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(2015/C 302/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fifth Chamber) of 16 July 2015 (request for a preliminary ruling from the Landgericht Düsseldorf — Germany) — Huawei Technologies Co. Ltd v ZTE Corp., ZTE Deutschland GmbH

(Case C-170/13) ([1])

(Competition — Article 102 TFEU — Undertaking holding a patent essential to a standard which has given a commitment, to the standardisation body, to grant third parties a licence for that patent on fair, reasonable and non-discriminatory terms ('FRAND terms') — Abuse of a dominant position — Actions for infringement — Action seeking a prohibitory injunction — Action seeking the recall of products — Action seeking the rendering of accounts — Action for damages — Obligations of the proprietor of a patent which is essential to a standard)

(2015/C 302/02)

Language of the case: German

Referring court

Landgericht Düsseldorf

Parties to the main proceedings

Applicant: Huawei Technologies Co. Ltd

Defendants: ZTE Corp., ZTE Deutschland GmbH

Operative part of the judgment

1. *Article 102 TFEU must be interpreted as meaning that the proprietor of a patent essential to a standard established by a standardisation body, which has given an irrevocable undertaking to that body to grant a licence to third parties on fair, reasonable and non-discriminatory ('FRAND') terms, does not abuse its dominant position, within the meaning of that article, by bringing an action for infringement seeking an injunction prohibiting the infringement of its patent or seeking the recall of products for the manufacture of which that patent has been used, as long as:*

— *prior to bringing that action, the proprietor has, first, alerted the alleged infringer of the infringement complained about by designating that patent and specifying the way in which it has been infringed, and, secondly, after the alleged infringer has expressed its willingness to conclude a licensing agreement on FRAND terms, presented to that infringer a specific, written offer for a licence on such terms, specifying, in particular, the royalty and the way in which it is to be calculated, and*

— *where the alleged infringer continues to use the patent in question, the alleged infringer has not diligently responded to that offer, in accordance with recognised commercial practices in the field and in good faith, this being a matter which must be established on the basis of objective factors and which implies, in particular, that there are no delaying tactics.*

2. *Article 102 TFEU must be interpreted as not prohibiting, in circumstances such as those in the main proceedings, an undertaking in a dominant position and holding a patent essential to a standard established by a standardisation body, which has given an undertaking to the standardisation body to grant licences for that patent on FRAND terms, from bringing an action for infringement against the alleged infringer of its patent and seeking the rendering of accounts in relation to past acts of use of that patent or an award of damages in respect of those acts of use.*

([1]) OJ C 215, 27.7.2013.

Judgment of the Court (Third Chamber) of 16 July 2015 (request for a preliminary ruling from the Stockholms tingsrätt (Sweden)) — Abcur AB v Apoteket Farmaci AB (C-544/13), Apoteket AB and Apoteket Farmaci AB (C-545/13)

(Joined Cases C-544/13 and C-545/13) ([1])

(Reference for a preliminary ruling — Medicinal products for human use — Directive 2001/83/EC — Scope — Articles 2(1) and 3, points 1 and 2 — Medicinal products prepared industrially or manufactured by a method involving an industrial process — Exceptions — Medicinal products prepared in a pharmacy in accordance with a medical prescription for an individual patient — Medicinal products prepared in a pharmacy in accordance with the prescriptions of a pharmacopoeia and intended to be supplied directly to the patients served by the pharmacy in question — Directive 2005/29/EC)

(2015/C 302/03)

Language of the case: Swedish

Referring court

Stockholms tingsrätt

Parties to the main proceedings

Applicant: Abcur AB

Defendant: Apoteket Farmaci AB (C-544/13), Apoteket AB and Apoteket Farmaci AB (C-545/13)

Operative part of the judgment

1. *Medicinal products for human use, such as those at issue in the main proceedings, issued in accordance with a medical prescription and for which no marketing authorisation has been granted by the competent authorities in a Member State or pursuant to Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing an European Medicines Agency fall within the scope of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, as amended by Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004, by virtue of Article 2(1) thereof, if they have been prepared industrially or manufactured by a method involving an industrial process. Those medicinal products are covered by the exception referred to in Article 3, point 1, of that directive, as amended, only if they have been prepared in accordance with a medical prescription issued before their preparation, which must be specifically for a previously identified patient. Those medicinal products are covered by the exception referred to in Article 3, point 2, of Directive 2001/83, as amended by Directive 2004/27, only if they are delivered directly to patients supplied by the pharmacy which prepared them. It is for the referring court to ascertain whether the conditions for application of those provisions are satisfied in the main proceedings;*

2. *Even where medicinal products for human use, such as those at issue in the main proceedings, fall within the scope of Directive 2001/83, as amended by Directive 2004/27, advertising practices relating to those medicinal products, such as those alleged in the main proceedings, can also fall within the scope of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council, provided that the conditions for application of that directive are satisfied.*

([1]) OJ C 15, 18.1.2014.

Judgment of the Court (Fourth Chamber) of 16 July 2015 (request for a preliminary ruling from the Bundesgerichtshof (Germany)) — Coty Germany GmbH v Stadtsparkasse Magdeburg

(Case C-580/13) ([1])

(Reference for a preliminary ruling — Intellectual and industrial property — Directive 2004/48/EC — Article 8(3)(e) — Sale of counterfeit goods — Right to information in the context of proceedings for infringement of an intellectual property right — Legislation of a Member State which allows banking institutions to refuse a request for information relating to a bank account (banking secrecy))

(2015/C 302/04)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Coty Germany GmbH

Defendant: Stadtsparkasse Magdeburg

Operative part of the judgment

Article 8(3)(e) of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights must be interpreted as precluding a national provision, such as that at issue in the main proceedings, which allows, in an unlimited and unconditional manner, a banking institution to invoke banking secrecy in order to refuse to provide, pursuant to Article 8(1)(c) of that directive, information concerning the name and address of an account holder.

([1]) OJ C 31, 1.2.2014.

Judgment of the Court (First Chamber) of 16 July 2015 (request for a preliminary ruling from the Bundesgerichtshof (Germany)) — proceedings brought by Bodenverwertungs- und -verwaltungs GmbH (BVVG)

(Case C-39/14) ([1])

(Reference for a preliminary ruling — State aid — Article 107(1) TFEU — Sale of agricultural land by public authorities — National provision allowing the competent authorities to object to the sale of agricultural land where the price offered is considered 'grossly disproportionate' to the market value — Advantage granted to certain undertakings or for the production of certain goods — Private investor test — Determination of the 'market value')

(2015/C 302/05)

Language of the case: German

Referring court

Bundesgerichtshof

Party to the main proceedings

Bodenverwertungs- und -verwaltungs GmbH (BVVG)

Joined parties: Thomas Erbs, Ursula Erbs, Landkreis Jerichower Land

Operative part of the judgment

Article 107(1) TFEU must be interpreted as meaning that a rule of national law, such as that at issue in the main proceedings, which, for the purposes of safeguarding the interests of agricultural holdings, effectively prohibits an emanation of the State from selling agricultural land to the highest bidder in a public call for tenders, where the competent local authority considers that his bid is grossly disproportionate to the estimated value of that land, cannot be classified as 'State aid', provided that the application of that rule results in a price which is as close as possible to the market value of the agricultural land concerned, that being a matter for the referring court to ascertain.

([1]) OJ C 102, 7.4.2014.

Judgment of the Court (Grand Chamber) of 16 July 2015 — European Commission v European Parliament, Council of the European Union

(Case C-88/14) ([1])

(Actions for annulment — Regulation (EU) No 1289/2013 — Article 1(1) and (4) — Regulation (EC) No 539/2001 — Article 1(4)(f) — Article 290 TFEU — Suspension of exemption from the visa requirement — Insertion of a footnote — Amendment of the legislative act)

(2015/C 302/06)

Language of the case: English

Parties

Applicant: European Commission (represented by: B. Smulders, B. Martenczuk and G. Wils, acting as Agents)

Defendants: European Parliament (represented by: L. Visaggio, A. Troupiotis and A. Pospíšilová Padowska, acting as Agents)

Council of the European Union (represented by K. Pleśniak and K. Michoel, acting as Agents)

Intervener in support of the defendants: Czech Republic (represented by M. Smolek, D. Hadroušek and J. Škeřík, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the European Commission to pay the costs;*

3. *Orders the Czech Republic to bear its own costs.*

(1) OJ C 135, 5.5.2014.

Judgment of the Court (Third Chamber) of 16 July 2015 (request for a preliminary ruling from the Tribunale di Milano (Italy)) — Unione Nazionale Industria Conciaria (UNIC), Unione Nazionale dei Consumatori di Prodotti in Pelle, Materie Concianti, Accessori e Componenti (Unicopel) v FS Retail, Luna srl, Gatsby srl

(Case C-95/14) (1)

(Reference for a preliminary ruling — Free movement of goods — Articles 34, 35 and 36 TFEU — Measures having equivalent effect — Directive 94/11/EC — Articles 3 and 5 — Exhaustive harmonisation — Bar on impeding the placing on the market of footwear which complies with the labelling requirements of Directive 94/11 — National legislation requiring the country of origin to be shown on the labelling of products manufactured abroad which use the Italian term 'pelle' — Products in free circulation)

(2015/C 302/07)

Language of the case: Italian

Referring court

Tribunale di Milano

Parties to the main proceedings

Applicants: Unione Nazionale Industria Conciaria (UNIC), Unione Nazionale dei Consumatori di Prodotti in Pelle, Materie Concianti, Accessori e Componenti (Unicopel)

Defendants: FS Retail, Luna srl, Gatsby srl

Operative part of the judgment

Articles 3 and 5 of Directive 94/11/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, prohibiting, inter alia, the marketing of leather components of footwear coming from other Member States, or coming from non-member countries and already marketed in another Member State or in the Member State concerned, when those products do not bear a label indicating their country of origin.

(1) OJ C 245, 28.7.2014.

Judgment of the Court (Second Chamber) of 16 July 2015 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG v Finanzamt Nordenham (C-108/14), Finanzamt Hamburg-Mitte v Marenave Schiffahrts AG (C-109/14)

(Joined Cases C-108/14 and C-109/14) ([1])

(Reference for a preliminary ruling — VAT — Sixth Council Directive 77/388/EEC — Article 17 — Right to deduction — Partial deduction — VAT paid by holding companies for the acquisition of capital invested in their subsidiaries — Services supplied to subsidiaries — Subsidiaries constituted in the form of partnerships — Article 4 — Establishment of a group of persons capable of being regarded as a single taxable person — Conditions — Need for a relationship of subordination — Direct effect)

(2015/C 302/08)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicants: Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG (C–108/14), Finanzamt Hamburg-Mitte (C–109/14)

Defendants: Finanzamt Nordenham (C–108/14), Marenave Schiffahrts AG (C–109/14)

Operative part of the judgment

1. *Article 17(2) and (5) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 2006/69/EC of 24 July 2006, must be interpreted as meaning that:*

   — *the expenditure connected with the acquisition of shareholdings in subsidiaries incurred by a holding company which involves itself in their management and which, on that basis, carries out an economic activity must be regarded as belonging to its general expenditure and the value added tax paid on that expenditure must, in principle, be deducted in full, unless certain output economic transactions are exempt from value added tax under Sixth Directive 77/388, as amended by Directive 2006/69, in which case the right to deduct should have effect only in accordance with the procedures laid down in Article 17(5) of that directive;*

   — *the expenditure connected with the acquisition of shareholdings in subsidiaries incurred by a holding company which involves itself in the management only of some of those subsidiaries and which, with regard to the others, does not, by contrast, carry out an economic activity must be regarded as only partially belonging to its general expenditure, so that the value added tax paid on that expenditure may be deducted only in proportion to that which is inherent to the economic activity, according to the criteria for apportioning defined by the Member States, which when exercising that power, must have regard to the aims and broad logic of the Sixth Directive and, on that basis, provide for a method of calculation which objectively reflects the part of the input expenditure actually to be attributed, respectively, to economic and to non-economic activity, which it is for the national courts to establish.*

2. *The second subparagraph of Article 4(4) of Sixth Directive 77/388, as amended by Directive 2006/69, must be interpreted as precluding national legislation which reserves the right to form a value added tax group, as provided for in those provisions, solely to entities with legal personality and linked to the controlling company of that group in a relationship of subordination, except where those two requirements constitute measures which are appropriate and necessary in order to achieve the objectives seeking to prevent abusive practices or behaviour or to combat tax evasion or tax avoidance, which it is for the referring court to determine.*

3. *Article 4(4) of Sixth Directive 77/388, as amended by Directive 2006/69, may not be considered to have direct effect allowing taxable persons to claim the benefit thereof against their Member State in the event that that State's legislation is not compatible with that provision and cannot be interpreted in a way compatible with it.*

([1]) OJ C 159, 26.5.2014.

Judgment of the Court (Second Chamber) of 16 July 2015 (request for a preliminary ruling from the Înalta Curte de Casație și Justiție — Romania) — ING Pensii, Societate de Administrare a unui Fond de Pensii Administrat Privat SA v Consiliul Concurenței

(Case C-172/14) ([1])

(Reference for a preliminary ruling — Agreements, decisions and concerted practices — Arrangement for sharing clients on a private pension fund market — Whether there is a restriction of competition within the meaning of Article 101 TFUE — Effect on trade between Member States)

(2015/C 302/09)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Applicant: ING Pensii, Societate de Administrare a unui Fond de Pensii Administrat Privat SA

Defendant: Consiliul Concurenței

Operative part of the judgment

Article 101(1) TFEU must be interpreted as meaning that agreements to share clients, such as those concluded between the private pensions funds in the main proceedings, constitute agreements with an anti-competitive object, the number of clients affected by such an agreement being irrelevant for the purpose of assessing the requirement relating to the restriction of competition within the internal market.

([1]) OJ C 212, 7.7.2014.

Judgment of the Court (Third Chamber) of 16 July 2015 (request for a preliminary ruling from the Corte suprema di cassazione (Italy)) — A v B

(Case C-184/14) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil and commercial matters — Jurisdiction in matters relating to maintenance obligations — Regulation (EC) No 4/2009 — Article 3(c) and (d) — Matter relating to maintenance in respect of minor children concurrent with the parents' separation proceedings, brought in a Member State other than that in which the children are habitually resident)

(2015/C 302/10)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Applicant: A

Defendant: B

Operative part of the judgment

Article 3(c) and (d) of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations must be understood as meaning that, in the event that a court of a Member State is seized of proceedings involving the separation or dissolution of a marital link between the parents of a minor child and a court of another Member State is seized of proceedings in matters of parental responsibility involving that same child, an application relating to maintenance concerning that child is ancillary only to the proceedings concerning parental responsibility, within the meaning of Article 3(d) of that regulation.

([1]) OJ C 194, 24.6.2014.

Judgment of the Court (Grand Chamber) of 16 July 2015 (request for a preliminary ruling from the High Court of Ireland — Ireland) — Kuldip Singh, Denzel Njume, Khaled Aly v Minister for Justice and Equality

(Case C-218/14) ([1])

(Reference for a preliminary ruling — Directive 2004/38/EC — Article 13(2)(a) — Right of residence of family members of a Union citizen — Marriage between a Union citizen and a third-country national — Retention of the right of residence of a third-country national after the departure of the Union citizen from the host Member State, followed by divorce — Article 7(1)(b) — Sufficient resources — Taking into account the resources of the spouse who is a third-country national — Right of third-country nationals to work in the host Member State in order to contribute to obtaining sufficient resources)

(2015/C 302/11)

Language of the case: English

Referring court

High Court of Ireland

Parties to the main proceedings

Applicants: Kuldip Singh, Denzel Njume, Khaled Aly

Defendant: Minister for Justice and Equality

Intervener: Immigrant Council of Ireland

Operative part of the judgment

1. *Article 13(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC must be interpreted as meaning that a third-country national, divorced from an Union citizen, whose marriage lasted for at least three years before the commencement of divorce proceedings, including at least one year in the host Member State, cannot retain a right of residence in that Member State on the basis of that provision where the commencement of the divorce proceedings is preceded by the departure from that Member State of the spouse who is an Union citizen.*

2. *Article 7(1)(b) of Directive 2004/38 must be interpreted as meaning that an Union citizen has sufficient resources for himself and his family members not to become a burden on the social assistance system of the host Member State during his period of residence even where those resources derive in part from those of his spouse who is a third-country national.*

(1) OJ C 223, 14.7.2014.

Judgment of the Court (Fourth Chamber) of 16 July 2015 (request for a preliminary ruling from the Symvoulio tis Epikrateias (Greece)) — Konstantinos Maïstrellis v Ypourgos Dikaiosynis, Diafaneias kai Anthropinon Dikaiomaton

(Case C-222/14) (1)

(References for a preliminary ruling — Social policy — Directive 96/34/EC — Framework agreement on parental leave — Clause 2.1 — Individual right to parental leave on the grounds of the birth of a child — National legislation denying the right to such leave for a staff member whose wife does not work — Directive 2006/54/EC — Equal treatment of men and women in matters of employment and occupation — Articles 2(1)(a) and 14(1)(c) — Working conditions — Direct discrimination)

(2015/C 302/12)

Language of the case: Greek

Referring court

Symvoulio tis Epikrateias

Parties to the main proceedings

Applicant: Konstantinos Maïstrellis

Defendant: Ypourgos Dikaiosynis, Diafaneias kai Anthropinon Dikaiomaton

Operative part of the judgment

The provisions of Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC, as amended by Council Directive 97/75/EC of 15 December 1997, and Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, must be interpreted as precluding national provisions under which a civil servant is not entitled to parental leave in a situation where his wife does not work or exercise any profession, unless it is considered that due to a serious illness or injury the wife is unable to meet the needs related to the upbringing of the child.

(1) OJ C 235, 21.7.2014.

Judgment of the Court (Second Chamber) of 16 July 2015 (request for a preliminary ruling from the Kecskeméti Közigazgatási és Munkaügyi Bíróság — Hungary) — Robert Michal Chmielewski v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Vám- és Pénzügyőri Főigazgatósága

(Case C-255/14) (1)

(Reference for a preliminary ruling — Regulation (EC) No 1889/2005 — Controls of cash entering or leaving the European Union — Articles 3 and 9 — Obligation to declare — Infringement — Penalties — Proportionality)

(2015/C 302/13)

Language of the case: Hungarian

Referring court

Kecskeméti Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Robert Michal Chmielewski

Defendant: Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Vám- és Pénzügyőri Főigazgatósága

Operative part of the judgment

Article 9(1) of Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which, in order to penalise a failure to comply with the obligation to declare laid down in Article 3 of that regulation, imposes payment of an administrative fine, the amount of which corresponds to 60 % of the amount of undeclared cash, where that sum is more than EUR 50 000.

([1]) OJ C 303, 8.9.2014.

Judgment of the Court (Third Chamber) of 16 July 2015 (request for a preliminary ruling from the Gerechtshof Den Haag (Netherlands)) — TOP Logistics BV, Van Caem International BV v Bacardi & Company Ltd, Bacardi International Ltd and Bacardi & Company Ltd, Bacardi International Ltd v TOP Logistics BV, Van Caem International BV

(Case C-379/14) ([1])

(Reference for a preliminary ruling — Trade marks — Directive 89/104/EEC — Article 5 — Products bearing a trade mark released for free circulation and placed under the duty suspension arrangement without the consent of the proprietor of the trade mark — Right of that proprietor to oppose that placing — Definition of 'using in the course of trade')

(2015/C 302/14)

Language of the case: Dutch

Referring court

Gerechtshof Den Haag

Parties to the main proceedings

Applicants: TOP Logistics BV, Van Caem International BV, Bacardi & Company Ltd, Bacardi International Ltd

Defendants: Bacardi & Company Ltd, Bacardi International Ltd, TOP Logistics BV, Van Caem International BV

Operative part of the judgment

Article 5 of the First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks must be interpreted as meaning that the proprietor of a trade mark registered in one or more Member States may oppose a third party placing goods bearing that trade mark under the duty suspension arrangement after they have been introduced into the EEA and released for free circulation without the consent of that proprietor.

([1]) OJ C 388, 3.11.2014.

Judgment of the Court (Grand Chamber) of 16 July 2015 (request for a preliminary ruling from the High Court of Ireland (Ireland)) — Minister for Justice and Equality v Francis Lanigan

(Case C-237/15 PPU) ([1])

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Charter of Fundamental Rights of the European Union — Article 6 — Right to liberty and security — Police and judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant — Obligation to execute the European arrest warrant — Article 12 — Keeping the requested person in detention — Article 15 — Surrender decision — Article 17 — Time-limits and detailed procedure for the decision on execution — Consequences of a failure to observe the time-limits)

(2015/C 302/15)

Language of the case: English

Referring court

High Court of Ireland

Parties to the main proceedings

Applicant: Minister for Justice and Equality

Defendant: Francis Lanigan

Operative part of the judgment

Articles 15(1) and 17 of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as meaning that the executing judicial authority remains required to adopt the decision on the execution of the European arrest warrant after expiry of the time-limits stipulated in Article 17.

Article 12 of that Framework Decision, read in conjunction with Article 17 thereof and in the light of Article 6 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding, in such a situation, the holding of the requested person in custody, in accordance with the law of the executing Member State, even if the total duration for which that person has been held in custody exceeds those time-limits, provided that that duration is not excessive in the light of the characteristics of the procedure followed in the case in the main proceedings, which is a matter to be ascertained by the national court. If the executing judicial authority decides to bring the requested person's custody to an end, that authority is required to attach to the provisional release of that person any measures it deems necessary so as to prevent him from absconding and to ensure that the material conditions necessary for his effective surrender remain fulfilled for as long as no final decision on the execution of the European arrest warrant has been taken.

([1]) OJ C 236, 20.7.2015.

Appeal brought on 3 March 2015 by Internationaler Hilfsfonds e.V. against the order of the General Court (Second Chamber) of 9 January 2015 in Case T-482/12 *Internationaler Hilfsfonds* v *Commission*

(Case C-103/15 P)

(2015/C 302/16)

Language of the case: German

Parties

Appellant: Internationaler Hilfsfonds e.V. (represented by: H.-H. Heyland, Rechtsanwalt)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the order of the General Court of 9 January 2015;

— refer the case back to the General Court for purposes of a decision;

— order the Commission to pay the costs.

Pleas in law and main arguments

The appeal is brought pursuant to Article 56 of the Statute of the Court of Justice against the order of the General Court of 9 January 2015 in Case T-482/12. In that order, the General Court dismissed Internationaler Hilfsfonds e.V.'s application brought against the European Commission as inadmissible on the ground of incomplete production of documents and pleas in law. However, in accordance with the requirements laid down in the judgment of 22 May 2012 in Case T-300/10, the Commission was, apart from some exceptions, obliged to provide the appellant with complete documentation from the file concerning the LIEN-Contract 97-2011. Those requirements were not complied with: instead, the Commission provided numerous documents with blank spaces and passages that had been struck out, and failed entirely to produce a number of documents. In its application of 27 October 2012, Internationaler Hilfsfonds e.V. had comprehensively set out its objections, providing and referring to the letter of 27 July 2012 that it had addressed to the Commission and in which it requested the latter to take the consequential measures necessary pursuant to Article 266 TFEU, read in conjunction with the sixth paragraph of Article 254 TFEU. It also provided the General Court with the correspondence between the parties that resulted from that letter and, in addition, annexed that correspondence to its application.

The appellant submits that, in its order which is the subject of the present appeal, the General Court alleged that the application did not satisfy the formal requirements laid down in Article 44(1)(c) of the Rules of Procedure and that the pleas in law had not been sufficiently stated. The appellant disputes this, submitting that it had not only succinctly set out the background to the application, the grounds thereof and all relevant information but had also done so in detail, which was by itself adequate to enable the General Court to comprehend the subject-matter of the action. The appellant takes issue, in particular, with the fact that the General Court also dismissed, as being inadmissible, its alternative head of claim requesting the General Court to annul in part the Commission's decision of 28 August 2012 (by which the Commission handed over the incomplete documentation) — although in that regard the General Court took cognisance of the corresponding plea in law.

In addition, the appellant claims that the General Court regarded the documents submitted by the appellant in annex form as being mere general references and did not take cognisance of them, even though they helped to clarify the pleas in law and documents in its application and for that reason constituted an integral part of the application. The appellant also takes issue with the General Court's view that the appellant's reply was ineffective even though, in accordance with the Rules of Procedure, the appellant had submitted that reply in order to supplement its application, and that it clarified its arguments and provided all of the contested documents. The appellant claims that the General Court erred in law in the order under appeal, which, it submits, is based on serious procedural errors and by which the General Court infringed the appellant's right to an effective legal remedy.

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 22 May 2015 — Autorità per le Garanzie nelle Comunicazioni v Istituto Nazionale di Statistica — ISTAT and Others

(Case C-240/15)

(2015/C 302/17)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Autorità per le Garanzie nelle Comunicazioni

Respondents: Istituto Nazionale di Statistica — ISTAT, Presidenza del Consiglio dei Ministri, Ministry of Economy and Finance

Question referred

Do the impartiality, financial autonomy and organisational independence which national regulatory authorities must be granted under Article 3 of Directive 2002/21/EC ([1]) and the substantial self-financing of such authorities referred to in Article 12 of Directive 2002/20/EC ([2]) preclude national legislation (such as that relevant to the present proceedings) which additionally makes such authorities subject, in general, to legislation on public finance and, in particular, to specific provisions relating to containing and streamlining expenditure incurred by public administrative authorities?

([1]) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ 2002 L 108, p. 33).

([2]) Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ 2002 L 108, p. 21).

Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on 1 June 2015 — Drago Nemec v Republic of Slovenia

(Case C-256/15)

(2015/C 302/18)

Language of the case: Slovene

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Applicant: Drago Nemec

Defendant: Republic of Slovenia

Questions referred

1. Is the third subparagraph of Article 2(1) of Directive 2000/35 ([1]) to be interpreted as meaning that, in a system in which, for the purposes of engaging in an economic activity, a natural person is granted authorisation stating the activity for which authorisation is granted, there is no undertaking, nor, therefore, any commercial transaction within the meaning of the above-mentioned provision of the Directive, when the legal transaction giving rise to late payment relates to an activity not covered by the authorisation?

   If the reply to the above question is in the negative:

2. Is the third subparagraph of Article 2(1) of Directive 2000/35 to be interpreted as meaning that a natural person is deemed to be an undertaking and the legal transaction giving rise to late payment constitutes a commercial transaction within the meaning of that provision, when the legal transaction does not fall within the activity registered by the said natural person but stems from an activity which, by its nature, may be an economic activity, and an invoice has been issued for that transaction?

3. Does the rule that interest on late payment ceases to run when the amount of accrued and unpaid interest equals the principal amount owed (the rule *ne ultra alterum tantum*) run counter to the provisions of Directive 2000/35?

(1) Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions (OJ 2000 L 200, p. 35).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 11 June 2015 — Beca Engineering Srl v Ministero dell'Interno

(Case C-285/15)

(2015/C 302/19)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Beca Engineering Srl

Defendant: Ministero dell'Interno

Question referred

Does Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products (1), as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 (2), preclude the requirement that flues must 'be constructed using non-combustible materials', in accordance with the requirements of Schedule IX to the Fifth Part, Part II, of Legislative Decree No 152 of 3 April 2006 regarding 'civil heating systems', which has not been notified?

(1) OJ 1989 L 40, p. 12.
(2) Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 adapting to Council Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in instruments subject to the procedure referred to in Article 251 of the EC Treaty (OJ 2003 L 284, p. 1).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 12 June 2015 — Società LIS Srl, Società Cerutti Lorenzo Srl v Abbanoa SpA

(Case C-287/15)

(2015/C 302/20)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: Società LIS Srl, Società Cerutti Lorenzo Srl

Respondent: Abbanoa SpA

Questions referred

1. Is it compatible with Article 45(2)(a) and (b) of Directive 2004/18/EC of 31 March 2004 ([1]) for a debtor which has merely made a request to the competent judicial body to enter into an arrangement with creditors to be regarded as being the subject of proceedings?

2. Is it compatible with the abovementioned provision for the fact that the debtor has declared that it is in a state of insolvency and wishes to submit a preliminary request (the features of which are described above) to enter into an arrangement with creditors to be regarded as grounds for excluding a debtor from a public tendering procedure, thereby interpreting broadly the concept of being 'the subject of proceedings' established by the provisions of Community law (Article 45 of the directive) and of national law (Article 38 of Legislative Decree No 163/2006) law, cited above?

3. Is a provision such as that of Article 53(3) of Legislative Decree No 163 of 16 April 2006, analysed above, that allows the participation of an undertaking with a 'named' design engineer which, since it is not a itself a tenderer, may not, according to national case-law, rely on the capacity of others, compatible with Article 48 of Directive 2004/18/EC of 31 March 2004?

([1]) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).

Appeal brought on 15 June 2015 by Slovenská pošta a.s. against the judgment of the General Court (Ninth Chamber) delivered on 25 March 2015 in Case T-556/08: Slovenská pošta v Commission

(Case C-293/15 P)

(2015/C 302/21)

Language of the case: English

Parties

Appellant: Slovenská pošta a.s. (represented by: O. W. Brouwer and A.A.J. Pliego Selie, advocaten)

Other parties to the proceedings: European Commission, Slovak Republic, Cromwell a.s., Slovak Mail Services a.s., Prvá Doručovacia, a.s., ID Marketing Slovensko s.r.o. (formerly TNT Post Slovensko s.r.o.)

Form of order sought

The Appellant respectfully requests the Court of Justice to:

1) set aside the contested judgment either in part or in full and pass final judgment on the appeal, annulling the contested decision in full or in part, or — in the alternative — refer the case back to the General Court;

and

2) order the Commission to pay the costs of the proceedings before the General Court and the Court of Justice including the costs of the intervening parties.

Pleas in law and main arguments

The General Court dismissed the application for annulment in relation to the Commission of the European Union's decision of 7 October 2008 on the Slovakian postal legislation relating to hybrid mail services C(2008) 5912, addressed to the Slovak Republic.

Slovenská pošta a.s. respectfully requests the Court of Justice to:

(i) Set aside, in whole or in part, the aforementioned judgment of the General Court on the following grounds:

i. First Ground: Errors of law, application of an erroneous standard of proof and misallocation of the burden of proof in finding that the Slovak Republic infringed Article 86(1) read in conjunction with Article 82EC;

a. Errors of law in finding that providing an exclusive right can in itself constitute an infringement of Article 86(1) EC read in conjunction with Article 82 EC;

b. Errors of law, applying an erroneous standard of proof and misallocating the burden of proof in finding that the Slovak Republic has infringed Article 86(1) in conjunction with Article 82 EC by limiting output to end-users.

ii. Second Ground: Errors of law, insufficient standard of review and distortion of evidence in reviewing and accepting the relevant market definition submitted by the Commission of the European Union;

a. Error of law and insufficient standard of review in accepting that a relevant market of integrated hybrid mail services could be defined based on the (alleged) existence of demand and supply of a service alone;

b. Distortion of the evidence and application of insufficient standard of review in finding that prevailing demand on the market could be derived from the evidence submitted by the Commission.

(ii) Deliver final judgment on the appeal, annulling the contested decision in full or in part, or — in the alternative — refer the case back to the General Court;

(iii) Order the European Commission to pay the costs of the proceedings before the General Court and the Court of Justice including the costs of the intervening parties.

Appeal brought on 12 June 2015 by Matratzen Concord GmbH against the judgment of the General Court (Sixth Chamber) delivered on 16 April 2015 in Case T-258/13 *Matratzen Concord* v *Office for Harmonisation in the Internal Market (Trade Marks and Designs)*

(Case C-295/15 P)

(2015/C 302/22)

Language of the case: German

Parties

Appellant: Matratzen Concord GmbH (represented by: I. Selting, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), KBT & Co. Ernst Kruchen agenzia commerciale sociétá in accomandita

Form of order sought

The appellant claims that the Court of Justice should:

— set aside the decision of the Sixth Chamber of the General Court of 16 April 2015 in Case T-258/13 concerning the cancellation of the Community trade mark 281 86 80 'Arktis' due to lack of genuine use;

— order the respondent to pay the costs of the proceedings including the costs incurred in the course of the proceedings.

Pleas in law and main arguments

The appellant alleges the following errors of law in the decision of the General Court:

The General Court wrongly took into account the sales figures of the company Breiding in favour of the contested mark. The number of items sold by the company Breiding during the period at issue from 2006 to 2009 should not have been taken into account.

When examining the genuine use, the General Court wrongly took into account not the goods marked 'Arktis' but the goods marked 'Arktis Line' and took the view that the addition 'Line' is exclusively descriptive.

In addition, the General Court exercised its discretion wrongly in finding that there was genuine use of the contested mark although the trade mark proprietor's goods turnovers were extremely small.

Lastly, the General Court did not have regard to the fact that the genuine use at issue concerns 'bedding' and 'bed blankets'. However, the trade mark proprietor submitted evidence only of use of the mark for 'bed blankets' and not for other bedding such as pillows and mattresses. For this reason at least 'bedding' must be cancelled from the mark.

Action brought on 19 June 2015 — European Commission v United Kingdom of Great Britain and Northern Ireland

(Case C-304/15)

(2015/C 302/23)

Language of the case: English

Parties

Applicant: European Commission (represented by: K. Mifsud-Bonnici, S. Petrova, Agents)

Defendant: United Kingdom of Great Britain and Northern Ireland

The applicant claims that the Court should:

— declare that, by failing to correctly apply the Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants ([1]) with regard to the Aberthaw Power Station in Wales, the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under Article 4(3), read in conjunction with Annex VI, Part A, of Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants;

— order the United Kingdom of Great Britain and Northern Ireland to pay the costs.

Pleas in law and main arguments

The Commission takes the view that the United Kingdom has failed to correctly apply Article 4(3), read in conjunction with Part A of Annex VI to the Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants with regard to the Aberthaw Power Station. The Aberthaw Power Station, a coal-fired combustion plant with a rated thermal input of 4 090 MWth, thus entering the category of installations with a capacity exceeding 500 MWth, exceeds the applicable emission limit value for nitrogen oxides (NOx) under Article 4(3) of the said Directive as read together with its Article 14(1)(a) and Annex VI, Part A. Pursuant to the applicable provisions, the United Kingdom must ensure that a plant of this capacity, from 1 January 2008, does not exceed the limit value of 500 mg/Nm3 for NOx, reducing it to 200 mg/Nm3 as of January 2016. However, the plant's emission limit value as set out in its permit is currently 1 050 mg/Nm3 for NOx.

([1]) OJ L 309, p. 1

Appeal brought on 24 June 2015 by SolarWorld AG against the order of the General Court (Fifth Chamber) delivered on 14 April 2015 in Case T-393/13: SolarWorld AG v European Commission

(Case C-312/15 P)

(2015/C 302/24)

Language of the case: English

Parties

Appellant: SolarWorld AG (represented by: L. Ruessmann, avocat, J. Beck, Solicitor)

Other parties to the proceedings: European Commission, Solsonica SpA

Form of order sought

The applicant claims that the Court should:

— Declare the Appeal admissible and well-founded;

— Set aside the General Court's order in Case T-393/13 with regard to the General Court's findings that there is no longer a need to adjudicate the Applications for annulment and damages;

— Declare the Application for annulment and the action for damages in Case T-393/13 admissible; and

— Refer the case back to the General Court for a decision on the substance of the Application for annulment and the action for damages.

Pleas in law and main arguments

The appellant submits that the General Court manifestly erred in finding that there was no longer a need to adjudicate on its action for annulment and its action for damages.

Appeal brought on 3 July 2015 by Johannes Tomana and others against the judgment of the General Court (Eighth Chamber) delivered on 22 April 2015 in Case T-190/12: Johannes Tomana and others v Council of the European Union, European Commission

(Case C-330/15 P)

(2015/C 302/25)

Language of the case: English

Parties

Appellants: Johannes Tomana and others (represented by: M. O'Kane, Solicitor, M. Lester, Z. Al-Rikabi, Barristers)

Other parties to the proceedings: Council of the European Union, European Commission, United Kingdom of Great Britain and Northern Ireland

Form of order sought

The Appellants ask the Court for an order setting aside the judgment of the General Court, an order annulling the Contested Measures in so far as they apply to the Appellants, and an order that the Respondents should pay the Appellants' costs at first instance and of the appeal.

Pleas in law and main arguments

First plea: The Court erred in holding that the Contested Regulation had a valid legal basis. Its only stated legal basis empowered the Commission to amend Regulation 314/2004 ([1]) on the basis of a Common Position that had since been repealed, and which could not be interpreted as referring instead to a subsequent decision.

Second plea: The Court erred in considering that people could be listed in the Contested Measures on the basis that they are 'members of the Government' or their 'associates' solely by virtue of their occupations or former occupations. Moreover, the Court erred in considering that people should be deemed to be 'associates' of members of the Government on the basis that allegations that they had engaged in conduct said to undermine the rule of law, democracy or human rights in Zimbabwe in the past showed that they had 'colluded' with the Government. The Court should not have permitted the Respondents to have relied on presumptions that were not provided for in the Contested Measures and were inconsistent with and disproportionate to their objectives, but should have required them to have discharged their burden of justifying re-listings with a sufficiently solid factual basis.

Third plea: The Court erred in concluding that the statement of reasons was sufficient where it simply listed the occupations said to have been held by members of the Government and their associates, or where it set out vague and unparticularised allegations of past misconduct. The Court also erred in having permitted the reasons to have been supplemented with additional ex post facto reasons stated nowhere in the Contested Measures. When a number of the Appellants submitted observations refuting the allegations against them, the Court incorrectly and unfairly held their evidence to be inadmissible and did not consider it.

Fourth plea: The Court departed from the settled case law on rights of defence by holding that the Respondents were not required to communicate evidence or the basis for maintaining a listing, or give an opportunity for the Appellants to make observations, prior to their decisions to re-list each of the Appellants.

Fifth plea: The Court failed to assess whether listing each of the Appellants struck a proportionate balance between the serious infringement of their fundamental rights and the objectives of the Contested Measures.

([1]) Council Regulation (EC) No 314/2004 of 19 February 2004 concerning certain restrictive measures in respect of Zimbabwe. OJ L 55, p. 1

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 6 July 2015 — María Pilar Planes Bresco v Comunidad Autónoma de Aragón

(Case C-333/15)

(2015/C 302/26)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Appellant: María Pilar Planes Bresco

Respondent: Comunidad Autónoma de Aragón

Questions referred

1. Must Articles 43 and 44 of Council Regulation (EC) No 1782/2003 ([1]) of 29 September 2003 be interpreted as precluding national legislation which excludes from treatment as eligible hectares all areas of permanent pasture declared by a farmer in excess of those taken into account at the relevant time for the purpose of determining the normal entitlements due to that farmer, making the inclusion of those areas, and therefore the replacement of arable land with pasture, conditional on the pasture being genuinely given over to the rearing of livestock in the specific financial year in respect of which the farmer seeks to activate the payment entitlements?

   And, should that question be answered in the negative,

2. Must Article 29 of Council Regulation (EC) No 1782/2003 of 29 September 2003, in excluding payments under support schemes for beneficiaries of such schemes 'for whom it is established that they artificially created the conditions required for obtaining such payments with a view to obtaining an advantage contrary to the objectives of that support scheme', be interpreted as not permitting States to adopt general measures which reduce the number of 'eligible hectares' (of permanent pasture) in which the beneficiary will be presumed to have artificially created the conditions required for obtaining payment by laying down general situations in which the beneficiary will be presumed to have artificially created the conditions required for obtaining payment, without establishing, specifically and in relation to a particular farmer, the activity carried on by that farmer and his conduct?

([1]) Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 OJ 2003 L 270, p. 1.

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 6 July 2015 — María Pilar Planes Bresco v Comunidad Autónoma de Aragón

(Case C-334/15)

(2015/C 302/27)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Appellant: María Pilar Planes Bresco

Respondent: Comunidad Autónoma de Aragón

Questions referred

1. Must Articles 43 and 44 of Council Regulation (EC) No 1782/2003 ([1]) of 29 September 2003 be interpreted as precluding national legislation which excludes from treatment as eligible hectares all areas of permanent pasture declared by a farmer in excess of those which were taken into account at the relevant time for the purpose of determining the normal entitlements due to that farmer, making the inclusion of those areas, and therefore the replacement of arable land with pasture, conditional on the pasture being genuinely given over to the rearing of livestock in the specific financial year in respect of which the farmer seeks to activate the payment entitlements?

   And, should that question be answered in the negative,

2. Must Article 29 of Council Regulation (EC) No 1782/2003 of 29 September 2003, in so far as it excludes payments under support schemes for beneficiaries of such schemes 'where it is established that they artificially created the conditions required for obtaining such payments with a view to obtaining an advantage contrary to the objectives of that support scheme', be interpreted as not permitting States to adopt general measures which reduce the number of 'eligible hectares' (of permanent pasture) by laying down general situations in which the beneficiary will be presumed to have artificially created the conditions required for obtaining payment without establishing, specifically and in relation to a particular farmer, the activity carried on by that farmer and his conduct?

([1]) Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001
OJ 2003 L 270, p. 1.

Appeal brought on 9 July 2015 by Steinbeck GmbH against the judgment of the General Court (Fifth Chamber) delivered on 30 April 2015 in Joined Cases T-707/13 and T-709/13 *Steinbeck GmbH* v *Office for Harmonisation in the Internal Market (Trade Marks and Designs)*

(Case C-346/15 P)

(2015/C 302/28)

Language of the case: German

Parties

Appellant: Steinbeck GmbH (represented by: M. Heinrich and M. Fischer, lawyers)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Alfred Sternjakob GmbH & Co. KG

Form of order sought

The appellant claims that the Court should:

— Set aside the judgment of the General Court delivered on 30 April 2015 in Joined Cases T-707/13 and T-709/13;

— Order the defendant to pay the costs.

Grounds of appeal and main arguments

The appellant considers that the judgment under appeal is in breach of Article 7(1)(b) of Regulation No 207/2009 ([1]):

1. The single ground stated by the General Court for holding that the mark 'BE HAPPY' lacked distinctive character was that it could be perceived as an advertising slogan. That is directly contradictory to the case-law of the Court of Justice of the European Union, according to which that alone is not sufficient to exclude distinctive character.

2. The General Court failed further to set out any specific connection between the mark 'BE HAPPY' and the goods for which that mark was to be registered which did not require some interpretation by the relevant public. On the contrary an arbitrary link between the goods and the sign was made, which, even if it were correct, required an effort of interpretation from the relevant public.

3. The General Court thereby erred in law in applying the criteria for the assessment of the distinctive character of the mark 'BE HAPPY'.

([1]) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (codified version) (OJ 2009 L 78, p. 1).

Request for a preliminary ruling from the Audiencia Provincial de Castellón (Spain) lodged on 10 July 2015 — Banco Popular Español, S.A. v Elena Lucaciu and Cristian Laurentiu Lucaciu

(Case C-349/15)

(2015/C 302/29)

Language of the case: Spanish

Referring court

Audiencia Provincial de Castellón

Parties to the main proceedings

Appellant: Banco Popular Español, S.A.

Respondents: Elena Lucaciu and Cristian Laurentiu Lucaciu

Questions referred

1. Is it compatible with Articles 6(1) and 7(1) of Directive 93/13/EEC ([1]) to limit in time the effects of the nullity of a term declared null and void because unfair?

2. If such a limitation of the effects is held to be compatible with the EU legislation, specifically Articles 6(1) and 7(1) of Directive 93/13/EEC on unfair terms in consumer contracts, on the grounds that those concerned acted in good faith and that there is a risk of serious difficulties:

   a) What is meant by serious difficulties justifying the limitation of the effects?

   b) Must the risk of serious difficulties be duly established in the court proceedings in which it is invoked or, on the other hand, may the general assessment by the court of that risk be sufficient where there is no specific data on which to base that assessment?

([1]) OJ 1993 L 25, p. 29.

Request for a preliminary ruling from the Corte di Appello di Bari (Italy) lodged on 13 July 2015 — Leonmobili Srl, Gennaro Leone v Homag Holzbearbeitungssysteme GmbH and Others

(Case C-353/15)

(2015/C 302/30)

Language of the case: Italian

Referring court

Corte di Appello di Bari

Parties to the main proceedings

Applicants: Leonmobili Srl, Gennaro Leone

Defendants: Homag Holzbearbeitungssysteme GmbH, Curatela del Fallimento Leonmobili Srl, ICO Srl, Arturo Salice SpA, Grafiche Ricciarelli di Ricciarelli Bernardino, Deutsche Bank SpA, Fida Srl, Elica SpA

Questions referred

a) In the absence of any establishment in another Member State may the presumption provided for by the last part of Article 3(1) and Article 3(2) of Council Regulation (EC) No 1346/2000 ([1]) be rebutted in a challenge to jurisdiction by evidence that the centre of main interests of a company is in a different State from the one where the company has its registered office.

b) If the answer to the preceding question is in the affirmative, may that evidence be derived from another presumption, that is to say, from the assessment of information from which it can be logically deduced that the centre of main interests is in another Member State.

([1]) Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ 2000 L 160, p. 1).

Request for a preliminary ruling from the Tribunal da Relação de Évora (Portugal) lodged on 13 July 2015 — Andrew Marcus Henderson v Novo Banco SA

(Case C-354/15)

(2015/C 302/31)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Évora

Parties to the main proceedings

Appellant: Andrew Marcus Henderson

Respondent: Novo Banco SA

Questions referred

1. Where a Portuguese court hearing a civil action against an individual residing in another Member State of the European Union has ordered that notice of service of those proceedings be served on that individual by registered letter with acknowledgment of receipt, and the corresponding acknowledgment of receipt has not been returned, may the Portuguese court consider, in the light of the above Regulation [EC 1393/2007] ([1]) and the principles underlying it, that such service was effected, on the basis of the documents of the postal authority of the state in which the addressee of the letter resides which prove that the registered letter with acknowledgment of receipt was delivered to the addressee?

2. Does the application of Article 230 of the Portuguese Code of Civil Procedure, in the case referred to the first question, infringe the Regulation and the principles underlying it?

3. Does the application of Article 191(2) of the Portuguese Code of Civil Procedure in the present case infringe the Regulation and principles underlying it?

(1) Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 (OJ 2007 L 324, p. 79).

Action brought on 13 July 2015 — European Commission v Kingdom of Belgium

(Case C-356/15)

(2015/C 302/32)

Language of the case: French

Parties

Applicant: European Commission (represented by: D. Martin, acting as Agent)

Defendant: Kingdom of Belgium

Form of order sought

— Declare that by adopting Articles 23 and 24 of the programme law of 27 December 2012, the Kingdom of Belgium has failed to fulfil its obligations under Articles 11, 12 and 76(6) of Regulation (EC) No 883/2004 (1) of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, Article 5 of Regulation (EC) No 987/2009 (2) of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 and Decision Al of the Administrative Commission for the Coordination of Social Security Systems (3).

— order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

With the adoption of Articles 23 and 24 of the programme law of 27 December 2012, the Commission considers that the Kingdom of Belgium has infringed Articles 11, 12 and 76 of Regulation (EC) No 883/2004 and Article 5 of Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004, and Decision Al of the Administrative Commission for the Coordination of Social Security Systems by failing to recognise the binding nature of a document issued by the Member State of origin of a posted worker attesting that he is subject to the social security legislation of that Member State.

(1) OJ 2004 L 166, p. 1.
(2) OJ 2009 L 284, p. 1.
(3) OJ C 106 of 24.4.2010, p. 1.

Request for a preliminary ruling from the Audiencia Provincial de Zamora (Spain) lodged on 17 July 2015 — Javier Ángel Rodríguez Sánchez v Caja España de Inversiones, Salamanca y Soria, S.A. U. (Banco CEISS)

(Case C-381/15)

(2015/C 302/33)

Language of the case: Spanish

Referring court

Audiencia Provincial de Zamora

Parties to the main proceedings

Applicant: Javier Ángel Rodríguez Sánchez

Defendant: Caja España de Inversiones, Salamanca y Soria, S.A.U. (Banco CEISS)

Questions referred

1) Is a situation where a declaration that a floor clause in a mortgage loan contract is unfair and therefore void takes effect, not from the date of the conclusion of the contract, but from a later date contrary to Article 6(1) of Council Directive 93/13/EEC ([1]) of 5 April 1993 on unfair terms in consumer contracts?

2) Does the application of the unfair term for the period of time laid down by the Spanish Tribunal Supremo give rise to unjust enrichment for the professional contractor, not allowed by the Community legislation in so far as it does not restore a balance between the parties and benefits the party to the contract who imposed the financial term held to be unfair?

3) Is the criterion of the risk of severe disruptions to the national economy, to be met for limiting the application and effects of an unfair term, applicable to an individual action brought by a consumer or, on the contrary, in that individual action, does the criterion of risk of serious disruption refer to that caused to the financial position of the consumer as a result of the limitation of the effects of the term declared void to the period specified?

([1]) OJ 1993 L 95, p. 29.

Action brought on 20 July 2015 — European Commission v Hungary

(Case C-392/15)

(2015/C 302/34)

Language of the case: Hungarian

Parties

Applicant: European Commission (represented by: H. Støvlbæk and Talabér-Ritz K., acting as Agents)

Defendant: Hungary

Form of order sought

— Declare that Hungary has failed to fulfil its obligations under Article 49 of the Treaty on the Functioning of the European Union by making the exercise of the profession of notary public subject to a nationality requirement.

— Order Hungary to pay the costs.

Pleas in law and main arguments

The Commission considers that a nationality requirement for the exercise of the profession of notary public is discriminatory and constitutes a disproportionate restriction on the freedom of establishment. Hungary has failed thereby to fulfil its obligations under Article 49 of the Treaty on the Functioning of the European Union.

The Commission considers that the tasks conferred by Hungarian legislation on notaries public, by their nature, are not related to the exercise of the powers of a public authority, so that the derogation provided for in Article 51 of the Treaty on the Functioning of the European Union cannot justify nationality as a requirement for access to the profession of notary public.

Request for a preliminary ruling from the Cour administrative (Luxembourg) lodged on 24 July 2015 — Noémie Depesme, Saïd Kerrou v Ministre de l'Enseignement supérieur et de la recherche

(Case C-401/15)

(2015/C 302/35)

Language of the case: French

Referring court

Cour administrative

Parties to the main proceedings

Appellants: Noémie Depesme, Saïd Kerrou

Respondent: Ministre de l'Enseignement supérieur et de la recherche

Questions referred

In order properly to meet the requirements of non-discrimination under Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 ([1]) on freedom of movement for workers within the Union, together with Article 45(2) TFEU, when taking into account the actual degree of attachment of a non-resident student, who has applied for financial aid for higher-education studies, with the society and with the labour market of Luxembourg, the Member State in which a frontier worker has been employed or has carried out his activity in the conditions referred to in Article 2 *bis* of the Law of 22 June 2000 on State financial aid for higher-education studies, as added by the Law of 19 July 2013 in direct consequence of the judgment of the Court of Justice of the European Union of 20 June 2013 (Case C-20/12) ([2]),

— should the requirement that the student be the 'child' of that frontier worker be taken to mean that the student must be the frontier worker's 'direct descendant in the first degree whose relationship with his parent is legally established', with the emphasis being placed on the child-parent relationship established between the student and the frontier worker, which is supposed to underlie the abovementioned attachment, or

— should the emphasis be placed on the fact that the frontier worker 'continues to provide for the student's maintenance' without necessarily being connected to the student through a legal child-parent relationship, in particular where a sufficient link of communal life can be identified, of such a kind as to establish a connection between the frontier worker and one of the parents of the student with whom the child-parent relationship is legally established?

— From the latter perspective, where the contribution — presumably, non-compulsory — of the frontier worker is not exclusive but made in parallel with that of the parent or parents connected with the student through a legal child-parent relationship, and therefore in principle under a legal duty to maintain the student, must that contribution satisfy certain criteria as regards its substance?

([1]) OJ 2011 L 141, p. 1.
([2]) EU:C:2013:411.

Request for a preliminary ruling from the Cour administrative (Luxembourg) lodged on 24 July 2015 — Adrien Kauffmann v Ministre de l'Enseignement supérieur et de la recherche

(Case C-402/15)

(2015/C 302/36)

Language of the case: French

Referring court

Cour administrative

Parties to the main proceedings

Appellant: Adrien Kauffmann

Respondent: Ministre de l'Enseignement supérieur et de la recherche

Questions referred

In order properly to meet the requirements of non-discrimination under Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 ([1]) on freedom of movement for workers within the Union, together with Article 45(2) TFEU, when taking into account the actual degree of attachment of a non-resident student, who has applied for financial aid for higher-education studies, with the society and with the labour market of Luxembourg, being the Member State in which a frontier worker has been employed or has carried out his activity in the conditions referred to in Article 2 *bis* of the Law of 22 June 2000 on State financial aid for higher-education studies, as added by the Law of 19 July 2013 in direct consequence of the judgment of the Court of Justice of the European Union of 20 June 2013 (Case C-20/12) ([2]),

— should the requirement that the student be the 'child' of that frontier worker be taken to mean that he must be the frontier worker's 'direct descendant in the first degree whose relationship with his parent is legally established', with the emphasis being placed on the child-parent relationship established between the student and the frontier worker, which is supposed to underlie the abovementioned attachment, or

— should the emphasis be placed on the fact that the frontier worker 'continues to provide for the student's maintenance' without necessarily being connected to the student through a legal child-parent relationship, in particular where a sufficient link of communal life can be identified, of such a kind as to establish a connection between the frontier worker and one of the parents of the student with whom the child-parent relationship is legally established?

— From the latter perspective, where the contribution — presumably, non-compulsory — of the frontier worker is not exclusive but made in parallel with that of the parent or parents connected with the student through a legal child-parent relationship, and therefore in principle under a legal duty to maintain the student, must that contribution satisfy certain criteria as regards its substance?

([1]) OJ 2011 L 141, p. 1.
([2]) EU:C:2013:411.

Request for a preliminary ruling from the Cour administrative (Luxembourg) lodged on 24 July 2015 — Maxime Lefort v Ministre de l'Enseignement supérieur et de la recherche

(Case C-403/15)

(2015/C 302/37)

Language of the case: French

Referring court

Cour administrative

Parties to the main proceedings

Appellant: Maxime Lefort

Respondent: Ministre de l'Enseignement supérieur et de la recherche

Questions referred

In order properly to meet the requirements of non-discrimination under Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 ([1]) on freedom of movement for workers within the Union, together with Article 45(2) TFEU, against the background of Article 33(1) of the Charter of Fundamental Rights of the European Union, together, as necessary, with Article 7 thereof, when taking into account the actual degree of attachment of a non-resident student, who has applied for financial aid for higher-education studies, with the society and with the labour market of Luxembourg, being the Member State in which a frontier worker has been employed or has carried out his activity in the conditions referred to in Article 2 *bis* of the Law of 22 June 2000 on State financial aid for higher-education studies, as added by the Law of 19 July 2013 in direct consequence of the judgment of the Court of Justice of the European Union of 20 June 2013 (Case C-20/12) ([2]),

— should the requirement that the student be the 'child' of that frontier worker be taken to mean that he must be the frontier worker's 'direct descendant in the first degree whose relationship with his parent is legally established', with the emphasis being placed on the child-parent relationship established between the student and the frontier worker, which is supposed to underlie the abovementioned attachment, or

— should the emphasis be placed on the fact that the frontier worker 'continues to provide for the student's maintenance' without necessarily being connected to the student through a legal child-parent relationship, in particular where a sufficient link of communal life can be identified, of such a kind as to establish a connection between the frontier worker and one of the parents of the student with whom the child-parent relationship is legally established?

— From the latter perspective, where the contribution — presumably, non-compulsory — of the frontier worker is not exclusive but made in parallel with that of the parent or parents connected with the student through a legal child-parent relationship, and therefore in principle under a legal duty to maintain the student, must that contribution satisfy certain criteria as regards its substance?

([1]) OJ 2011 L 141, p. 1.
([2]) EU:C:2013:411.

GENERAL COURT

Judgment of the General Court of 15 July 2015 — GEA Group v Commission

(Case T-45/10) ([1])

(Competition — Agreements, decisions and concerted practices — European market for ESBO/esters heat stabilisers — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Price fixing, market allocation and exchange of commercially sensitive information — Fines — Attribution of the infringement — Shareholding presumption — Duration and proof of the infringement — Limitation period — Duration of the administrative procedure — Reasonable time — Rights of the defence)

(2015/C 302/38)

Language of the case: German

Parties

Applicant: GEA Group AG (Düsseldorf, Germany) (represented by: A. Kallmayer, I. du Mont, G. Schiffers and R. Van der Hout, lawyers)

Defendant: European Commission (represented by: R. Sauer and F. Ronkes Agerbeek, acting as Agents, and W. Berg, lawyer)

Re:

Application for annulment of Commission Decision C(2009) 8682 final of 11 November 2009 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/C38.589 — Heat stabilisers), or, in the alternative, a reduction in the fine imposed.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders GEA Group AG to pay the costs.*

([1]) OJ C 100, 17.4.2010.

Judgment of the General Court of 15 July 2015 — Akzo Nobel and Others v Commission

(Case T-47/10) ([1])

(Competition — Agreements, decisions and concerted practices — European markets in heat stabilisers — Decision finding two infringements of Article 81 EC and Article 53 of the EEA Agreement — Price fixing, market allocation and exchange of commercially sensitive information — Duration of the infringements — Limitation period — Duration of the administrative procedure — Reasonable time — Rights of the defence — Attribution of the infringements — Infringements committed by the subsidiaries, by a partnership without legal personality of its own and by a subsidiary — Calculation of the amount of the fines)

(2015/C 302/39)

Language of the case: English

Parties

Applicants: Akzo Nobel NV (Amsterdam, Netherlands); Akzo Nobel Chemicals GmbH (Düren, Germany); Akzo Nobel Chemicals BV (Amersfoort, Netherlands); and Akcros Chemicals Ltd (Warwickshire, United Kingdom) (represented initially by C. Swaak and M. van der Woude, and subsequently by Mr Swaak and R. Wesseling, lawyers)

Defendant: European Commission (represented initially by F. Ronkes Agerbeek and J. Bourke, and subsequently by Mr Ronkes Agerbeek and P. Van Nuffel, acting as Agents, and J. Holmes, Barrister)

Re:

Application for annulment of Commission Decision C(2009) 8682 final of 11 November 2009 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/38.589 — Heat Stabilisers) or, in the alternative, a reduction of the amount of the fines imposed.

Operative part of the judgment

The Court:

1. *Annuls Article 2, points 4, 6, 21 and 23, of Commission Decision C(2009) 8682 final of 11 November 2009 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/38.589 — Heat Stabilisers) in respect of the fines imposed on Akzo Nobel Chemicals GmbH and on Akzo Nobel Chemicals BV;*

2. *Reduces the total amount of fines imposed in Article 2, points 1 to 7, and 18 to 24, of Decision C(2009) 8682 final to EUR 40 194 million for Akzo Nobel NV and EUR 11 881 980 for Akcros Chemicals Ltd;*

3. *Dismisses the action as to the remainder;*

4. *Orders the European Commission to bear two fifths of the costs of Akzo Nobel, Akzo Nobel Chemicals GmbH, Akzo Nobel Chemicals BV and Akcros Chemicals and to pay three fifths of its own costs. Akzo Nobel, Akzo Nobel Chemicals GmbH, Akzo Nobel Chemicals BV and Akcros Chemicals, shall bear three fifths of their own costs and two fifths of the Commission's costs.*

([1]) OJ C 100, 17.4.2010.

Judgment of the General Court of 15 July 2015 — GEA Group v Commission

(Case T-189/10) ([1])

(Competition — Agreements, decisions and concerted practices — European markets in heat stabilisers — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Infringement committed by subsidiaries — Fines — Joint and several liability of the subsidiaries and the parent company — Exceeding the 10 % ceiling for one of the subsidiaries — Decision readopted — Reduction of the fine for that subsidiary — Attribution to the other subsidiary and the parent company of the obligation to pay the reduced fine — Rights of the defence — Right to be heard — Right of access to the file)

(2015/C 302/40)

Language of the case: German

Parties

Applicant: GEA Group AG (Düsseldorf, Germany) (represented by: A. Kallmayer, I. du Mont and G. Schiffers, lawyers)

Defendant: European Commission (represented by: R. Sauer and F. Ronkes Agerbeek, acting as Agents, and W. Berg, lawyer)

Re:

Application for annulment of Commission Decision C(2010) 727 of 8 February 2010, amending Commission Decision C(2009) 8682 final of 11 November 2009 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/38.589 — Heat Stabilisers) or, in the alternative, a reduction of the amount of the fines imposed on the applicant.

Operative part of the judgment

The Court:

1. *Annuls Commission Decision C(2010) 727 of 8 February 2010, amending Commission Decision C(2009) 8682 final of 11 November 2009 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/38.589 — Heat Stabilisers), in so far as it concerns GEA Group AG;*

2. *Orders the European Commission to pay the costs.*

([1]) OJ C 179, 3.7.2010.

Judgment of the General Court of 15 July 2015 — SLM and Ori Martin v Commission

(Cases T-389/10 and T-419/10) ([1])

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Price fixing, market sharing and exchanging of sensitive commercial information — Decision finding an infringement of Article 101 TFEU — Single, complex and continuous infringement — Limitation period — 2006 Guidelines on the method of setting fines — Imputation of liablitiy for the infringment to the parent company — Proportionnality — Principle that penalties must fit the offence — Unlimited jurisdiction)

(2015/C 302/41)

Language of the case: Italian

Parties

Applicants: Siderurgica Latina Martin SpA (SLM) (Ceprano, Italy) (represented by: G. Belotti and F. Covone, lawyers) (Case T-389/10); and Ori Martin SA (Luxembourg, Luxembourg) (represented by: P. Ziotti, lawyer) (Case T-419/10)

Defendant: European Commission (represented initially by B. Gencarelli, V. Bottka and P. Rossi, and subsequently by V. Bottka, P. Rossi and G. Conte, Agents)

Re:

Application for annulment and alteration of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011.

Operative part of the judgment

The Court:

1. *Joins Cases T-389/10 and T-419/10 for the purposes of the judgment;*

2. *Annuls Article 1(16) of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011, in so far as it finds that Siderurgica Latina Martin SpA (SLM) participated in a series of agreements and commercial practices in the prestressing steel sector in the internal market and within the European Economic Area (EEA) from 10 February 1997 to 14 April 1997;*

3. *Annuls Article 2(16) of Decision C(2010) 4387 final, as amended by Decision C(2010) 6676 final and by Decision C(2011) 2269 final;*

4. *Reduces the fine imposed on SLM from EUR 19,8 million to EUR 19 million, of which the amount of EUR 13,3 million is imposed on a joint and several basis with Ori Martin SA; on account of the legal maximum of 10 % of total turnover provided for in Article 23(2) of Regulation (EC) No 1/2003, the final amount of the fine to be imposed on SLM is set at EUR 1,956 million;*

5. *Dismisses the actions at to the remainder;*

6. *Orders the Commission to bear its own costs and to pay two thirds of the costs of SLM and one third of the costs of Ori Martin;*

7. *Orders SLM to bear one third of its own costs;*

8. *Orders Ori Martin to bear two thirds of its own costs.*

(1) OJ C 301, 6.11.2010.

Judgment of the General Court of 15 July 2015 — Nedri Spanstaal v Commission

(Case T-391/10) (1)

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Quota fixing and price fixing, market sharing and exchanging of sensitive commercial information — Decision finding an infringement of Article 101 TFEU — Ceiling of 10 % of turnover — Relevant turnover — Cooperation during the administrative procedure — 2006 Guidelines on the method of setting fines)

(2015/C 302/42)

Language of the case: Dutch

Parties

Applicant: Nedri Spanstaal BV (Venlo, Netherlands) (represented initially by M. Slotboom and B. Haan, and subsequently by M. Slotboom, lawyers)

Defendant: European Commission (represented by: P. Van Nuffel, S. Noë and V. Bottka, Agents)

Re:

Application for annulment of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Nedri Spanstaal BV to bear its own costs and to pay those incurred by the European Commission.*

(1) OJ C 301, 6.11.2010.

Judgment of the General Court of 15 July 2015 — Westfälische Drahtindustrie and Others v Commission

(Case T-393/10) ([1])

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Price fixing, market sharing and exchanging of sensitive commercial information — Complex infringement — Single and continuous infringement — Distancing — Gravity of the infringement — Mitigating circumstances — Equal treatment — Principle that penalties must fit the offence — Assessment of the ability to pay — 2002 Commission notice on cooperation — 2006 Guidelines on the method of setting fines — Unlimited jurisdiction)

(2015/C 302/43)

Language of the case: German

Parties

Applicants: Westfälische Drahtindustrie GmbH (Hamm, Germany); Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. KG (Hamm); Pampus Industriebeteiligungen GmbH & Co. KG (Iserlohn, Germany) (represented initially by C. Stadler and N. Tkatchenko, and subsequently by C. Stadler and S. Budde, lawyers)

Defendant: European Commission (represented by: V. Bottka, R. Sauer and C. Hödlmayr, Agents, and M. Buntscheck, lawyer)

Re:

Application for annulment and alteration of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011, and application for annulment of the letter of 14 February 2011 of the Director-General of the Directorate-General for Competition of the Commission.

Operative part of the judgment

The Court:

1. *Declares that there is no longer any need to adjudicate in the present action in respect of the amount of the reduction granted to Westfälische Drahtindustrie GmbH and Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. KG in Commission Decision C(2010) 6676 final of 30 September 2010;*

2. *Annuls Article 2(8) of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011;*

3. *Annuls the letter of 14 February 2011 of the Director-General of the Directorate-General for Competition of the Commission;*

4. *Imposes a fine of EUR 15 485 000, on a joint and several basis, on Westfälische Drahtindustrie, Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. and Pampus Industriebeteiligungen GmbH & Co.;*

5. *Imposes a fine of EUR 23 370 000, on a joint and several basis, on Westfälische Drahtindustrie and Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co.;*

6. *Imposes a fine of EUR 7 695 000 on Westfälische Drahtindustrie;*

7. *Dismisses the action as to the remainder;*

8. *Orders Westfälische Drahtindustrie, Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. and Pampus Industriebeteiligungen GmbH & Co. to bear half of their own costs, including those relating to the proceedings for interim measures. The Commission shall bear its own costs and pay half of the costs incurred by Westfälische Drahtindustrie, Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. and Pampus Industriebeteiligungen GmbH & Co., including those relating to the proceedings for interim measures.*

([1]) OJ C 301, 6.11.2010.

Judgment of the General Court of 15 July 2015 — Fapricela v Commission

(Case T-398/10) ([1])

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Price fixing, market sharing and exchanging of sensitive commercial information — Decision finding an infringement of Article 101 TFEU — Cooperation during the administrative procedure)

(2015/C 302/44)

Language of the case: Portuguese

Parties

Applicant: Fapricela — Indústria de Trefilaria, SA (Ançã, Portugal) (represented initially by M. Gorjão-Henriques and S. Roux, lawyers, and subsequently by T. Guerreiro, R. Lopes and S. Alberto, lawyers)

Defendant: European Commission (represented by: F. Castillo de la Torre, P. Costa de Oliveira and V. Bottka, Agents, and M. Marques Mendes, lawyer)

Re:

Application for annulment and alteration of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011.

Operative part of the judgment

The Court:

1. *Annuls Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011 in so far as it finds that Fapricela — Indústria de Trefilaria, SA infringed Article 101(1) TFEU not only by participating in an infringement of that provision in the Iberian market but also by participating in a cartel covering the internal market and subsequently within the European Economic Area (EEA), and imposed on it a fine of EUR 8 874 000;*

2. *Sets the amount of the fine imposed on Fapricela — Indústria de Trefilaria at EUR 8 874 000;*

3. *Dismisses the action as to the remainder;*

4. *Orders each party to bear its own costs.*

(1) OJ C 301, 6.11.2010.

Judgment of the General Court of 15 July 2015 — Emesa-Trefilería and Industrias Galycas v Commission

(Case T-406/10) ([1])

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Price fixing, market sharing and exchanging of sensitive commercial information — Decision finding an infringement of Article 101 TFEU — Cooperation during the administrative procedure — Article 139(a) of the Rules of Procedure of the General Court)

(2015/C 302/45)

Language of the case: English

Parties

Applicants: Emesa-Trefilería SA (Arteixo, Spain); and Industrias Galycas SA (Vitoria, Spain) (represented by: A. Creus Carreras and A. Valiente Martin, lawyers)

Defendant: European Commission (represented initially by V. Bottka and F. Castilla Contreras, and subsequently by V. Bottka and A. Biolan, Agents, and by M. Gray, Barrister)

Intervener in support of the defendant: Council of the European Union (represented by: F. Florindo Gijón and R. Liudvinaviciute-Cordeiro, Agents)

Re:

Application for annulment and alteration of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Emesa-Trefilería, SA and Industrias Galycas, SA to bear their own costs and to pay those of the European Commission and the Council of the European Union;*

3. *Orders the Commission to pay the General Court the sum of EUR 1 500 under Article 139(a) of its Rules of Procedure, in order to refund part of the costs which the Court had to incur.*

(1) OJ C 301, 6.11.2010.

Judgment of the General Court of 15 July 2015 — Socitrel v Commission

(Cases T-413/10 and T-414/10) ([1])

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Price fixing, market sharing and exchanging of sensitive commercial information — Decision finding an infringement of Article 101 TFEU — Cooperation during the administrative procedure — 2006 Guidelines on the method of setting fines — Reasonable time)

(2015/C 302/46)

Language of the case: Portuguese

Parties

Applicants: Socitrel — Sociedade Industrial de Trefilaria, SA (Trofa, Portugal) (represented by: F. Proença de Carvalho and T. Faria, lawyers) (Case T-413/10); and Companhia Previdente — Sociedade de Controle de Participações Financeiras, SA (Lisbon, Portugal) (represented by: D. Proença de Carvalho and J. Caimoto Duarte, lawyers) (Case T-414/10)

Defendant: European Commission (represented by: F. Castillo de la Torre, P. Costa de Oliveira and V. Bottka, Agents, and M. Marques Mendes, lawyer)

Re:

Application for annulment and alteration of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011.

Operative part of the judgment

The Court:

1. *Joins Cases T-413/10 and T-414/10 for the purposes of the judgment;*

2. *Dismisses the actions;*

3. *Orders Socitrel — Sociedade Industrial de Trefilaria, SA and Companhia Previdente — Sociedade de Controle de Participações Financeiras, SA to bear their own costs and to pay those incurred by the European Commission, including those relating to the proceedings for interim measures.*

([1]) OJ C 317, 20.11.2010.

Judgment of the General Court of 15 July 2015 — voestalpine and voestalpine Wire Rod Austria v Commission

(Case T-418/10) ([1])

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Price fixing, market sharing and exchanging of sensitive commercial information — Single, complex and continuous infringement — Agency contract — Imputability of the unlawful conduct of the agent to the principal — Lack of knowledge of the agent's unlawful conduct by the principal — Participation in an aspect of the infringement and awareness of the overall plan — 2006 Guidelines on the method of setting fines — Proportionality — Principle that penalties must fit the offence — Unlimited jurisdiction)

(2015/C 302/47)

Language of the case: German

Parties

Applicants: voestalpine AG (Linz, Austria); and voestalpine Wire Rod Austria GmbH, formerly voestalpine Austria Draht GmbH (Sankt Peter-Freienstein, Austria) (represented by: A. Ablasser-Neuhuber, G. Fussenegger, U. Denzel and M. Mayer, lawyers)

Defendant: European Commission (represented by: R. Sauer, V. Bottka, C. Hödlmayr, Agents, and R. Van der Hout, lawyer)

Re:

Application for annulment and alteration of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011.

Operative part of the judgment

The Court:

1. *Annuls Article 2(5) of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011;*

2. *Reduces the fine imposed jointly and severally on voestalpine AG and voestalpine Wire Rod Austria GmbH from EUR 22 million to EUR 7,5 million;*

3. *Dismisses the action as to the remainder;*

4. *Orders the European Commission to bear its own costs and to pay two thirds of the costs of voestalpine and voestalpine Wire Rod Austria;*

5. *Orders Voestalpine and voestalpine Wire Rod Austria to bear one third of their own costs.*

([1]) OJ C 301, 6.11.2010.

Judgment of the General Court of 15 July 2015 — Trafilerie Meridionali v Commission

(Case T-422/10) ([1])

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Price fixing, market sharing and exchanging of sensitive commercial information — Decision finding an infringement of Article 101 TFEU — Single, complex and continuous infringement — Proportionality — Principle that penalties must fit the offence — Unlimited jurisdiction)

(2015/C 302/48)

Language of the case: Italian

Parties

Applicant: Trafilerie Meridionali SpA, formerly Emme Holding SpA (Pescara, Italy) (represented by: G. Visconti, E. Vassallo di Castiglione, M. Siragusa, M. Beretta and P. Ferrari, lawyers)

Defendant: European Commission (represented initially by B. Gencarelli and V. Bottka, then by V. Bottka and R. Striani and lastly by V. Bottka and G. Conte, Agents, and P. Manzini, lawyer)

Re:

Application for annulment and alteration of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011.

Operative part of the judgment

The Court:

1. *Annuls Article 1(17) of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011, in so far as the Commission found that Trafilerie Meridionali SpA, formerly Emme Holding SpA, had participated in the pan-European aspect of the infringement at issue from 4 March 1997 to 9 October 2000, considered that that participation related to 3-wire strand from 4 March 1997 to 28 February 2000, and found that that participation in the anti-competitive practices was for the period from 30 August 2001 to 10 June 2002;*

2. *Annuls Article 2(17) of Decision C(2010) 4387 final, as amended by Decision C(2010) 6676 final and by Decision C(2011) 2269 final;*

3. *Sets the amount of the fine imposed on Trame at EUR 3,2 million;*

4. *Dismisses the action as to the remainder;*

5. *Orders each party to bear its own costs as regards Case T-422/10;*

6. *Orders Trafilerie Meridionali to bear its own costs and those of the European Commission as regards Case T-422/10 R.*

([1]) OJ C 317, 20.11.2010.

Judgment of the General Court of 15 July 2015 — Redaelli Tecna v Commission

(Case T-423/10) ([1])

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Price fixing, market sharing and exchanging of sensitive commercial information — Decision finding an infringement of Article 101 TFEU — Cooperation during the administrative procedure — Reasonable time)

(2015/C 302/49)

Language of the case: Italian

Parties

Applicant: Redaelli Tecna SpA (Milan, Italy) (represented by: R. Zaccà, M. Todino, E. Cruellas Sada and S. Patuzzo, lawyers)

Defendant: European Commission (represented initially by B. Gencarelli, L. Prete and V. Bottka, and subsequently by V. Bottka, G. Conte and P. Rossi, Agents)

Re:

Application for annulment and alteration of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Redaelli Tecna SpA to bear its own costs and to pay those incurred by the European Commission.*

(1) OJ C 317, 20.11.2010.

Judgment of the General Court of 15 July 2015 — HIT Groep v Commission

(Case T-436/10) (1)

(Competition — Agreements, decisions and concerted practices — European prestressing steel market — Price fixing, market sharing and exchanging of sensitive commercial information — Decision finding an infringement of Article 101 TFEU — Rules on imputing a subsidiary's anti-competitive practices to its parent company — Presumption of the actual exercise of a decisive influence — Reasonable time)

(2015/C 302/50)

Language of the case: Dutch

Parties

Applicant: HIT Groep BV (Haarlem, Netherlands) (represented initially by G. van der Wal, G. Oosterhuis and H. Albers, and subsequently by G. van der Wal and G. Oosterhuis, lawyers)

Defendant: European Commission (represented by: P. Van Nuffel, S. Noë and V. Bottka, Agents)

Re:

Application for annulment of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case COMP/38344 — Prestressing Steel), amended by Commission Decision C(2010) 6676 final of 30 September 2010, and by Commission Decision C(2011) 2269 final of 4 April 2011.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders HIT Groep BV to bear its own costs and to pay those incurred by the European Commission.*

(1) OJ C 317, 20.11.2010.

Judgment of the General Court of 15 July 2015 — Akzo Nobel and Akcros Chemicals v Commission

(Case T-485/11) (1)

(Competition — Agreements, decisions and concerted practices — European markets for heat stabilisers — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Infringement committed by a jointly-held subsidiary — Fines — Joint and several liability of the subsidiary and the parent companies — Ten-year limitation period applicable to one of the parent companies — Decision readopted — Reduction of the amount of the fine imposed on one of the parent companies — Attribution to the subsidiary and the other parent company of the obligation to pay the reduced fine — Rights of the defence)

(2015/C 302/51)

Language of the case: English

Parties

Applicants: Akzo Nobel NV (Amsterdam, Netherlands); and Akcros Chemicals Ltd (Warwickshire, United Kingdom) (represented by C. Swaak and R. Wesseling, lawyers)

Defendant: European Commission (represented initially by F. Ronkes Agerbeek and J. Bourke, and subsequently by Mr Ronkes Agerbeek and P. Van Nuffel, acting as Agents, and J. Holmes, Barrister)

Re:

Application for annulment of the Commission Decision of 30 June 2011 amending Commission Decision C(2009) 8682 final of 11 November 2009 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/38.589 — Heat Stabilisers) in so far as it was addressed to Akzo Nobel and Akcros Chemicals or, in the alternative, for a reduction of the amount of the fines imposed.

Operative part of the judgment

The Court:

1. *Annuls the Commission Decision of 30 June 2011 amending Commission Decision C(2009) 8682 final of 11 November 2009 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/38.589 — Heat Stabilisers);*

2. *Orders the European Commission to pay the costs.*

([1]) OJ C 331, 12.11.2011.

Judgment of the General Court of 15 July 2015 — Knauf Insulation Technology v OHIM — Saint Gobain Cristalería (ECOSE)

(Case T-323/12) ([1])

(Community trade mark — Opposition proceedings — International registration designating the European Community — Word mark ECOSE — Earlier national word mark ECOSEC FACHADAS — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 302/52)

Language of the case: English

Parties

Applicant: Knauf Insulation Technology (Visé, Belgium) (represented by: K. Manhaeve, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Saint Gobain Cristalería, SL (Madrid, Spain) (represented by M. Montañá, S. Sebé and I. Carulla, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 17 April 2012 (Case R 259/2011-5) relating to opposition proceedings between Saint Gobain Cristalería, SL and Knauf Insulation Technologies.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Knauf Insulation Technology to pay the costs.*

([1]) OJ C 295, 29.9.2012.

Judgment of the General Court of 15 July 2015 — Knauf Insulation Technology v OHIM — Saint Gobain Cristalería (ECOSE TECHNOLOGY)

(Case T-324/12) ([1])

(Community trade mark — Opposition proceedings — International registration designating the European Community — Figurative mark ECOSE TECHNOLOGY — Earlier national word mark ECOSEC FACHADAS — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 302/53)

Language of the case: English

Parties

Applicant: Knauf Insulation Technology (Visé, Belgium) (represented by: K. Manhaeve, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Saint Gobain Cristalería, SL (Madrid, Spain) (represented by M. Montañá, S Sebé and I. Carulla, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 4 May 2012 (Cases R 1193/2011-5 and R 1426/2011-5) relating to opposition proceedings between Saint Gobain Cristalería, SL and Knauf Insulation.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 4 May 2012 (Cases R 1193/2011-5 and R 1426/2011-5) in so far as the Board of Appeal dismissed the action brought by Knauf Insulation Technology and annulled the decision of the Opposition Division;*

2. *Orders OHIM to bear its own costs and to pay half of the costs incurred by Knauf Insulation Technology;*

3. *Orders Saint Gobain Cristalería, SL to bear its own costs and to pay half of the costs incurred by Knauf Insulation Technology.*

([1]) OJ C 295, 29.9.2012.

Judgment of the General Court of 15 July 2015 — Pilkington Group v Commission

(Case T-462/12) ([1])

(Competition — Administrative procedure — European automotive glass market — Publication of a decision finding an infringement of Article 81 EC — Rejection of a request for confidential treatment of data allegedly covered by business secrecy — Obligation to state reasons — Confidentiality — Obligation of professional secrecy — Legitimate expectations)

(2015/C 302/54)

Language of the case: English

Parties

Applicant: Pilkington Group Ltd (St Helens, United Kingdom) (represented by: J. Scott, S. Wisking, K. Fountoukakos-Kyriakakos, Solicitors, and C. Puech Baron, lawyer)

Defendant: European Commission (represented by: M. Kellerbauer, P. Van Nuffel and G. Meessen, acting as Agents)

Re:

Application for the partial annulment of Commission Decision C(2012) 5718 final of 6 August 2012 rejecting a request for confidential treatment submitted by Pilkington Group Ltd under Article 8 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (Case COMP/39.125 — Car glass).

Operative part of the judgment

The Court:

1. *Annuls Commission Decision C(2012) 5718 final of 6 August 2012 rejecting a request for confidential treatment submitted by Pilkington Group Ltd under Article 8 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (Case COMP/39.125 — Car glass), in so far as it relates to the request by Pilkington Group concerning recital 115 of Decision C(2008) 6815 final of 12 November 2008 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement;*

2. *Dismisses the action as to the remainder;*

3. *Orders Pilkington Group to pay the costs.*

([1]) OJ C 379, 8.12.2012.

Judgment of the General Court of 15 July 2015 — AGC Glass Europe and Others v Commission

(Case T-465/12) ([1])

(Competition — Administrative procedure — European automotive glass market — Publication of a decision finding an infringement of Article 81 EC — Rejection of a request for confidential treatment of information the Commission intends to publish — Obligation to state reasons — Confidentiality — Obligation of professional secrecy — Leniency programme — Legitimate expectations — Equal treatment)

(2015/C 302/55)

Language of the case: English

Parties

Applicants: AGC Glass Europe (Brussels, Belgium); AGC Automotive Europe SA, (Fleurus, Belgium); AGC France SAS (Boussois, France); AGC Flat Glass Italia Srl (Cuneo, Italy); AGC Glass UK Ltd (Northampton, United Kingdom); AGC Glass Germany GmbH (Wegberg, Germany) (represented by: L. Garzaniti, J. Blockx, P. Niggemann, A. Burckett St Laurent, lawyers, and S. Ryan, Solicitor)

Defendant: European Commission (represented by: M. Kellerbauer, G. Meessen and P. Van Nuffel, acting as Agents)

Re:

Application for annulment of Commission Decision C(2012) 5719 final of 6 August 2012 on the rejection of a request for confidential treatment submitted by AGC Glass Europe SA, AGC Automotive Europe SA, AGC France SAS, AGC Flat Glass Italia Srl, AGC Glass UK Ltd and AGC Glass Germany GmbH, under Article 8 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (Case COMP/39.125 — Car glass).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders AGC Glass Europe SA, AGC Automotive Europe SA, AGC France SAS, AGC Flat Glass Italia Srl, AGC Glass UK Ltd and AGC Glass Germany GmbH to pay the costs.*

([1]) OJ C 379, 8.12.2012.

Judgment of the General Court of 15 July 2015 — Cactus v OHIM — Del Rio Rodríguez (CACTUS OF PEACE CACTUS DE LA PAZ)

(Case T-24/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark CACTUS OF PEACE CACTUS DE LA PAZ — Earlier Community word mark CACTUS and earlier figurative mark Cactus — Genuine use of the earlier mark — Article 42(2) of Regulation (EC) No 207/2009 — Article 76(1) and (2) of Regulation No 207/2009)

(2015/C 302/56)

Language of the case: English

Parties

Applicant: Cactus SA (Bertrange, Luxembourg) (represented by: K. Manhaeve, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Isabel Del Rio Rodríguez (Malaga, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 19 October 2012 (Case R 2005/2011-2), relating to opposition proceedings between Cactus SA and Isabel Del Rio Rodríguez.

Operative part of the judgment

The Court:

1. *Annuls point 1 of the operative part of the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 19 October 2012 (Case R 2005/2011-2) in so far as it rejected the opposition on the grounds that 'retailing of natural plants and flowers, grains; fresh fruits and vegetables' services in Class 35 were not covered by the earlier marks;*

2. *Annuls point 2 of the operative part of the decision of the Second Board of Appeal of OHIM of 19 October 2012 referred to above in so far as it annulled the part of the decision of the Opposition Division allowing the opposition based on 'natural plants and flowers, grains' in Class 31, and point 1 of the operative part of that decision, which rejected the opposition based on those goods;*

3. *Dismisses the action as to the remainder;*

4. *Orders Cactus SA to pay one third of the costs incurred by the parties before the General Court and orders OHIM to pay two thirds of those costs.*

([1]) OJ C 101, 6.4.2013.

Judgment of the General Court of 15 July 2015 — Dennekamp v Parliament

(Case T-115/13) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to the affiliation of certain Members of the European Parliament to the additional pension scheme — Refusal to grant access — Exception relating to the protection of privacy and the integrity of the individual — Article 8(b) of Regulation (EC) No 45/2001 — Transfer of personal data — Conditions concerning the necessity of having the data transferred and the risk that the data subject's legitimate interests might be prejudiced)

(2015/C 302/57)

Language of the case: English

Parties

Applicant: Gert-Jan Dennekamp (Giethoorn, Netherlands) (represented by: O. Brouwer, T. Oeyen and E. Raedts, lawyers)

Defendant: European Parliament (represented by: N. Lorenz and N. Görlitz, acting as Agents)

Interveners in support of the applicant: Republic of Finland (represented by H. Leppo, acting as Agent); Kingdom of Sweden (represented initially by: A. Falk, C. Meyer-Seitz, S. Johannesson and U. Persson, and subsequently by: A. Falk, C. Meyer-Seitz, U. Persson, E. Karlsson, L. Swedenborg, C. Hagerman and F. Sjövall, acting as Agents); and European Data Protection Supervisor (EDPS) (represented by: A. Buchta and U. Kallenberger, acting as Agents)

Re:

Application for annulment of Decision A(2012) 13180 of the European Parliament of 11 December 2012 refusing to grant the applicant access to certain documents relating to the affiliation of certain Members of the European Parliament to the additional pension scheme.

Operative part of the judgment

The Court:

1. *Declares that there is no need to adjudicate on the application for annulment of Decision A(2012) 13180 of the European Parliament of 11 December 2012 refusing to grant Mr Gert-Jan Dennekamp access to certain documents relating to the affiliation of certain Members of the European Parliament to the additional pension scheme in so far as access is thereby refused to the names of the 65 Members of the European Parliament who were applicants in the cases giving rise to the order of 15 December 2010 in Albertini and Others and Donnelly v Parliament (T-219/09 and T-326/09, ECR, EU:T:2010:519) and to the judgment of 18 October 2011 in Purvis v Parliament (T-439/09, ECR, EU:T:2011:600);*

2. *Annuls Decision A(2012) 13180 in so far as access is thereby refused to the names of Members participating in the additional pension scheme of the European Parliament who, as members of the Parliament's plenary, actually took part in the votes on that additional pension scheme held on 24 April 2007, 22 April 2008 and 10 May 2012;*

3. *Dismisses the action as to the remainder;*

4. *Orders the European Parliament to bear its own costs and to pay three quarters of those incurred by Mr Dennekamp;*

5. *Orders Mr Dennekamp to bear one quarter of his own costs;*

6. *Orders the European Data Protection Supervisor (EDPS), the Republic of Finland and the Kingdom of Sweden to bear their own costs.*

(1) OJ C 114, 20.4.2013.

Judgment of the General Court of 15 July 2015 — Deutsche Rockwool Mineralwoll v OHIM — Recticel (λ)

(Case T-215/13) (1)

(Community trade mark — Revocation proceedings — Community figurative mark λ — Genuine use — Use as part of a composite mark — Proof of use — Articles 15 and 51(1) of Regulation (EC) No 207/2009)

(2015/C 302/58)

Language of the case: English

Parties

Applicant: Deutsche Rockwool Mineralwoll GmbH & Co. OHG (Gladbeck, Germany) (represented by: J. Krenzel, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: initially L. Rampini, and subsequently P. Bullock and N. Bambara, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM: Recticel SA (Brussels, Belgium)

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 4 February 2013 (Case R 112/2012-5), relating to cancellation proceedings between Deutsche Rockwool Mineralwoll GmbH & Co. OHG and Recticel SA.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Deutsche Rockwool Mineralwoll GmbH & Co. OHG to pay the costs.*

(1) OJ C 178, 22.6.2013.

Judgment of the General Court of 15 July 2015 — Portugal v Commission

(Case T-314/13) (1)

(Cohesion Fund — Development of port infrastructures of the Autonomous Region of Madeira (Port of Caniçal) — Reduction of financial assistance — Non-compliance with the time-limit for adopting a decision — Infringement of essential procedural requirements)

(2015/C 302/59)

Language of the case: Portuguese

Parties

Applicant: Portuguese Republic (represented by: L. Inez Fernandes, Agent, M. Gorjão-Henriques and J. da Silva Sampaio, lawyers)

Defendant: European Commission (represented by: P. Guerra e Andrade and D. Recchia, Agents)

Re:

Application for annulment of Articles 1 and 2 of Commission Decision C (2013) 1870 final of 27 March 2013 reducing the contribution from the Cohesion Fund to the Portuguese Republic for the project 'Development of port infrastructures of the Autonomous Region of Madeira — Port of Caniçal', Madeira (Portugal).

Operative part of the judgment

The Court:

1. *Annuls Commission Decision C (2013) 1870 final of 27 March 2013 reducing the contribution from the Cohesion Fund to the Portuguese Republic for the project 'Development of port infrastructures of the Autonomous Region of Madeira — Port of Caniçal', Madeira (Portugal);*

2. *Orders the European Commission to pay the costs.*

(1) OJ C 226, 3.8.2013.

Judgment of the General Court of 15 July 2015 — Westermann Lernspielverlag v OHIM — Diset (bambinoLÜK)

(Case T-333/13) (1)

(Community trade mark — Opposition proceedings — Application for Community figurative mark bambinoLÜK — Earlier Community figurative mark BAMBINO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 302/60)

Language of the case: English

Parties

Applicant: Westermann Lernspielverlag GmbH (Brunswick, Germany) (represented by: A. Nordemann and M. Maier, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Crespo Carrillo, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Diset, SA (Barcelona, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 3 April 2013 (Case R 1323/2012-2) concerning opposition proceedings between Diset, SA and Westermann Lernspielverlag GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Westermann Lernspielverlag GmbH to pay the costs.*

(1) OJ C 252, 31.8.2013.

Judgment of the General Court of 15 July 2015 — CSF v Commission

(Case T-337/13) ([1])

(Approximation of the laws — Directive 2006/42/EC — Machinery bearing the 'EC' marking — Essential safety requirements — Risks to the safety of persons — Safeguard clause — Commission decision declaring a national measure prohibiting the placing on the market to be justified — Conditions governing the implementation of the safeguard clause — Manifest error of assessment — Equal treatment)

(2015/C 302/61)

Language of the case: Italian

Parties

Applicant: CSF Srl (Grumolo delle Abbadesse, Italy) (represented by: R. Santoro, S. Armellini and R. Bugaro, lawyers)

Defendant: European Commission (represented by: G. Zavvos, acting as Agent, and M. Pappalardo, lawyer)

Intervener in support of the defendant: Kingdom of Denmark (represented by: initially V. Pasternak Jørgensen and M. Wolff, then M. Wolff, C. Thorning, U. Melgaard and N. Lyshøj, acting as Agents)

Re:

Application for annulment of Commission Decision 2013/173/EU of 8 April 2013 on a measure taken by Denmark according to Article 11 of Directive 2006/42/EC of the European Parliament and of the Council prohibiting a type of multi-purpose earthmoving machinery (OJ 2013 L 101, p. 29).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders CSF Srl to bear its own costs and those incurred by the European Commission in the context of the present action and the proceedings for interim relief;*

3. *Orders the Kingdom of Denmark to bear its own costs.*

([1]) OJ C 233, 10.8.2013.

Judgment of the General Court of 15 July 2015 — TVR Automotive v OHIM — TVR Italia (TVR ITALIA)

(Case T-398/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark TVR ITALIA — Earlier national and Community word marks TVR — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Revocation proceedings — Genuine use of the earlier trade mark — Article 42(2) and (3) of Regulation No 207/2009 — Article 15(1) of Regulation No 207/2009)

(2015/C 302/62)

Language of the case: English

Parties

Applicant: TVR Automotive Ltd (Whiteley, United Kingdom) (represented by: A. von Mühlendahl and H. Hartwig, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented initially by G. Schneider and S. Hanne, and subsequently by J. Crespo Carillo, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: TVR Italia Srl (Canosa, Italy) (represented by: F. Caricato, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 14 May 2013 (Case R 823/2011-2) concerning opposition proceedings between Muadib Beteiligung GmbH and TVR Italia Srl.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 14 May 2013 (Case R 823/2011-2) concerning opposition proceedings between Muadib Beteiligung GmbH and TVR Italia Srl;*

2. *Dismisses the action as to the remainder;*

3. *Orders OHIM and TVR Italia Srl to pay the costs.*

([1]) OJ C 274, 21.9.2013.

Judgment of the General Court of 15 July 2015 — Spain v Commission

(Case T-561/13) ([1])

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Rural development programme for Galicia (2007 2013) — Rural development support measures — Compensation payments for natural handicaps — Expenses incurred by Spain — On-the-spot checks — Obligation to carry out a census of animals — Article 10(2) and (4) and Article 14(2) of Regulation (EC) No 1975/2006 — Article 35(1) of Regulation (EC) No 796/2004 — Default procedure)

(2015/C 302/63)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: initially N. Díaz Abad, then M. Sampol Pucurull, abogados del Estado)

Defendant: European Commission (represented by: I. Galindo Martín and P. Rossi, acting as Agents)

Re:

Action for partial annulment of Commission Implementing Decision 2013/433/EU of 13 August 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2013 L 219, p. 49) in so far as it concerns expenditure incurred by the Kingdom of Spain amounting to EUR 757 968,97.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the kingdom of Spain to bear its own costs.*

([1]) OJ C 367, 14.12.2013.

Judgment of the General Court of 15 July 2015 — Australian Gold v OHIM — Effect Management & Holding (HOT)

(Case T-611/13) ([1])

(Community trade mark — Invalidity proceedings — International registration designating the European Community — Figurative mark HOT — Absolute grounds for refusal — Lack of descriptiveness — Distinctiveness — Article 7(1)(b) and (c) of Regulation (EC) No 207/2009 — Second sentence of Article 75 of Regulation (EC) No 207/2009 — Cross-claim before the Board of Appeal — Article 8(3) of Regulation (EC) No 216/96 — Cross-claim before the General Court — Article 134(3) of the Rules of Procedure of 2 May 1991)

(2015/C 302/64)

Language of the case: German

Parties

Applicant: Australian Gold LLC (Indianapolis, Indiana, United States) (represented by: A. von Mühlendahl and H. Hartwig, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Poch and S. Hanne, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Effect Management & Holding GmbH (Vöcklabruck, Austria) (represented by: H. Pernez, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 10 September 2013 (Case R 1881/2012-4) concerning invalidity proceedings between Australian Gold LLC and Effect Management & Holding GmbH.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 10 September 2013 (Case R 1881/2012-4) in so far as it failed to adjudicate on the application of Australian Gold LLC concerning 'cleaning, polishing, degreasing and abrasive preparations' in Class 3 and 'sanitary preparations for medical purposes' in Class 5, and in so far as it annulled and altered the decision of the Cancellation Division for 'perfumes, essential oils, cosmetics, including shampoos, shower gels, body lotions, face creams' in Class 3;*

2. *Dismisses the action brought by Effect Management & Holding GmbH before the Board of Appeal in respect of 'perfumes, essential oils, cosmetics, including shampoos, shower gels, body lotions, face creams';*

3. *Dismisses the remainder of the action;*

4. *Rejects the request for alteration submitted by Effect Management & Holding;*

5. *Orders each party to bear its own costs.*

(1) OJ C 24, 25.1.2014.

Judgment of the General Court of 14 July 2015 — Genossenschaftskellerei Rosswag-Mühlhausen v OHIM (Lembergerland)

(Case T-55/14) (1)

(Community trade mark — Application for Community word mark Lembergerland — Absolute ground for refusal — Trade mark for wine containing geographical indications — Article 7(1)(j) of Regulation (EC) No 207/2009)

(2015/C 302/65)

Language of the case: German

Parties

Applicant: Genossenschaftskellerei Rosswag-Mühlhausen eG (Vaihingen an der Enz, Germany) (represented by: H. Steffan, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Poch, acting as Agent)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 14 November 2013 (Case R 566/2013-1), concerning an application for registration of the word sign Lembergerland as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Genossenschaftskellerei Rosswag-Mühlhausen eG to pay the costs.*

(1) OJ C 78, 15.3.2014.

Judgment of the General Court of 15 July 2015 — The Smiley Company v OHIM — The Swatch Group Management Services (HAPPY TIME)

(Case T-352/14) (1)

(Community trade mark — Opposition proceedings — Application for Community word mark HAPPY TIME — Earlier international word mark HAPPY HOURS — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 302/66)

Language of the case: English

Parties

Applicant: The Smiley Company SPRL (Brussels, Belgium) (represented by: I.-M. Helbig, P. Hansmersmann and S. Rengshausen, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: L. Rampini, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: The Swatch Group Management Services AG (Biel, Switzerland)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 6 February 2014 (Case R 1497/2013-1), relating to opposition proceedings between The Swatch Group Management Services AG and The Smiley Company SPRL.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders The Smiley Company SPRL to pay the costs.*

(1) OJ C 245, 28.7.2014.

Judgment of the General Court of 15 July 2015 — Rouffaud v EEAS

(Case T-457/14 P) (1)

(Appeal — Civil Service — Auxiliary member of contract staff — Reclassification of contract — Rule of correspondence between the application and the complaint — Article 91(2) of the Staff Regulations of Officials)

(2015/C 302/67)

Language of the case: French

Parties

Appellant: Thierry Rouffaud (Brussels, Belgium) (represented by: initially M. de Abreu Caldas, D. de Abreu Caldas and J. N. Louis, then J. N. Louis and N. de Montigny, lawyers)

Other party to the proceedings: European External Action Service (EEAS) (represented by: S. Marquardt and M. Silva, acting as Agents)

Re:

Appeal against the judgment of the European Union Civil Service Tribunal (Third Chamber) of 9 April 2014 in Rouffaud v EEAS (F-59/13, ECR-SC, EU:F:2014:49), and seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of European Union Civil Service Tribunal (Third Chamber) of 9 April 2014 in Rouffaud v EEAS (F-59/13, ECR-SC, EU:F:2014:49);*

2. *Refers the case back to the Civil Service Tribunal;*

3. *Reserves the costs.*

(1) OJ C 261, 11.8.2014.

Judgment of the General Court of 16 July 2015 — Roland SE v OHIM — Louboutin (Nuance of red on the sole of a shoe)

(Case T-631/14) ([1])

(Community trade mark — Opposition proceedings — Application for Community trade mark consisting of a nuance of red on the sole of a shoe — Earlier international figurative mark my SHOES — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 302/68)

Language of the case: French

Parties

Applicant: Roland SE (Essen, Germany) (represented by: C. Onken and O. Rauscher, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: S. Pétrequin and A. Folliard-Monguiral, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Christian Louboutin (Paris, France) (represented by: T. van Innis, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 28 May 2014 (Case R 1591/2013-1) concerning opposition proceedings between Roland SE and Christian Louboutin.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Roland SE to pay the costs.*

([1]) OJ C 380, 27.10.2014.

Order of the President of the General Court of 15 June 2015 — Close and Cegelec v Parliament

(Case T-259/15 R)

(Application for interim measures — Public works contracts — Tendering procedure — Construction of a central energy unit — Rejection of a tenderer's bid and award of the contract to another tenderer — Application for suspension of operation — Lack of urgency)

(2015/C 302/69)

Language of the case: French

Parties

Applicants: SA Close (Harzé-Aywaille, Belgium) and Cegelec (Brussels, Belgium) (represented by: J.-M. Rikkers and J.-L. Teheux, lawyers)

Defendant: European Parliament (represented by: M. Rantala, M. Mraz and F. Poilvache, acting as Agents)

Re:

Application for suspension of operation of the decision of 19 March 2015 by which the Parliament rejected the bid which the applicants had submitted following the call for tenders INLO-D-UPIL-T-14-A04 relating to the public works contract concerning Lot No 73 (central energy unit) of the 'Project for the extension and modernisation of the Konrad Adenauer Building in Luxembourg' and of the decision of the same day by which the contract at issue was awarded to another tenderer.

Operative part of the order

1. *The application for interim measures is rejected.*

2. *The costs are reserved.*

Action brought on 15 May 2015 — Klymenko v Council

(Case T-245/15)

(2015/C 302/70)

Language of the case: English

Parties

Applicant: Oleksandr Viktorovych Klymenko (Moscow, Russia) (represented by: B. Kennelly and J. Pobjoy, Barristers, and R. Gherson, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 25) and Council Implementing Regulation (EU) 2015/357 of 5 March 2015 Implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 1) insofar as they apply to the applicant;

— alternatively, declare that article 1(1) of Council Decision 2014/119/CFSP of 5 March 2014 (as amended) and article 3 (1) of Council Regulation (EU) No 208/2014 of 5 March 2014 (as amended), are inapplicable insofar as they apply to the applicant by reason of illegality.

— order the Council to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council has failed to identify a proper legal base for the Council Decision (CFSP) 2015/364 (the 'Decision') and the Council Implementing Regulation (EU) 2015/357 (the 'Regulation') (together the 'Contested Measures'). Article 29 of the Treaty on the European Union is not a proper legal base for the Decision because the complaint made against the applicant did not identify him as an individual having undermined democracy in Ukraine or deprived the Ukrainian people of the benefits of the sustainable development of their country (within the meaning of article 23 TEU and the general provisions in article 21(2) TEU). As the Decision was invalid, the Council could not rely on article 215(2) of the Treaty on the Functioning of the European Union to enact the Regulation.

2. Second plea in law, alleging that the Council has made manifest errors of assessment in considering that the criterion for listing the applicant in article 1(1) of Council Decision 2014/119/CFSP of 5 March 2014 (as amended) and article 3(1) of Council Regulation (EU) No 208/2014 of 5 March 2014 (as amended) was satisfied. The applicant is not subject to criminal proceedings 'for the misappropriation of public funds or assets', nor is he subject to criminal proceedings 'for the abuse of office by a public office-holder in order to procure an unjustified advantage for himself or for a third party'.

3. Third plea in law, alleging that the Council violated the applicant's right of defence and the right to good administration and effective judicial review. In particular, the Council failed to carefully and impartially examine whether the alleged reasons said to justify redesignation were well founded in light of the representations made by the applicant prior to redesignation.

4. Fourth plea in law, alleging that the Council has failed to comply with its obligations to provide adequate reasons for redesignating the applicant.

5. Fifth plea in law, the Council has infringed, without justification or proportion, the applicant's fundamental rights, including his right to protection of his property and reputation. The impact of the Contested Measures on the applicant is far-reaching, both as regards to his property, and to his reputation worldwide. The Council has failed to demonstrate that the freezing of the applicant's assets and economic resources is related to, or justified by, any legitimate aim, still less that it is proportionate to such an aim.

6. Sixth plea in law, raised in support of the declaration of illegality, alleging that if, contrary to the arguments advanced in the second plea, article 1(1) of Council Decision 2014/119/CFSP of 5 March 2014 (as amended) and article 3(1) of Council Regulation (EU) No 208/2014 of 5 March 2014 (as amended), are to be interpreted to capture (a) any investigation by a Ukrainian authority irrespective of whether there is any judicial decision or proceedings underpinning, controlling or overseeing it; and/or (b) any 'abuse of office as a public-office holder in order to procure an unjustified advantage' irrespective of whether there is an allegation of misappropriation of State funds, the designation criterion would, given the arbitrary width and scope that would result from such a broad interpretation, lack a proper legal base; and/or be disproportionate to the objectives of the Decision and Regulation. The provision would therefore be unlawful.

Action brought on 1 June 2015 — AlzChem/Commission

(Case T-284/15)

(2015/C 302/71)

Language of the case: English

Parties

Applicant: AlzChem AG (Trostberg, Germany) (represented by: P. Alexiadis, Solicitor, A. Borsos and I. Georgiopoulos, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the application admissible and well founded;

— annul Article 2 of the Commission decision of 15 October 2014 under Articles 107(1) and 108(3) of the Treaty on the Functioning of the European Union on State aid SA.33797 — (2013/C) (ex 2013/NN) (ex 2011/CP) implemented by Slovakia for NCHZ;

— order the Commission to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission erred in finding that the continued operation of NCHZ under the decision of the creditors' committee did not constitute State aid within the meaning of Article 107(1) TFEU

   — The Commission erred in law and made a manifest error of assessment in finding that no advantage was conferred onto Novácke chemické závody, a.s. v konkurze (NCHZ) while its operations were maintained after the decision of the creditors' committee and the secured creditors. The Commission also erred in law and made a manifest error of assessment in finding that the decision of the creditors' committee and the secured creditors to continue the operations of NCHZ is not imputable to the State.

2. Second plea in law, alleging that the Commission infringed the duty to state reasons, enshrined in Article 296 TFEU, with regard to the imputability to the State of the decision of the creditors' committee and the secured creditors

   — The Commission failed to provide reasons in relation to the approval of the decision of the creditors' committee and the secured creditors by the Trenčín Court. The Commission also failed to provide reasons in relation to the veto rights of the secured creditors regarding the continuation of NCHZ's operations under Slovak bankruptcy law.

Action brought on 29 May 2015 — Syria Steel and Al Buroj Trading/Conseil

(Case T-285/15)

(2015/C 302/72)

Language of the case: English

Parties

Applicants: Syria Steel SA (Homs, Syria); and Al Buroj Trading (Damascus, Syria) (represented by: V. Davies, Solicitor, and T. Eicke, QC)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— annul Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14), as amended, and/or Council Implementing Decision (CFSP) 2015/383 of 6 March 2015 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2015 L 64, p. 41), in so far as they relate to the applicants;

— annul Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 (OJ 2012 L 16, p. 1), as amended, and/or Council Implementing Regulation (EU) 2015/375 of 6 March 2015 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2015 L 64, p. 10), in so far as they relate to the applicants;

— order the European Union to compensate the applicants,

— order the council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. First plea in law, alleging that there is an absence of legal basis for restrictive measures against the applicants and/or a manifest error of assessment, on the basis that there is no rational connection between the applicants and the persons or entities sought to be targeted by the restrictive measures adopted by the Union, namely those who are benefiting from or supporting the Syrian regime.

2. Second plea in law, alleging that the contested Council decisions and regulations amount to a breach of the applicants' fundamental rights as protected by the Charter of Fundamental Rights of the European Union and/or the European Convention of Human Rights, including the applicants' right to a good administration, their right of defence, the duty to give reason and the presumption of innocence, the right to an effective remedy and fair trial, the freedom to conduct a business, and the right to property.

Action brought on 28 May 2015 — KF/SATCEN

(Case T-286/15)

(2015/C 302/73)

Language of the case: English

Parties

Applicant: KF (Berlin, Germany) (represented by: A. Kunst, lawyer)

Defendant: European Union Satellite Centre (SATCEN)

Form of order sought

The applicant claims that the Court should:

— annul/set aside the Appeals Board's decision of 26 January 2015 notified to the applicant on 23 March 2015 rejecting two appeals of the applicant. The applicant invokes the inapplicability of Article 28.6. of the SATCEN Staff Regulations ([1]) pursuant to Article 277 TFEU;

— annul the SATCEN implied decision of 5 July 2013 rejecting the applicant's request for assistance;

— annul the SATCEN decision of 5 July 2013 to suspend the applicant from duty and initiate disciplinary proceedings, alternatively review the decisions' legality incidentally in the action against the removal decision;

— annul the SATCEN removal decision of 28 February 2014;

— order the SATCEN to pay the applicant compensation for the material damage suffered in the form of salaries, emoluments and entitlements until the end of the applicant's contract and compensate the applicant for the non-material damage suffered, assessed provisionally on an ex aequo et bono at EUR 500 000;

— order the SATCEN to pay the costs, together with interest of 8 %.

Pleas in law and main arguments

1. In support of the action for annulment of the decision of the SATCEN Appeals Board's decision of 26 January 2015, the applicant relies on one plea in law, alleging infringement of the applicant's right to an effective remedy and to fair proceedings.

   — The Appeals Board ignored the majority of the applicant's factual and legal pleas, and it hardly considered/reviewed any of the multiple breaches of the applicant's fundamental rights.

2. In support of the action for annulment of the SATCEN implied refusal of 5 July 2013 to render assistance pursuant to Article 2.6 of the SATCEN Staff Regulations, the applicant relies on two pleas in law.

   — First plea in law, alleging infringement of the duty to provide assistance pursuant to Article 2.6 of the SATCEN Staff Regulations and the applicant's right under Article 31 of the Charter of Fundamental Rights of the European Union (the 'EU Charter').

   — Second plea in law, alleging infringement of Article 12a of the Staff Regulations of Officials of the European Union and the applicant's right under Article 31 of the EU Charter.

3. In support of the action for annulment of the suspension decision taken by SATCEN and its decision to initiate disciplinary proceedings, the applicant relies on three pleas in law.

   — First plea in law, alleging infringement of the principle of impartiality, infringement of the applicant's right to sound administration, and misuse of powers.

   — Second plea in law, alleging infringement of the applicant's rights of defence, infringement of Articles 1.1 and 2 of Annex IX of SATCEN Staff Regulations, and misuse of powers.

   — Third plea in law, alleging infringement of the principle of presumption of innocence.

4. In support of the action for annulment of removal decision of SATCEN taken on 28 February 2014, the applicant relies on four pleas in law.

   — First plea in law, alleging an infringement of the applicant's rights of defence, of Article 10.1 of Annex IX of the SATCEN Staff Regulations, and of the applicant's right to sound administration.

   — Second plea in law, alleging infringement of the principle of impartiality.

   — Third plea in law, alleging infringement of the obligation to establish the substantive truth of the facts relied on by the Appointing Authority, the applicant's right of disclosure to establish her innocence and the principle of the presumption of innocence.

   — Fourth plea in law, alleging misuse of powers. The Director's Report does not state the facts complained of. The Chairperson, Disciplinary Board improperly refused to request the Director to determine the specific acts the applicant is accused of.

(1) Council Decision 2009/747/CFSP of 14 September 2009 concerning the Staff Regulations of the European Union Satellite Centre (OJ 2009 L 276, p. 1).

Action brought on 5 June 2015 — ArcelorMittal Ruhrort v Commission

(Case T-294/15)

(2015/C 302/74)

Language of the case: German

Parties

Applicant: ArcelorMittal Ruhrort GmbH (Duisburg, Germany) (represented by: H. Janssen and G. Engel, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul, in accordance with Article 264 TFEU, the Commission Decision of 25 November 2014 in the procedure State aid SA.33995 (2013) (ex 2013/NN) — Germany — Support for renewable electricity and reduced EEG-surcharge for energy-intensive users, C(2014) 8786 final;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: Infringement of Article 107(1) TFEU

   The applicant submits that the reduction of the EEG-surcharge is not aid, since State resources were neither granted nor renounced. The reduction of the EEG-surcharge is also not made selectively. In addition, it does not distort competition and also does not affect trade in the internal market.

2. Second plea in law: Infringement of Article 108(3) TFEU

   Should — contrary to what the applicant submits — aid exist, the applicant takes the view that the defendant was in any event not entitled to require recovery pursuant to Article 108(3) TFEU. This is because the reduction of the EEG-surcharge does not constitute new aid, since the previous rules in respect of it, which were identical in content in fundamental aspects, had already been approved by the defendant in 2002.

3. Third plea in law: Infringement of Article 107(3) TFEU

   The applicant also submits that the decision infringes Article 107(3) TFEU and the principle of the protection of legitimate expectations. In this respect, the defendant should not have assessed the facts examined by it on the basis of its Guidelines on State Aid for Environmental Protection and Energy 2014-2020, which were published only on 28 June 2014. Instead, it should have applied the guidelines published in 2008. Taking the 2008 standard as a basis, the defendant would not have been entitled to reach a conclusion other than that the alleged aid was compatible with the internal market.

4. Fourth plea in law: Infringement of Article 108(1) TFEU and the principle of legal certainty

Lastly, the applicant submits that, by adopting the contested decision in a procedure concerning new aid, the defendant infringed the principle of legal certainty and Article 108(1) TFEU. As the defendant had approved the rules preceding the EEG 2012, it should have taken a decision in a procedure concerning existing aid and not in a procedure concerning new aid.

Action brought on 23 June 2015 — Deutsche Edelstahlwerke v Commission

(Case T-319/15)

(2015/C 302/75)

Language of the case: German

Parties

Applicant: Deutsche Edelstahlwerke GmbH (Witten, Germany) (represented by: H. Janssen and S. Altenschmidt, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul, pursuant to Article 264 TFEU, Commission Decision C(2014) 8786 final of 25 November 2014 on the State aid scheme SA.33995 (2013) (ex 2013/NN) — Germany, Support for renewable electricity and cap on the EEG-surcharge for energy-intensive users;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 107(1) TFEU

The applicant claims that the cap on the EEG-surcharge does not constitute aid, since public funds were neither granted nor waived. The cap on the EEG-surcharge is also not selective. Furthermore, it does not distort competition and does not adversely affect trade within the internal market.

2. Second plea in law, alleging infringement of Article 108(3) TFEU

Even if, contrary to the view of the applicant, the cap does constitute aid, the applicant claims that, in any event, the defendant cannot order restitution pursuant to Article 108(3) TFEU because the cap on the EEG-surcharge is not new aid. It is not new since the defendant had already, in 2002, approved the earlier legislation, the terms of which were identical as far as the main aspects are concerned.

3. Third plea in law, alleging infringement of Article 107(3) TFEU

The applicant also claims that the decision infringes Article 107(3) TFEU and the principle of legitimate expectations. The defendant, it submits, was not entitled to examine the facts of the case on the basis of its guidelines on State aid for environmental protection and energy for the period 2014-2020, which were not published until 28 June 2014. Rather, it should have applied the guidelines that had been published in 2008. On the basis of the 2008 criteria, the defendant could not have come to any conclusion other than that the alleged aid was compatible with the internal market.

4. Fourth plea in law, alleging infringement of Article 108(1) TFEU and of the principle of legal certainty

Lastly, the applicant submits that the defendant infringed the principle of legal certainty and Article 108(1) TFEU in so far as it adopted the contested decision in a proceeding concerning new aid. Since the defendant had approved the earlier legislation relating to EEG 2012, it ought to have taken a decision in a proceeding concerning existing aid, and not in a proceeding concerning new aid.

Action brought on 30 June 2015 — Modas Cristal v OHIM — Zorlu Tekstil Ürünleri Pazarlama (KRISTAL)

(Case T-345/15)

(2015/C 302/76)

Language in which the application was lodged: Spanish

Parties

Applicant: Modas Cristal, SL (Santa Lucía, Spain) (represented by: E. Manresa Medina, lawyer)

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

Other party to the proceedings before the Board of Appeal: Zorlu Tekstil Ürünleri Pazarlama Anonim Sirketi (Denizli, Turkey)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark containing the word element 'KRISTAL' — Application for registration No 10 574 473

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 24 April 2015 in Case R 341/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision on the ground that the use of the Spanish mark No 2 569 089 'MODAS CRISTAL' for services in Class 35 has been demonstrated and that the new Community trade mark application is incompatible with the Spanish marks No 2 569 089 'MODAS CRISTAL', for services in Class 35, and No 2 763 821 'home CRISTAL', for goods in Class 24;

— order OHIM and any interveners supporting it to pay the costs.

Plea in law

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

Action brought on 18 June 2015 — Bank Tejarat v Council

(Case T-346/15)

(2015/C 302/77)

Language of the case: English

Parties

Applicant: Bank Tejarat (Tehran, Iran) (represented by: S. Zaiwalla, P. Reddy, A. Meskarian, Solicitors, M. Brindle, QC, and R. Blakeley, Barrister)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2015/556 of 7 April 2015 amending Council Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2015 L 92, p. 101), insofar as it applies to the applicant;

— annul Council Implementing Regulation (EU) 2015/549 of 7 April 2015 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2015 L 92, p. 12), insofar as it applies to the applicant;

— order the Council to pay the applicant's costs for this procedure.

Pleas in law and main arguments

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

1. First plea in law, alleging a violation of article 266 TFEU

   — The contested measures are in violation of Article 266 TFEU because the Council has failed to take the necessary measures to comply with the judgment of the Court of Justice of the European Union in Case T-176/12.

2. Second plea in law, alleging a violation of the principle of res judicata

   — The contested measures violate the principles of *res judicata* and/or legal certainty and/or finality.

3. Third plea in law, alleging a violation of the right to effective judicial protection

   — The enactment of the contested measures violates the principle of effectiveness, the right to effective judicial protection, and the applicant's rights under Article 47 of the Charter on Fundamental Rights of the European Union and/or under Article 6 and Article 13 of the European Convention on Human Rights in that they set at naught the judgment of the Court of Justice in Case T-176/12.

4. Fourth plea in law, alleging a violation of the rights to good administration

   — The contested measures violate the applicant's rights to good administration, as the applicant has not been treated either impartially or fairly by the Council.

5. Fifth plea in law, alleging a violation of the right to the respect of reputation and the right of property:

   — The contested measures violate the Applicant's rights under Article 7 and 17 of the Charter on Fundamental Rights and/or Article 8 ECHR and Article 1 of the First Protocol to the European Convention on Human Rights and/or the principle of proportionality.

6. Sixth plea in law, alleging a breach of the duty to state reason

   — The Council has failed to give adequate reasons for the contested measures, and the applicant was unable to respond properly the allegation of the Council.

7. Seventh plea in law, alleging a manifest error of assessment

   — The substantive criteria for designation are in any event not met and the Council has committed a manifest error of assessment by the enactment of the contested measures in that the allegations in the statement of reasons are false and the criteria for designation not met.

Action brought on 4 July 2015 — ADR Center v Commission

(Case T-364/15)

(2015/C 302/78)

Language of the case: English

Parties

Applicant: ADR Center Srl (Rome, Italy) (represented by: L. Tantalo, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision C (2015) 3117 final of 4 May 2015,

— alternatively, declare eligible all the costs found inadmissible by the Commission,

— order the defendants and any interveners to pay the applicant's legal costs and expenses for this procedure in an amount to be determined equitably by the Court.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision should be annulled on the ground that the Commission lacks the competence to adopt a recovery order in contractual matters.

2. Second plea in law, alleging that the contested decision should be annulled on the ground that the decision relies on errors of fact and assessment.

3. Third plea in law, alleging that the contested decision should be annulled on the ground that the Commission misused its power.

4. Fourth plea in law, alleging that the contested decision should be annulled on the ground that the Commission breached their obligation to state reasons.

Action brought on 10 July 2015 — Alcimos Consulting v ECB

(Case T-368/15)

(2015/C 302/79)

Language of the case: English

Parties

Applicant: Alcimos Consulting SMPC (Athens, Greece) (represented by: F. Rodolaki, lawyer)

Defendant: European Central Bank

Form of order sought

The applicant claims that the Court should:

— declare its application initiating proceedings admissible;

— declare the decisions adopted by the Governing Council of the European Central Bank on 28 June 2015 and 6 July 2015 void, and alternatively annul them, and

— award to the applicant damages amounting to one euro.

Pleas in law and main arguments

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

1. First plea in law, alleging that the European Central Bank ('ECB') acted in violation of Article 14(4) of the satute of the European System of Centrals Banks ('ESCB'), as the ECB's refusal to the request made by the Bank of Greece to increase the Emergency Liquidity Assistance ('ELA') to Greek banks would not have interfered with the objectives and tasks of the ESCB.

2. Second plea in law, alleging that the European Central Bank ('ECB') acted in violation of Articles 4 and 5 TEU, as it was acting ultra vires when rejecting the request by the Bank of Greece.

3. Third plea in law, alleging that the ECB acted taking into account political considerations and therefore violating Article 130 TFEU, which enshrines the independence of the ECB.

4. Fourth plea in law, alleging that the contested ECB decisions do not meet the proportionality test, since the promotion of the smooth operation of payment systems provided for in Article 127 (2) TFEU is one of the four basic tasks to be carried out through the Eurosystem, while the extension of additional ELA to Greek banks with its potential minute effects on the implementation of the single monetary policy would have been less disruptive t the objectives of the ECB.

Action brought on 9 July 2015 — VM Vermögens-Management v OHIM — DAT Vermögensmanagement (Vermögensmanufaktur)

(Case T-374/15)

(2015/C 302/80)

Language in which the application was lodged: German

Parties

Applicant: VM Vermögens-Management GmbH (Düsseldorf, Germany) (represented by: T. Dolde and P. Homann, lawyers)

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

Other party to the proceedings before the Board of Appeal: DAT Vermögensmanagement GmbH (Baldham, Germany)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'Vermögensmanufaktur' — Community trade mark No 8 770 042

Procedure before OHIM: Invalidity proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 29 April 2015 in Case R 418/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

— Infringement of Article 75 of Regulation No 207/2009;

— Infringement of Article 76 of Regulation No 207/2009;

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009.

Action brought on 15 July 2015 — Loops v OHIM (Shape of a toothbrush)

(Case T-385/15)

(2015/C 302/81)

Language of the case: English

Parties

Applicant: Loops, LLC (Ferndale, United States) (represented by: T. Schmidpeter, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: International registration designating the European Union in respect of the tridimensional mark (Shape of a toothbrush) — Application for registration No 1 187 189

Contested decision: Decision of the Second Board of Appeal of OHIM of 30 April 2015 in Case R 1917/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— admit the publication in the classes requested of the international registration number 1 187 198;

— order OHIM to pay the costs, including the costs which were due within the course of the Appeal proceedings.

Plea in law

— Infringement of 7(1)(b) of Regulation No 207/2009.

Action brought on 17 July 2015 — Aldi v OHIM — Società Cooperativa Agricola Cantina Sociale Tollo (ALDIANO)

(Case T-391/15)

(2015/C 302/82)

Language in which the application was lodged: German

Parties

Applicant: Aldi GmbH & Co. KG (Mülheim an der Ruhr, Germany) (represented by: N. Lützenrath, U. Rademacher, C. Fürsen and N. Bertram, lawyers)

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

Other party to the proceedings before the Board of Appeal: Società Cooperativa Agricola Cantina Sociale Tollo (Tollo, Italy)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community word mark 'ALDIANO' — Application No 10 942 274

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 13 May 2015 in Case R 1612/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

— Infringement of Article 42(2) of Regulation No 207/2009.

Action brought on 17 July 2015 — KPN v Commission

(Case T-394/15)

(2015/C 302/83)

Language of the case: English

Parties

Applicant: KPN BV (Den Haag, Netherlands) (represented by: J. de Pree and C. van der Hoeven, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission decision C (2014) 7241 final of 10 October 2014 declaring a concentration to be compatible with the internal market and the EEA agreement (Case M.7000 — Liberty Global/Ziggo), and

— order the Commission to pay the costs.

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 a breach of Article 2 and Article 8 of the Regulation (EC) No 139/2004 ([1]) in that the Commission committed a manifest error in the assessment of the vertical effects of the concentration on the market for Premium Pay TV sports channels.

2. Second plea in law, alleging a breach of Article 296 TFEU in that the Commission failed to state its reasons for not assessing the possible vertical anti-competitive effects on the market for Premium Pay TV sports channels.

3. Third plea in law, alleging a breach of Article 2 and Article 8 of the Regulation (EC) No 139/2004 in that the Commission committed a manifest error of assessment in the Decision with respect to the role and influence of Mr Malone in other undertakings active on the same markets.

([1]) Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ 2004 L 24, p. 1).

Action brought on 22 July 2015 — Herm. Sprenger v OHIM — web2get (Shape of an articulated stirrup)

(Case T-396/15)

(2015/C 302/84)

Language in which the application was lodged: German

Parties

Applicant: Herm. Sprenger GmbH & Co. KG (Iserlohn, Germany) (represented by: V. Schiller, lawyer)

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

Other party to the proceedings before the Board of Appeal: web2get GmbH & Co. KG (Dülmen, Germany)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Three-dimensional Community trade mark (Shape of an articulated stirrup) — Community trade mark No 1 599 620

Procedure before OHIM: Invalidity proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 22 April 2015 in Case R 520/2015-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject web2get GmbH & Co. KG's application for a declaration that the applicant's Community trade mark No 1 599 620 is invalid;

— order OHIM to pay the costs.

Pleas in law

— Infringement of Article 52(1)(a) in conjunction with Article 7(1) of Regulation No 207/2009;

— Infringement of Article 52(1)(a) and (2) in conjunction with Article 7(3) of Regulation No 207/2009;

— Infringement of Article 7(1)(e)(i) and (ii) of Regulation No 207/2009;

— Infringement of Article 76(1) of Regulation No 207/2009;

— Infringement of Article 77(1) of Regulation No 207/2009.

Action brought on 17 July 2015 — PAL-Bullermann v OHMI — Symaga (PAL)

(Case T-397/15)

(2015/C 302/85)

Language in which the application was lodged: English

Parties

Applicant: PAL-Bullermann GmbH (Friesoythe-Markhausen, Germany) (represented by: J. Eberhardt, lawyer)

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

Other party to the proceedings before the Board of Appeal: Symaga, SA (Villarta de San Juan, Spain)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark 'PAL'— Community trade mark registration No 690 750

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 7 May 2015 in Case R 1626/2014-1

Form of order sought

The applicant claims that the Court should:

— alter the contested decision so that the application for revocation is upheld in its entirety;

— impose the costs to the defendant and the other party.

Pleas in law

— Infringement of Article 15(1)(a) of Regulation No 207/2009;

— Infringement of Rule 22(3)(4) of Regulation No 2868/95.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 9 July 2015 — ZZ v EEAS

(Case F-101/15)

(2015/C 302/86)

Language of the case: French

Parties

Applicant: ZZ (represented by: J.-N. Louis and N. de Montigny, lawyers)

Defendant: European External Action Service (EEAS)

Subject-matter and description of the proceedings

Application for annulment of the decision of the EEAS not to promote the applicant to grade AD 13 under the 2014 promotion procedure.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decision of 29 October 2014 drawing up the list of officials promoted under the 2014 promotion procedure in so far as it does not include his name;

— order the EEAS to pay the costs.

Action brought on 9 July 2015 — ZZ v EESC

(Case F-102/15)

(2015/C 302/87)

Language of the case: French

Parties

Applicant: ZZ (represented by: L. Levi and A. Tymen, lawyers)

Defendant: European Economic and Social Committee (EESC)

Subject-matter and description of the proceedings

Application for annulment of the decisions of the EESC rejecting the applicant's request for access to documents and for damages in respect of the non-material harm allegedly suffered.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decisions of 10 September 2014 and 19 November 2014 rejecting the applicant's request of 12 June 2014 for access to documents, supplemented by the requests of 23 September, 20 and 30 October 2014;

— annul the decision of 27 March 2015, received on 31 March 2015, rejecting the applicant's complaint of 1 December 2014;

— order payment of compensation in respect of the non-material harm allegedly suffered by the applicant, assessed at EUR 10 000;

— order the EESC to pay all the costs.

Action brought on 17 July 2015 — ZZ v Commission

(Case F-104/15)

(2015/C 302/88)

Language of the case: French

Parties

Applicant: ZZ (represented by: F. Moyse, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the decision not to grant a survivor's pension to the applicant.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decisions of 24 September 2014 and 10 April 2015;

— order the Commission to pay the costs.

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