of the applicant; furthermore, the Commission did not inform the applicant which of the two case studies which it submitted did not obtain a sufficient number of points;
- a manifest error of assessment, in that the Evaluation Committee attributed a score of less than 70 points to one of the case studies submitted by the applicant despite the fact that the applicant set out in detail, in accordance with the specifications, the approach which it would have taken to supply the services required, the means which it would have allocated to the different tasks, the work schedule and an estimate of the costs;
- a breach of the principles of equal treatment and non-discrimination as defined in Article 89(1) of the Financial Regulation, since the successful tenderer did not fulfil the selection criteria in respect of technical capacity.

Action brought on 22 December 2008 — Evropaiki Dynamiki v Commission

(Case T-589/08)

(2009/C 69/97)

Language of the case: English

Parties

Applicant: Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: N. Korogiannakis, P. Katsimani, M. Dermizakis, lawyers)

Defendant: Commission of the European Communities