

Order of the Court (First Chamber) of 5 July 2018 (request for a preliminary ruling from the Raad van State — Netherlands) — Staatssecretaris van Veiligheid en Justitie v C and J, S v Staatssecretaris van Veiligheid en Justitie

(Case C-269/18 PPU) ⁽¹⁾

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Article 99 of the Rules of Procedure of the Court of Justice — Common procedures for granting and withdrawing international protection — Directive 2013/32/EU — Article 46(6) and (8) — Manifestly unfounded application for international protection — Right to an effective remedy — Authorisation to remain in the territory of a Member State — Directive 2008/115/EC — Articles 2, 3 and 15 — Illegal stay — Detention)

(2018/C 341/03)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Appellants: Staatssecretaris van Veiligheid en Justitie, J, S

Respondents: C, Staatssecretaris van Veiligheid en Justitie

Operative part of the order

Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals and Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection must be interpreted as meaning that a third-country national, whose application for international protection has been rejected at first instance by the competent administrative authority as being manifestly unfounded, cannot be detained with a view to his removal, in the case where, in accordance with Article 46(6) and (8) of Directive 2013/32, he is lawfully authorised to remain on the national territory until a decision has been taken on his action relating to the right to remain on that territory pending the ruling on the appeal brought against the decision which rejected his application for international protection.

⁽¹⁾ OJ C 276, 6.8.2018.

Appeal brought on 17 May 2018 by the European Union Intellectual Property Office against the judgment of the General Court (First Chamber) delivered on 7 March 2018 in Case T-6/17, Equivalenza Manufactory v EUIPO — ITM Entreprises (Black Label by Equivalenza)

(Case C-328/18 P)

(2018/C 341/04)

Language of the case: Spanish

Parties

Appellant: European Union Intellectual Property Office (represented by: J. Crespo Carrillo, acting as Agent)

Other parties to the proceedings: Equivalenza Manufactory, S.L. and ITM Entreprises SAS

Form of order sought

The appellant claims that the Court of Justice should:

— set aside the judgment under appeal;

— order the applicant in the proceedings before the General Court to pay the costs.

Grounds of appeal and main arguments

The General Court infringed Article 8(1)(b) of the EU trade mark regulation for the following reasons:

1. The General Court contradicted itself by acknowledging that there is a visual similarity while at the same time denying that the signs are visually similar;
2. The General Court erred by confirming without qualification the alleged conceptual difference found by the Board of Appeal;
3. The General Court erred by examining buying habits in the context of the examination of the similarity of the signs, instead of doing so when carrying out the global assessment of the likelihood of confusion;
4. The General Court erred by stating that the signs at issue are not similar, despite having acknowledged that their phonetic similarity is average.

Appeal brought on 21 June 2018 by H against the judgment of the General Court (Sixth Chamber) delivered on 11 April 2018 in Case T-271/10 RENV: H v Council of the European Union

(Case C-413/18 P)

(2018/C 341/05)

Language of the case: English

Parties

Appellant: H (represented by: M. Velardo, avvocatessa)

Other party to the proceedings: Council of the European Union

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of 11 April 2018 in case T-271/10 RENV, H v Council of the European Union, insofar as it rejects the appellant's action seeking the annulment of the decision of 7 April 2010, signed by the Head of personnel of the European Union Police Mission, by which the appellant was redeployed to the post of 'Criminal Justice Adviser-Prosecutor' in the regional office of Banja Luka (Bosnia and Herzegovina) and, in the alternative, of the decision of 30 April 2010, signed by the Head of Mission referred to in Article 6 of Council decision 2009/906/CFSP⁽¹⁾ of 8 December 2009 on the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH) and insofar as it rejects the claim for damages due to the illegality of the above-mentioned decisions;
- give a decision on the case, and, if necessary, refer the case back to the General Court;
- order the defendant at first instance to pay the costs in case C-455/14 P as well as in these proceedings.

Pleas in law and main arguments

- The appellant claims an infringement of Article 216 of the Rules of Procedure of the General Court and Article 47 of the Charter of Fundamental Rights, insofar as the judgment under appeal was issued by a Chamber composed partially of the same judges who issued the order overturned by the Court of Justice of the European Union.