

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

Other party to the proceedings before the Board of Appeal: Lidl Stiftung & Co. KG (Neckarsulm, Germany)

Details of the proceedings before OHIM

Applicant for the trade mark at issue: the applicant

Trade mark at issue: the Community figurative mark including the word element 'ABTRONICX2' — Application No 8 534 943

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 4 September 2014 in Case R 2078/2013-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and reject the opposition;
- order OHIM to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.

Appeal brought on 28 November 2014 by European Central Bank against the judgment of the Civil Service Tribunal of 18 September 2014 in Case F-26/12 Cerafogli v ECB

(Case T-787/14 P)

(2015/C 046/72)

Language of the case: English

Parties

Appellant: European Central Bank (represented by: E. Carlini and M. López Torres, agents, assisted by B. Wägenbaur, lawyer)

Other party to the proceedings: Maria Concetta Cerafogli (Rome, Italy)

Form of order sought by the appellant

The appellant claims that the Court should:

- annul the judgment of 18 September 2014, in Case F-26/12, *Cerafogli v ECB*;
- rule according to the appellant's pleas sought at first instance; and
- to award each party its own costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on four pleas in law.

1. First plea in law, alleging an erroneous extrapolation of the *Grolsch* case-law to staff cases thereby misinterpreting the scope of the principle of effective judicial protection in the light of Article 47 of the Charter and the inadequacy of the grounds.
2. Second plea in law, alleging a failure to take account of the rights of defence of the institution, disregarding the purpose of the pre-litigation procedure, and a failure to take account of relevant facts and misinterpretation of the principle of legal certainty.

3. Third plea in law, alleging erroneous conclusions drawn from the nature of a plea of illegality, the misinterpretation of Article 277 TFEU and of the principle of legal certainty.
4. Fourth plea in law, alleging a misinterpretation of the principle of effective judicial protection, a failure to take account of the facts of the present case, and an infringement of the principle of proportionality.

Appeal brought on 5 December 2014 by Eric Vanhalewyn against the judgment of the Civil Service Tribunal of 25 September 2014 in Case F-101/13, Osorio and Others v EEAS

(Case T-792/14 P)

(2015/C 046/73)

Language of the case: French

Parties

Appellant: Eric Vanhalewyn (Grand Baie, Mauritius) (represented by S. Orlandi and T. Martin, lawyers)

Other party to the proceedings: European External Action Service (EEAS)

Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the judgment of the Civil Service Tribunal (Third Chamber) of 25 September 2014 in Case F-101/13, *Osorio and Others v EEAS*;
- give judgment itself:
 - annulling the contested decision;
 - ordering the EEAS to pay the costs of both proceedings.

Pleas in law and main arguments

It results from the appeal that the appellant applies to have set aside the judgment of the Civil Service Tribunal (Third Chamber) of 25 September 2014 in Case F-101/13, *Osorio and Others v EEAS*.

In support of the appeal, the appellant relies on three pleas in law.

1. First plea in law, alleging an error of law, since the Civil Service Tribunal ('the CST') held, first, that the failure, by the EEAS, to adopt the general provisions ('GP') of Article 10 of Annex X to the Staff Regulations of Officials of the European Union ('the regulations') was justified by the fact that the EEAS was still, as regards the application of that provision, in an adjustment period and, secondly, that the failure to fulfil the obligation to adopt the GP can be successfully invoked by the appellant only where he shows that the EEAS applied that provision arbitrarily.
 2. Second plea in law, alleging that the CST erred in law by holding that the EEAS had correctly reasoned the contested decision although the reasons which led the EEAS to diverge from the negative opinion of the Staff Committee were not set out.
 3. Third plea in law, alleging that the CST erred in law since it held that the EEAS could, in the absence of GP, take into account other parameters than those provided for by the regulations in order to assess the severity of the difficulty of the conditions of life in the places of employment of officials outside the European Union.
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