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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court of 17 December 2015 (request for a preliminary ruling from the Finanzgericht Hamburg — Germany) — YARA Brunsbüttel GmbH v Hauptzollamt Itzehoe

(Case C-529/14) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Directive 2003/96/EC — Taxation of energy products and electricity — Article 2(4)(b) — Dual use of energy products — Concept — Energy product used for the heat treatment of waste and exhaust gases)

(2016/C 078/02)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: YARA Brunsbüttel GmbH

Defendant: Hauptzollamt Itzehoe

Operative part of the order

Article 2(4)(b) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, as amended by Council Directive 2004/75/EC of 29 April 2004, must be interpreted as meaning that the natural gas used, first, for superheating and drying steam which is then used in the ammonia production process and, secondly, for the thermal decomposition and drawing off of residual gases created by that process, does not constitute, for the purpose of that provision, an energy product that has a dual use to which that directive does not apply. Consequently, the Member States may grant a tax exemption for the use of such an energy product only in so far as that exemption complies with the obligations laid down in Directive 2003/96, as amended by Directive 2004/75.

([1]) OJ C 65, 23.2.2015

Order of the Court (Seventh Chamber) of 17 December 2015 — Moreda-Riviere Trefilerías, SA (C-53/15 P), Trefilerías Quijano SA, (C-54/15 P), Trenzas y Cables de Acero PSC SL, (C-55/15 P), Global Steel Wire SA (C-56/15 P) v European Commission

(Joined Cases C-53/15 P to C-56/15 P) ([1])

(Appeals — Competition — European prestressing steel market — Commission decision adjusting the amount of the fines imposed on certain undertakings and fixing a new period for the payment of those fines — Other undertakings whose fines remained unchanged having no interest in bringing proceedings — Article 181 of the Rules of Procedure of the Court — Appeal manifestly unfounded)

(2016/C 078/03)

Language of the case: Spanish

Parties

Appellants: Moreda-Riviere Trefilerías, SA (C-53/15 P), Trefilerías Quijano SA, (C-54/15 P), Trenzas y Cables de Acero PSC SL, (C-55/15 P), Global Steel Wire SA (C-56/15 P) (represented by: F. González Díaz and A. Tresandi Blanco, abogados)

Other party to the proceedings: European Commission (represented by: C. Urraca Caviedes and F. Castillo de la Torre, acting as Agents)

Operative part of the order

The Court hereby orders:

1. *The appeals are dismissed.*

2. *Moreda-Riviere Trefilerías SA, Trefilerías Quijano SA, Trenzas y Cables de Acero PSC SL and Global Steel Wire SA shall pay the costs of the proceedings in cases C-53/15 P, C-54/15 P, C-55/15 P and C-56/15 P respectively.*

([1]) OJ C 118, 13.4.2015

Order of the Court (Seventh Chamber) of 10 December 2015 — Naftiran Intertrade Co. (NICO) Sàrl v Council of the European Union

(Case C-153/15 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court of Justice — Restrictive measures taken against Iran — List of persons and entities subject to the freezing of funds and economic resources — Inclusion of the appellant's name — Admissibility — Period allowed for commencing proceedings — Point from which time starts to run — Manifest inadmissibility)

(2016/C 078/04)

Language of the case: English

Parties

Appellant: Naftiran Intertrade Co. (NICO) Sàrl (represented by: J. Grayston, Solicitor, P. Gjørtler, advokat, G. Pandey and D. Rovetta, avocats, and M. Gambardella, avvocato)

Other party to the proceedings: Council of the European Union (represented by: M. Bishop and I. Rodios, acting as Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *Naftiran Intertrade Co. (NICO) Sàrl shall bear its own costs and shall pay those incurred by the Council of the European Union.*

(1) OJ C 190, 8.6.2015.

Appeal brought on 4 December 2015 by Verein zur Wahrung von Einsatz und Nutzung von Chromtrioxid und anderen Chrom-VI-verbindungen in der Oberflächentechnik eV (VECCO), Adolf Krämer GmbH & Co. KG, AgO Argentum GmbH, and other parties against the judgment of the General Court (Fifth Chamber) delivered on 25 September 2015 in Case T-360/13: Verein zur Wahrung von Einsatz und Nutzung von Chromtrioxid und anderen Chrom-VI-verbindungen in der Oberflächentechnik eV e.a. v European Commission

(Case C-651/15 P)

(2016/C 078/05)

Language of the case: English

Parties

Appellants: Verein zur Wahrung von Einsatz und Nutzung von Chromtrioxid und anderen Chrom-VI-verbindungen in der Oberflächentechnik eV (VECCO), Adolf Krämer GmbH & Co. KG, AgO Argentum GmbH, and other parties (represented by: C. Mereu, avocat, J. Beck, solicitor)

Other parties to the proceedings: European Commission, European Chemicals Agency (ECHA), Assogalvanica, Ecometal, Comité européen des traitements de surfaces (CETS), and other parties

Form of order sought

The appellants claims that the Court should:

— Declare the Appeal admissible and well-founded;

— Set aside the General Court's Judgment in Case T-360/13;

— Rule on the substance of the Appellant's Application for Annulment or refer the case back to the General Court for a decision on the substance of the Application for Annulment.

Pleas in law and main arguments

In support of the appeal, the Appellant put forward the following arguments:

First ground of appeal — The General Court made an error in law when holding that Directive 98/24 (1) and Directive 2004/37 (2) are not specific EU legislation within the meaning of Article 58(2) REACH (3) that impose minimum requirements that properly control the risk to human health of the use of chromium trioxide in the surface coating and galvanising industries:

The General Court's reasoning interprets Article 58(2) REACH in a manner that goes beyond the clear wording and purpose of that provision, as well as the way in which Directive 98/24 and Directive 2004/37 must be interpreted. In sum, the General Court committed an error in law in (i) referring to the exemption under Article 58(2) REACH as one applying to 'substances' as opposed to 'uses', (ii) separating the three-fold test of Article 58(2) and failing to assess in substance the third part of the test ('proper control of risks'), and (iii) holding that Directives 98/24 and 2004/37 do not impose minimum requirements to control the risk related to the use of chromium trioxide in the surface coating and galvanising industries, i. e., in particular, by referring to the absence of occupational exposure limit values.

Second ground of appeal — The Contested Judgment's findings concerning the Commission's discretion are erroneous:

If the first ground of appeal is upheld, the General Court's finding that the Commission properly exercised its discretion when deciding whether or not to grant the exemption under Article 58(2) REACH is erroneous.

Third ground of appeal — Failure to properly assess the first plea in law and the second part of the fourth plea in law:

If the first ground of appeal is upheld, the reasoning in paragraphs 68-69 and 84-85 of the Contested Judgment falls away, and both the first plea and second part of the fourth plea in law before the General Court must be reassessed.

([1]) Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)
OJ L 131, p. 11

([2]) Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC)
OJ L 158, p. 50

([3]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC
OJ L 396, p. 1

Request for a preliminary ruling from the cour d'appel de Versailles (France) lodged on 14 December 2015 — Électricité Réseau Distribution France SA (ERDF) v Axa Corporate Solutions SA and Ombrière Le Bosc SAS

(Case C-669/15)

(2016/C 078/06)

Language of the case: French

Referring court

Cour d'appel de Versailles

Parties to the main proceedings

Appellant: Électricité Réseau Distribution France SA (ERDF)

Respondents: Axa Corporate Solutions SA and Ombrière Le Bosc SAS

Question referred

Are the Orders of 10 July 2006 and 12 January 2010, adopted pursuant to Decree 2000-1196 of 6 December 2000 and Decree 2001-410 of 10 May 2001, which were themselves adopted pursuant to Law 2000-108 of 10 February 2000, contrary to Articles 107 and 108 of the Treaty on the Functioning of the European Union (formerly Articles 87 and 88 of the Treaty establishing the European Community) in so far as they may constitute State aid which, since it was not notified to the Commission beforehand in accordance with Article 108(3) of that Treaty, would affect the legality of those orders?

Request for a preliminary ruling from the Cour administrative (Luxembourg) lodged on 18 December 2015 — Berlioz Investment Fund S.A. v Directeur de l'administration des Contributions directes

(Case C-682/15)

(2016/C 078/07)

Language of the case: French

Referring court

Cour administrative

Parties to the main proceedings

Appellant: Berlioz Investment Fund S.A.

Respondent: Directeur de l'administration des Contributions directes

Questions referred

1. Is a Member State implementing EU law and thus rendering the Charter [of Fundamental Rights of the European Union] applicable in accordance with Article 51(1) thereof in a situation such as that in the main proceedings when it imposes an administrative pecuniary penalty on a person on account of that person's alleged failure to fulfil his obligations to cooperate pursuant to an order requiring him to provide information ('information order') made by the competent national authority of that State under national procedural rules introduced for that purpose, in the context of that Member State's execution, in its capacity as the requested State, of a request for exchange of information from another Member State that is based by the latter State, inter alia, on the provisions of Directive 2011/16 ([1]) on the exchange of information on request?

2. In the event that it is established that the Charter is applicable to the present case, can a person rely on Article 47 of the Charter if he takes the view that the aforementioned administrative pecuniary penalty imposed on him is designed to place him under an obligation to provide information in the context of the execution, by the competent authority of the requested Member State of which he is a resident, of a request for information from another Member State for which there is no justification as regards the actual fiscal aim, there being therefore no legitimate aim in the present case, and which is intended to obtain information that has no foreseeable relevance to the tax case concerned?

3. In the event that it is established that the Charter is applicable to the present case, does the right to an effective remedy and to a fair trial as laid down by Article 47 of the Charter require — without the possibility of restrictions being imposed under Article 52(1) of the Charter — that the competent national court must have unlimited jurisdiction and accordingly the power to review, at least as a result of an objection, the validity of an information order made by the competent authority of a Member State in the execution of a request for exchange of information submitted by the competent authority of another Member State, inter alia, on the basis of Directive 2011/16 in an action brought by the third party holder of the information, to whom that information order is addressed, such action being directed against a decision imposing an administrative pecuniary penalty for that person's alleged failure to fulfil his obligation to cooperate in the context of the execution of that request?

4. In the event that it is established that the Charter is applicable to the present case, are Articles 1(1) and 5 of Directive 2011/16, in the light, on the one hand, of the parallels with the standard of foreseeable relevance arising out of the OECD Model Tax Convention on Income and on Capital and, on the other, of the principle of sincere cooperation laid down in Article 4 TEU, together forming the objective of Directive 2011/16, to be interpreted as meaning that the foreseeable relevance, in relation to the tax case referred to and to the stated fiscal purpose, of the information sought by one Member State from another Member State constitutes a condition which the request for information must satisfy in order to trigger an obligation on the part of the competent authority of the requested Member State to act on that request, and in order to justify an information order issued to a third party by that authority?

5. In the event that it is established that the Charter is applicable to the present case, are the provisions of Article 1(1) in conjunction with Article 5 of Directive 2011/16, and Article 47 of the Charter to be interpreted as precluding a legal provision of a Member State that generally limits the examination by its competent national authority, acting as the authority of the requested State, of the validity of a request for information to a review as to whether the request is in order, and as requiring a national court seised of court proceedings such as those described in the third question above to verify, in the context of those court proceedings, that the condition of foreseeable relevance of the information requested has been satisfied in all its aspects regarding the links to the particular tax case in question, the stated fiscal purpose and compliance with Article 17 of Directive 2011/16?

6. In the event that it is established that the Charter is applicable to the present case, does the second paragraph of Article 47 of the Charter preclude a legal provision of a Member State that precludes a request for information made by the competent authority of another Member State from being submitted to the competent national court of the requested State in court proceedings before it such as those described in the third question above; and does it require that document to be produced to the competent national court and access to it to be granted to the third party holding the information, or, indeed, that document to be produced to the national court without access to it being granted to the third party holding the information, owing to the confidential nature of that document, provided that any difficulties caused to the third party by a limitation on his rights are sufficiently counterbalanced by the procedures followed by the competent national court?

([1]) Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ 2011 L 64, p. 1).

Action brought on 18 December 2015 — European Commission v Republic of Poland

(Case C-683/15)

(2016/C 078/08)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: K.-P. Wojcik, M. Heller and J. Hottiaux, acting as Agents)

Defendant: Republic of Poland

Form of order sought

— declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, ([1]) and in any event by not notifying the Commission of such provisions, the Republic of Poland has failed to fulfil its obligations under Article 130(1) of that directive;

— impose upon the Republic of Poland, in accordance with Article 260(3) TFEU, a penalty payment for failure to fulfil its obligation to notify measures transposing Directive 2014/59/EU at the daily rate of EUR 51 456 from the day on which judgment is delivered in the present case;

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The period for transposing Directive 2014/59/EU expired on 31 December 2014.

([1]) OJ 2014 L 173, p. 190.

Appeal brought on 23 December 2015 by the Czech Republic against the judgment of the General Court (Seventh Chamber) delivered on 8 October 2015 in Joined Cases T-659/13 and T-660/13 – Czech Republic v Commission

(Case C-696/15 P)

(2016/C 078/09)

Language of the case: Czech

Parties

Appellant: Czech Republic (represented by: M. Smolek, J. Vláčil and T. Müller, acting as Agents)

Other party to the proceedings: European Commission

Form of order sought

— set aside the judgment under appeal,

— annul Regulation No 885/2013 ([1]) and Regulation No 886/2013 ([2]) in their entirety, and

— order the European Commission to pay the costs.

In the alternative:

— set aside the judgment under appeal,

— annul Articles 3(1), 8 and 9(1)(a) of Regulation No 885/2013 and Articles 5(1), 9 and 10(1)(a) of Regulation No 886/2013, and

— order the Commission to pay the costs.

Pleas in law and main arguments

The appellant puts forward three grounds of appeal.

First ground of appeal: breach of the principle of legal certainty. In the judgment under appeal the General Court erred in law by reaching the conclusion that the obligations under Regulation No 885/2013 and Regulation No 886/2013 do not apply to a Member State which has not yet decided to deploy in its territory the applications and services of intelligent transport systems, even though that conclusion does not follow from those regulations.

Second ground of appeal: infringement of Article 13(2) of the Treaty on European Union in conjunction with Article 290 of the Treaty on the Functioning of the European Union. In the judgment under appeal the General Court erred in law by reaching the conclusion that, when the Commission adopts acts under delegated powers, it has a wide enough discretion for it not to have to remain within the bounds of the specific delegating provisions.

Third ground of appeal: procedural errors before the General Court. In the judgment under appeal the General Court badly distorted several arguments put forward by the Czech Republic, and there were some arguments of the Czech Republic which it did not address at all. Those procedural errors had a fundamental effect on the General Court's assessment of the pleas in law.

(1) OJ 2013 L 247, p. 1.
(2) OJ 2013 L 247, p. 6.

Reference for a preliminary ruling from Court of Appeal (England & Wales) (Civil Division) (United Kingdom) made on 24 December 2015 — Commissioners for Her Majesty's Revenue & Customs v Brockenhurst College

(Case C-699/15)

(2016/C 078/10)

Language of the case: English

Referring court

Court of Appeal (England & Wales) (Civil Division)

Parties to the main proceedings

Applicant: Commissioners for Her Majesty's Revenue & Customs

Defendant: Brockenhurst College

Questions referred

1. With regard to article 132(1)(i) of the VAT Directive ([1]), are supplies of restaurant services and entertainment services made by an educational establishment to paying members of the public (who are not recipients of the principal supply of education) 'closely related' to the provision of education in circumstances where the making of those supplies is facilitated by the students (who are the recipients of the principal supply of education) in the course of their education and as an essential part of their education?

2. ln determining whether the supplies of restaurant services and entertainment services are within the exemption in article 132(1)(i) as services 'closely related' to the provision of education:

   a. is it relevant that the students benefit from being involved in the making of the supplies in question rather than from the subject matter of those supplies;

   b. is it relevant that those supplies are not received or consumed either directly or indirectly by the students but are received and consumed by those members of the public who pay for them and who are not recipients of the principal supply of education;

c. is it relevant that, from the paint of view of the typical recipients of the services in question (that is to say, the members of the public who pay for them), the supplies do not represent a means of better enjoying any other supply but are an end in themselves;

d. is it relevant that, from the point of view of the students, the supplies in question are not an end in themselves but participating in the making of the supplies represents a means of better enjoying the principal supply of education services;

e. to what extent should the principle of fiscal neutrality be taken into account?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. OJ L 347, p. 1.

Order of the President of the Court of 1 December 2015 (request for a preliminary ruling from the Commissione Tributaria Provinciale di Catanzaro — Italy) — Esse Di Emme Costruzioni Srl v Tribunale Amministrativo Regionale della Calabria, Ministero della Giustizia — Dipartimento Affari di Giustizia, Ministero dell'Economia e delle Finanze

(Case C-59/15) (1)

(2016/C 078/11)

Language of the case: Italian

The President of the Court has ordered that the case be removed from the register.

(1) OJ C 138, 27.4.2015.

Order of the Vice-President of the Court of 18 December 2015 — Court of Justice of the European Union v Kendrion NV, supported by: European Commission

(Case C-71/15 P) (1)

(2016/C 078/12)

Language of the case: Dutch

The Vice-President of the Court has ordered that the case be removed from the register.

(1) OJ C 107, 30.3.2015.

Order of the Vice-President of the Court of 18 December 2015 — Court of Justice of the European Union v Luigi Marcuccio

(Case C-77/15 P) (1)

(2016/C 078/13)

Language of the case: Italian

The Vice-President of the Court has ordered that the case be removed from the register.

(1) OJ C 138, 27.4.2015.

Order of the Vice-President of the Court of 18 December 2015 — Court of Justice of the European Union v Gascogne Sack Deutschland GmbH, Groupe Gascogne SA, supported by: European Commission

(Case C-125/15 P) ([1])

(2016/C 078/14)

Language of the case: French

The Vice-President of the Court has ordered that the case be removed from the register.

([1]) OJ C 155, 11.5.2015.

Order of the Vice-President of the Court of 18 December 2015 — Court of Justice of the European Union v European Commission, Aalberts Industries NV

(Case C-132/15 P) ([1])

(2016/C 078/15)

Language of the case: Dutch

The Vice-President of the Court has ordered that the case be removed from the register.

([1]) OJ C 205, 22.6.2015.

Order of the President of the Court of 9 December 2015 (request for a preliminary ruling from the Raad van State — Netherlands) — T.D. Rease, P. Wullems v College bescherming persoonsgegevens

(Case C-192/15) ([1])

(2016/C 078/16)

Language of the case: Dutch

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 236, 20.7.2015.

Order of the President of the Court of 30 November 2015 — European Commission v Romania

(Case C-366/15) ([1])

(2016/C 078/17)

Language of the case: Romanian

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 346, 19.10.2015.

Order of the President of the Court of 15 December 2015 (request for a preliminary ruling from the Raad van State — Netherlands) — Lufthansa Cargo AG v Staatssecretaris van Infrastructuur en Milieu

(Case C-470/15) ([1])

(2016/C 078/18)

Language of the case: Dutch

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 398, 30.11.2015.

Order of the President of the Court of 15 December 2015 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Aeroporto Valerio Catullo di Verona Villafranca SpA v Società per l'Aeroporto Civile di Bergamo-Orio al Serio SpA (SACBO SpA), Società Aeroporto Brescia e Montichiari SpA (Abem SpA) and Others

(Case C-485/15) ([1])

(2016/C 078/19)

Language of the case: Italian

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 414, 14.12.2015.

GENERAL COURT

Judgment of the General Court of 19 January 2016 — Toshiba v Commission

(Case T-404/12) ([1])

(Agreements, decisions and concerted practices — Market in gas insulated switchgear projects — New decision taken following annulment in part of the initial decision by the Court — Fines — Rights of the defence — Obligation to state reasons — Equal treatment — Starting amount — Extent of contribution to the infringement)

(2016/C 078/20)

Language of the case: English

Parties

Applicant: Toshiba Corp. (Tokyo, Japan) (represented by: J. MacLennan, Solicitor, A. Schulz and S. Sakellariou, lawyers)

Defendant: European Commission (represented by: N. Khan and F. Ronkes Agerbeek, acting as Agents)

Re:

Application, principally, for the annulment of Commission Decision C(2012) 4381 of 27 June 2012 amending Decision C (2006) 6762 final of 24 January 2007 relating to a proceeding under Article 81 [EC] (now Article 101 TFEU) and Article 53 of the EEA Agreement to the extent that it was addressed to Mitsubishi Electric Corp. and Toshiba Corp. (Case COMP/39.966 — Gas Insulated Switchgear — Fines), and, in the alternative, for the reduction of the fine imposed on the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Toshiba Corp. to pay the costs.*

([1]) OJ C 343, 10.11.2012.

Judgment of the General Court of 19 January 2016 — Mitsubishi Electric v Commission

(Case T-409/12) ([1])

(Competition — Agreements, decisions and concerted practices — Market in gas insulated switchgear projects — New decision taken following annulment in part of the initial decision by the Court — Fines — Obligation to state reasons — Principle of good administration — Rights of the defence — Equal treatment — Proportionality — Erroneous application — Starting amount — Extent of contribution to the infringement — Deterrence multiplier)

(2016/C 078/21)

Language of the case: English

Parties

Applicant: Mitsubishi Electric Corp. (Tokyo, Japan) (represented by: R. Denton, J. Vyavaharkar, R. Browne, L. Philippou, M. Roald, and J. Robinson, Solicitors, and K. Haegeman, lawyer)

Defendant: European Commission (represented by: N. Khan and P. Van Nuffel, acting as Agents)

Re:

Application, principally, for the annulment of Commission Decision C(2012) 4381 of 27 June 2012 amending Decision C (2006) 6762 final of 24 January 2007 relating to a proceeding under Article 81 [EC] (now Article 101 TFEU) and Article 53 of the EEA Agreement to the extent that it was addressed to Mitsubishi Electric Corp. and Toshiba Corp. (Case COMP/39.966 — Gas Insulated Switchgear — Fines) in so far as it concerns the applicant and, in the alternative, for the amendment of Article 1 of that decision with a view to the annulment or, failing that, a reduction of the fine imposed on the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mitsubishi Electric Corp. to pay the costs.*

([1]) OJ C 343, 10.11.2012.

Judgment of the General Court of 14 January 2016 — Ntouvas v ECDC

(Case T-94/13) ([1])

(Appeal — Civil service — Contract staff — Reports procedure — Career development report — 2010 appraisal procedure — Dismissal of the action at first instance — Time-limit for submission of the defence — Extension — Exceptional circumstances — Article 39(2) of the Rules of Procedure of the Civil Service Tribunal — Lawfulness of the appraisal procedure)

(2016/C 078/22)

Language of the case: English

Parties

Appellant: Ioannis Ntouvas (Agios Stefanos, Greece) (represented by: V. Kolias, lawyer)

Other party to the proceedings: European Center for Disease Prevention and Control (ECDC) (represented initially by R. Trott, and subsequently by J. Mannheim and A. Daume, acting as Agents, assisted by D. Waelbroeck and A. Duron, lawyers)

Re:

Appeal brought against the judgment of the European Union Civil Service Tribunal (Second Chamber) of 11 December 2012 in *Ntouvas* v *ECDC* (F-107/11, ECR-SC, EU:F:2012:182), and seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Mr Ioannis Ntouvas to pay the costs.*

(1) OJ C 114, 20.4.2013.

Judgment of the General Court of 14 January 2016 — Tilly-Sabco v Commission

(Case T-397/13) (1)

(Agriculture — Export refund — Poultry meat — Implementing regulation fixing the refund at EUR 0 — Action for annulment — Regulatory act not entailing implementing measures — Direct concern — Admissibility — Article 3(3) of Regulation (EU) No 182/2011 — Obligation to state reasons — Article 164(3) of Regulation (EC) No 1234/2007 — Legitimate expectations)

(2016/C 078/23)

Language of the case: French

Parties

Applicant: Tilly-Sabco (Guerlesquin, France) (represented by: R. Milchior, F. Le Roquais and S. Charbonnel, lawyers)

Defendant: European Commission (represented by: D. Bianchi and K. Skelly, acting as Agents)

Intervener in support of the applicant: Doux SA (Châteaulin, France) (represented by: J. Vogel, lawyer)

Re:

Application for annulment of Commission Implementing Regulation (EU) No 689/2013 of 18 July 2013 fixing the export refunds on poultrymeat (OJ 2013 L 196, p. 13).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Tilly-Sabco to pay its own costs, including those relating to the interim proceedings;*

3. *Orders the European Commission to pay its own costs, including those relating to the interim proceedings;*

4. *Orders Doux SA to pay its own costs;*

5. *Orders the French Republic to pay its own costs incurred as an intervener in the interim proceedings.*

(1) OJ C 291, 5.10.2013.

Judgment of the General Court of 14 January 2016 — Doux v Commission

(Case T-434/13) ([1])

(Agriculture — Export refund — Poultry meat — Implementing Regulation fixing the refund at EUR 0 — Action for annulment — Regulatory act not entailing implementing measures — Direct concern — Admissibility — Article 3(3) of Regulation (EU) No 182/2011 — Obligation to state reasons — Article 164(3) of Regulation (EC) No 1234/2007 — Legitimate expectations)

(2016/C 078/24)

Language of the case: French

Parties

Applicant: Doux SA (Châteaulin, France) (represented by: J. Vogel, lawyer)

Defendant: European Commission (represented by: D. Bianchi and K. Skelly, acting as Agents)

Intervener in support of the applicant: Tilly-Sabco (Guerlesquin, France) (represented by: R. Milchior, F. Le Roquais and S. Charbonnel, lawyers)

Re:

Application for annulment of Commission Implementing Regulation (EU) No 689/2013 of 18 July 2013 fixing the export refunds on poultry meat (OJ 2013 L 196, p. 13).

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Doux SA to bear its own costs and those incurred by the European Commission;*

3) *Orders Tilly-Sabco to bear its own costs.*

([1]) OJ C 291, 5.10.2013.

Judgment of the General Court of 14 January 2016 — France v Commission

(Case T-549/13) ([1])

(Agriculture — Export refund — Poultry meat — Fixing the refund at EUR 0 — Obligation to state reasons — Possibility for the Commission to confine itself to a standard set of reasoning — Commission's standard practice in fixing refunds — Article 164(3) of Regulation (EC) No 1234/2007 — Non-exhaustive nature of the criteria laid down)

(2016/C 078/25)

Language of the case: French

Parties

Applicant: French Republic (represented by: G. de Bergues, D. Colas and C. Candat, acting as Agents)

Defendant: European Commission (represented by: D. Bianchi and K. Skelly, acting as Agents)

Re:

Application for annulment of Commission Implementing Regulation (EU) No 689/2013 of 18 July 2013 fixing the export refunds on poultry meat (OJ 2013 L 196, p. 13).

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders each party to bear its own costs.*

(1) OJ C 367, 14.12.2013.

Judgment of the General Court of 14 January 2016 — The Cookware Company v OHIM — Fissler (VITA+VERDE)

(Case T-535/14) (1)

(Community trade mark — Opposition proceedings — Application for the Community figurative mark VITA+VERDE — Earlier word mark VITAVIT — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2016/C 078/26)

Language of the case: English

Parties

Applicant: The Cookware Company Ltd (Hong Kong, China) (represented by: K. Manhaeve, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Fissler GmbH (Idar-Oberstein, Germany) (represented by: A. Späth and V. Töbelmann, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 15 April 2014 (Case R 1082/2013-2), relating to opposition proceedings between Fissler GmbH and The Cookware Company Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders The Cookware Company Ltd to pay the costs.*

(1) OJ C 351, 6.10.2014.

Judgment of the General Court of 14 January 2016 — International Gaming Projects v OHIM (BIG BINGO)

(Case T-663/14) ([1])

(Community trade mark — Application for Community figurative mark BIG BINGO — Absolute ground for refusal — Distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2016/C 078/27)

Language of the case: Spanish

Parties

Applicant: International Gaming Projects Ltd (Valetta, Malta) (represented by: M. D. Garayalde Niño, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 11 June 2014 (Case R 755/2014-1) concerning an application for registration of the figurative sign BIG BINGO as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders International Gaming Projects Ltd to pay the costs.*

([1]) OJ C 395, 10.11.2014.

Judgment of the General Court of 14 January 2016 — Coedo Suárez v Council

(Case T-297/15 P) ([1])

(Appeal — Civil Service — Officials — Disciplinary measures — Removal from post and reduction of the invalidity allowance — Dismissal of the action at first instance — Error of law — Duty to state reasons)

(2016/C 078/28)

Language of the case: French

Parties

Appellant: Ángel Coedo Suárez (Brussels, Belgium) (represented by: S. Rodrigues and C. Bernard-Glanz, lawyers)

Other party to the proceedings: Council of the European Union (represented by: M. Bauer and M. Veiga, acting as Agents)

Re:

Appeal lodged against the judgment of the European Union Civil Service Tribunal (First Chamber) of 26 March 2015 in *Coedo Suárez* v *Council* (F-38/14, ECR-SC, EU:F:2015:25), seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the European Union Civil Service Tribunal (First Chamber) of 26 March 2015 in Coedo Suárez v Council (F-38/14) in so far as it rejects the second complaint of the first plea in law raised at first instance, concerning the assessment of the mitigating circumstances;*

2. *Dismisses the action brought by Mr Ángel Coedo Suárez before the Civil Service Tribunal in Case F-38/14;*

3. *Orders Mr Coedo Suárez to pay the costs of the proceedings before the Civil Service Tribunal and, in addition to bearing his own costs, to pay half of the costs incurred by the Council of the European Union in the present proceedings;*

4. *Orders the Council of the European Union to bear half of its own costs of the present proceedings.*

(1) OJ C 245, 27.7.2015.

Judgment of the General Court of 14 January 2016 — Zitro IP v OHIM (TRIPLE BONUS)

(Case T-318/15) (1)

(Community trade mark — Application for Community figurative mark TRIPLE BONUS — Absolute ground for refusal — Descriptive character — Article 7(1)(c) and (2) of Regulation (EC) No 207/2009)

(2016/C 078/29)

Language of the case: Spanish

Parties

Applicant: Zitro IP Sàrl (Luxembourg, Luxembourg) (represented by: A. Canela Giménez, lawyer)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 15 April 2015 (Case R 1648/2014-4) concerning an application for registration of the figurative sign TRIPLE BONUS as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Zitro IP Sàrl to pay the costs.*

(1) OJ C 262, 10.8.2015.

Order of the General Court of 15 December 2015 — CCPL and Others v Commission

(Case T-522/15) ([1])

(Interim proceedings — Competition — Retail food packaging — Decision imposing fines — Bank guarantee — Application for a stay of execution — Fumus boni juris — Urgency — Balance of interests)

(2016/C 078/30)

Language of the case: Italian

Parties

Applicants: CCPL — Consorzio Cooperative di Produztione e Lavoro SC (Reggio d'Emilia, Italy), Coopbox group SpA (Reggio d'Emilia), Poliemme Srl (Reggio d'Emilia), Coopbox Hispania, SL (Lorca, Spain), Coopbox Eastern s.r.o. (Nové Mesto nad Váhom, Slovakia) (represented by: S. Bariatti and E. Cucchiara, lawyers)

Defendant: European Commission (represented initially by: F. Jimeno Fernandez, A. Biolan and P. Rossi, and subsequently by: F. Jimeno Fernandez, P. Rossi and L. Malferrari, acting as Agents)

Re:

Application for a stay of execution of Commission Decision No C(2015) 4336 final of 24 June 2015 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (AT.39563 — Retail food packaging), in so far as it requires the applicants to supply a bank guarantee or to make provisional payment of the amount of the fines imposed as a condition for the avoidance of the immediate recovery of that sum.

Operative part of the order

1. *The obligation on the applicants, CCPL — Consorzio Cooperative di Produztione e Lavoro SC, Coopbox group SpA, Poliemme Srl, Coopbox Hispania, SL and Coopbox Eastern s.r.o. to provide a bank guarantee in favour of the European Commission to avoid the immediate recovery of the fines imposed on them under Article 2 of Commission Decision No C(2015) 4336 final of 24 June 2015 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (AT.39563 — Retail food packaging) is suspended, provided that:*

   — *within one month from service of this order, then every three months until adoption of the decision in the main proceedings and at each event liable to affect their future capacity to pay the fines imposed, the applicants submit a detailed written report to the Commission on the implementation of the restructuring plan of the CCPL group and on the amount of revenue derived from the sale of its assets both in implementation and 'outside' that plan;*

   — *the applicants pay the Commission the sum of EUR 5 million as soon as they have obtained the sum from that sale, and the entirety of the revenue derived from the proposed transfer of the interests in Refincoop SpA, Erzelli Energia Srl and Smec Srl, as soon as that revenue has been obtained;*

2. *The costs are reserved.*

([1]) OJ C 354, 26.10.2015.

Action brought on 13 November 2015 — Liedtke/Parliament

(Case T-652/15)

(2016/C 078/31)

Language of the case: English

Parties

Applicant: Dirk Liedtke (Hamburg, Germany) (represented by: N. Pirc Musar, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul decision A(2015)8547 C of the European Parliament of 16 September 2015 rejecting the applicant's confirmatory application for access to certain documents relating to information on Members' of the European Parliament travel expenses, subsistence allowances, general expenditure allowances and staffing arrangements expenses;

— order the Parliament to pay the applicant's costs pursuant to Articles 134 and 140 of the Rules of Procedure of the General Court, including the costs of any intervening parties.

Pleas in law and main arguments

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

1. First plea in law, alleging a violation of Article 4(1)(b) of Regulation 1049/2001 ([1]) in conjunction with Article 8(b) of Regulation 45/2001 ([2]), since the personal data requested are not protected under Community legislation

2. Second plea in law, alleging a violation of Article 4(1)(b) of Regulation 1049/2001 in conjunction with Article 8(b) of Regulation 45/2001, as the access to the requested information was refused, although the conditions for disclosure were met

3. Third plea in law, alleging a violation of the general obligation, under Articles 2 and 4 of Regulation 1049/2001 in conjunction with Article 6(3) of Regulation 1049/2001, to conduct an examination of each individual document

4. Fourth plea in law, alleging a violation of Article 4(6) of Regulation 1049/2001, as the refusal to grant partial access to the requested documents was not justified

5. Fifth plea in law, alleging a violation of the duty to state reasons as required by Articles 7(1) and 8(1) of Regulation 1049/2001, as the Parliament failed to address all of the applicant's arguments

([1]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

([2]) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1).

Action brought on 30 November 2015 — Bergbräu v OHIM — Vilser Privatbrauerei (VILSER BERGBRÄU)

(Case T-697/15)

(2016/C 078/32)

Language in which the application was lodged: German

Parties

Applicant: Bergbräu GmbH & Co. KG (Uslar, Germany) (represented by: B. Reiter, lawyer)

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

Other party to the proceedings before the Board of Appeal: Vilser Privatbrauerei GmbH (Vils, Austria)

Details of the proceedings before OHIM

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

Trade mark at issue: Community figurative mark containing the word elements 'VILSER BERGBRÄU' — Application for registration No 11 396 223

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 10 September 2015 in Case R 2675/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in the opposition proceedings between Privatbrauerei Bergbräu GmbH & Co. KG and Vilser Privatbrauerei GmbH (Opposition No B 002169764);

— order OHIM to pay the costs;

— fix a date for the hearing in the event that the assessment of the facts of the case by the Court is not possible without a hearing.

Plea in law

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

Action brought on 14 December 2015 — ICA Laboratories e.a. v Commission

(Case T-732/15)

(2016/C 078/33)

Language of the case: English

Parties

Applicants: ICA Laboratories Close Corp. (Century City, South Africa), ICA International Chemicals (Proprietary) Ltd (Century City), ICA Developments (Proprietary) Ltd (Century City) (represented by: K. Van Maldegem and R. Crespi, lawyers, and P. Sellar, solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— Declare the application admissible and well-founded;

— Annul the Commission Regulation (EU) 2015/1910 of 21 October 2015 amending Annexes III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels of guazatine in or on certain products ([1]); and

— Order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The applicants allege that by adopting Regulation (EU) 2015/1910 imposing a maximum residue limit of 0,05 mg/kg of the active substance guazatine in or on certain products, the Commission has committed infringements of European Union law and failed to apply general principles of European Union law.

1. First plea in law, alleging that the Commission frustrated the legitimate expectations of the South African government and of the applicants and infringed legally binding rules under Regulation (EC) No 396/2005 ([2]) by failing to take into account the available scientific and technical information.

2. Second plea in law, alleging that the Commission has committed a series of manifest errors of assessment in relying upon two opinions of the European Food Safety Authority, the contents of these opinions revealing those errors.

3. Third plea in law, alleging that the Commission has infringed the applicants' rights of defence. The Commission has relied on an alleged scientific concern on which no information is given either in the contested regulation or in the documents on which the contested regulation is based.

4. Fourth plea in law, alleging that the contested regulation is disproportionate. The Commission has chosen the most onerous measure where other more proportionate measures were available to it.

([1]) Commission Regulation (EU) 2015/1910 of 21 October 2015 amending Annexes III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels of guazatine in or on certain products (OJ 2015 L 280, p. 2).

([2]) Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ 2005 L 70, p. 1).

Action brought on 21 December 2015 — Puro v OHIM ('smartline')

(Case T-744/15)

(2016/C 078/34)

Language of the case: Italian

Parties

Applicant: Puro Italian Style SpA (Puro SpA) (Modena, Italy) (represented by: F. Terrano, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Community figurative mark containing the word element 'smartline' — Application for registration No 12 574 802

Contested decision: Decision of the First Board of Appeal of OHIM of 7 October 2015 in Case R 2258/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 22 December 2015 — EDF v Commission

(Case T-747/15)

(2016/C 078/35)

Language of the case: French

Parties

Applicant: Électricité de France (EDF) (Paris, France) (represented by: M. Debroux, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— principally, annul Articles 1, 2, 3, 4 and 5 of the contested decision for infringement of essential procedural requirements, errors of law and errors of fact;

— in the alternative, annul Articles 1, 2 and 3 of the contested decision, in that the amount that EDF was required to reimburse was very significantly overestimated, and

— in any event, order the Commission to pay all the costs.

Pleas in law and main arguments

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

1. First plea, alleging infringement of Article 266 TFEU.

2. Second plea, alleging infringement of Article 107 TFEU. That plea is composed of two branches:

   — First branch, concerning the applicability of the private investor test, which is divided into five parts.

— First part, according to which the Commission, without justification or stating reasons, did not take into account numerous documents and pieces of evidence which were duly submitted to it by France and EDF;

— Second part, according to which the Commission systematically confused the elements concerning respectively the applicability and the application of the private investor test.

— Third part, according to which the Commission wrongly ruled out the applicability of the prudent private investor criterion, solely because, in examining the measure, France had taken into account inter alia considerations relating to its status as a public authority, alongside considerations relating to its status as a shareholder.

— Fourth part, according to which the Commission wrongly individuated an obligation on the part of EDF to have a formal business plan in order to justify the applicability of the prudent private investor criterion.

— Fifth part, according to which the Commission disregarded the nature and purpose of that measure, its context, the objective it pursued and the rules to which it was subject.

— Second branch, concerning the application of the private investor test, which is divided into three parts.

— First part, according to which the Commission wrongly concluded that the Oxera Report was not admissible as evidence.

— Second part, according to which the Commission's methodology is vitiated by clear failings. First, the Commission took into account neither the context of the period in question, nor the criteria that investors at that time would have used. Secondly, the Commission's 'tax gift' hypothesis not only constitutes an error of law, but also gave rise to errors in the evaluation of the adequacy of the investment. In the third place, the Commission committed multiple methodological errors, each of which suffices to demonstrate clearly that the private investor criterion was not applied.

— Third part, concerning the consequences of the methodological errors committed by the Commission.

3. Third plea, alleging a failure to state reasons for the contested decision.

In support of the action, the applicant also raises two pleas in law in the alternative.

1. First plea raised in the alternative, alleging that recovery of the majority of the aid is time barred. That plea in divided into two branches:

— First branch, according to which the aid in question was mainly existing aid stemming from a measure implemented before the European electricity market was opened to competition.

— Second branch, according to which a significant portion of the alleged aid stems from a measure implemented more than ten years before the first formal action taken in the investigation.

2. Second plea raised in the alternative, alleging errors of calculation committed by the Commission in determining the alleged aid. That plea in divided into three branches:

— First branch, according to which the Commission erred in relation to the total amount of the reserves.

— Second branch, according to which the Commission erred in relation to the applicable tax rate.

— Third branch, according to which the amount of the alleged aid should be reviewed on the basis of the correct information.

Action brought on 21 December 2015 — Gauff v OHIM — H.P. Gauff Ingenieure (Gauff)

(Case T-748/15)

(2016/C 078/36)

Language in which the application was lodged: German

Parties

Applicant: Gauff GmbH & Co. Engineering KG (Nuremberg, Germany) (represented by: A. Molnar, lawyer)

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

Other party to the proceedings before the Board of Appeal: H.P. Gauff Ingenieure GmbH & Co. KG — JBG (Frankfurt am Main, Germany)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'Gauff' — Community trade mark No 6 192 521

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 8 October 2015 in Case R 1350/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— in the alternative, refer the case back to OHIM for further examination of the disputed matters that were, in error, not examined;

— order OHIM to pay the costs, including the costs incurred in the course of the appeal proceedings.

Pleas in law

— Infringement of Articles 53, 56, 57 and 76 of Regulation No 207/2009;

— Infringement of Regulation No 2868/95;

— Breach of the right to be heard;

— Defective statement of reasons.

Action brought on 18 December 2015 — Guccio Gucci v OHIM — Guess? IP Holder (Representation of four interlaced letters G)

(Case T-753/15)

(2016/C 078/37)

Language in which the application was lodged: English

Parties

Applicant: Guccio Gucci SpA (Florence, Italy) (represented by: P. Roncaglia, F. Rossi and N. Parrotta, lawyers)

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

Other party to the proceedings before the Board of Appeal: Guess? IP Holder LP (Los Angeles, United States)

Details of the proceedings before OHIM

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

Trade mark at issue: International registration designating the European Union in respect of the figurative mark representing four interlaced letters G — International registration designating the European Union No 1 090 048

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 14 October 2015 in Case R 1703/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs incurred by the applicant during these proceedings;

— order Guess to pay the costs incurred by the applicant in the proceedings before the Board of Appeal of OHIM.

Pleas in law

— Infringement of Articles 8(1)(b), 8(5) and 75 of Regulation No 207/2009.

Action brought on 28 December 2015 — Labeyrie v OHIM — Delpeyrat (Representation of a sowing of golden fish on a blue background)

(Case T-766/15)

(2016/C 078/38)

Language in which the application was lodged: French

Parties

Applicant: Labeyrie (Saint-Geours-de-Maremne, France) (represented by: A. Lecomte, lawyer)

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

Other party to the proceedings before the Board of Appeal: Delpeyrat (Saint Pierre du Mont, France)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark in colour (Representation of a sowing of golden fish on a blue background) — Community trade mark No 3 916 509

Procedure before OHIM: Proceedings for revocation

Contested decision: Decision of the First Board of Appeal of OHIM of 15 October 2015 in Case R 2693/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, in that it confirmed the decision of the Invalidity Division of OHIM revoking the rights of the company LABEYRIE over its Community mark No 3 916 509 to designate fish, smoked fish and smoked salmon;

— order the defendant to pay the costs.

Plea in law

— Infringement of Article 51(1)(a) of Regulation No 207/2009, in conjunction with Article 1(1)(a) of that regulation, and of Rule 22 and Rule 40 of Regulation No 2868/95.

Action brought on 28 December 2015 — Labeyrie v OHIM — Delpeyrat (Representation of a sowing of light coloured fish on a dark background)

(Case T-767/15)

(2016/C 078/39)

Language in which the application was lodged: French

Parties

Applicant: Labeyrie (Saint-Geours-de-Maremne, France) (represented by: A. Lecomte, lawyer)

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

Other party to the proceedings before the Board of Appeal: Delpeyrat (Saint Pierre du Mont, France)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark without any representation of colours (Representation of a sowing of light coloured fish on a dark background) — Community trade mark No 3 916 533

Procedure before OHIM: Proceedings for revocation

Contested decision: Decision of the First Board of Appeal of OHIM of 15 October 2015 in Case R 2694/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, in that it confirmed the decision of the Invalidity Division of OHIM revoking the rights of the company LABEYRIE over its Community mark No 3 916 533 to designate fish;

— order the defendant to pay the costs.

Plea in law

— Infringement of Article 51(1)(a) of Regulation No 207/2009, in conjunction with Article 1(1)(a) of that regulation, and of Rule 22 and Rule 40 of Regulation No 2868/95.

Action brought on 28 December 2015 — RP Technik v OHIM — Tecnomarmi (RP ROYAL PALLADIUM)

(Case T-768/15)

(2016/C 078/40)

Language in which the application was lodged: German

Parties

Applicant: RP Technik GmbH Profilsysteme (Bönen, Germany) (represented by: P. Henrichs, lawyer)

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

Other party to the proceedings before the Board of Appeal: Tecnomarmi Snc (Treviso, Italy)

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 containing the word elements 'RP ROYAL PALLADIUM' — Community trade mark application No 11 358 496

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 14 October 2014 in Case R 2061/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the intervener to pay the costs, including the costs incurred in the proceedings before the Board of Appeal;

— in the alternative, order the defendant to pay the costs, including the costs incurred in the proceedings before the Board of Appeal, if the intervener is not a party to the proceedings.

Plea in law

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

Action brought on 29 December 2015 — SeNaPro v OHIM — Paltentaler Splitt & Marmorwerke (Dolokorn)

(Case T-769/15)

(2016/C 078/41)

Language in which the application was lodged: German

Parties

Applicant: SeNaPro GmbH (Pommelsbrunn, Germany) (represented by: A. Schröder, lawyer)

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

Other party to the proceedings before the Board of Appeal: Paltentaler Splitt & Marmorwerke GmbH (Rottenmann, Austria)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'Dolokorn' — Application No 11 877 181

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 23 October 2015 in Case R 2643/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay its own costs and those incurred by SeNaPro GmbH.

Plea in law

— Infringement of Article 75 and Article 76(1) and (2) of Regulation No 207/2009.

Action brought on 23 December 2015 — BBY Solutions v OHIM — Worldwide Sales Corporation España (BEST BUY)

(Case T-773/15)

(2016/C 078/42)

Language in which the application was lodged: English

Parties

Applicant: BBY Solutions, Inc. (Minneapolis, United States) (represented by: A. Poulter, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Worldwide Sales Corporation España, SL (Sant Vicenç dels Horts, Spain)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community figurative mark containing the word elements 'BEST BUY' — Application for registration No 6 065 403

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 8 October 2015 in Joined Cases R 733/2015-2 and R 780/2015-2

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Board of Appeal of 8 October 2015 in Case R-0780/2015-2 to the extent that it upheld the opposition;

— annul the decision of the Opposition division dated 23 February 2015 in Opposition No. B 1312208 to the extent that it upheld the opposition;

— accept the CTM Application No 006065403 for registration;

— order the Defendant to bear its own costs and pay those of the Applicant.

Pleas in law

— The Board infringed Article 8(1)(b) of Regulation No 207/2009 by wrongly assessing the dominant and distinctive elements of the marks;

— The Board infringed Article 8(1)(b) of Regulation No 207/2009 by wrongly assessing the overall impression created by the marks;

— The Board infringed Article 8(1)(b) of Regulation No 207/2009 by wrongly assessing the identity or similarity of the goods and services covered by the marks; and

— The Board infringed Article 8(1)(b) of Regulation No 207/2009 by wrongly concluding that there was a likelihood of confusion between the Opponent's earlier marks and the Applicant's Mark.

Action brought on 29 December 2015 — EK/servicegroup v OHIM (FERLI)

(Case T-775/15)

(2016/C 078/43)

Language of the case: German

Parties

Applicant: EK/servicegroup eG (Bielefeld, Germany) (represented by: T. Müller und T. Müller, lawyers)

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

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'FERLI' — Application for Registration No 13 850 235

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 28 October 2015 in Case R 1233/2015-4

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 28 of Regulation No 207/2009 in conjunction with Rule 9(4) of Regulation No 2868/95;

— Infringement of the second sentence of Article 75 of Regulation No 207/2009.

Action brought on 30 December 2015 — Meissen Keramik v OHIM (MEISSEN KERAMIK)

(Case T-776/15)

(2016/C 078/44)

Language of the case: German

Parties

Applicant: Meissen Keramik GmbH (Meißen, Germany) (represented by: M. Vohwinkel and M. Bagh, lawyers)

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

Details of the proceedings before OHIM

Trade mark at issue: Community figurative mark containing the word elements 'MEISSEN KERAMIK' — Application for registration No 13 100 797

Contested decision: Decision of the First Board of Appeal of OHIM of 28 October 2015 in Case R 531/2015-1

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 7(1)(b) and (c) of Regulation No 207/2009.

Action brought on 4 January 2016 — K&K Group v OHIM — Pret a Manger (Europe) (Pret A Diner)

(Case T-2/16)

(2016/C 078/45)

Language in which the application was lodged: English

Parties

Applicant: K&K Group AG (Cham, Switzerland) (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: Pret a Manger (Europe) Ltd (London, United Kingdom)

Details of the proceedings before OHIM

Applicant of the trade mark at issue: Applicant

Trade mark at issue: International registration designating the European Union in respect of the figurative mark containing the word elements 'Pret A Diner' — International registration No 1 113 460

Procedure before OHIM: Opposition proceedings.

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 29 October 2015 in Case R 2825/2014-5

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 Articles 8(5), 15(1), 42(2) and 42(3) of Regulation No 207/2009;

— Infringement of Rule 22 of Regulation No 2868/95.

Action brought on 4 January 2016 — Allstate Insurance v OHIM (DRIVEWISE)

(Case T-3/16)

(2016/C 078/46)

Language of the case: English

Parties

Applicant: Allstate Insurance Company (Northfield, United States) (represented by: G. Würtenberger, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'DRIVEWISE' — Application for registration No 13 455 019

Contested decision: Decision of the Second Board of Appeal of OHIM of 8 October 2015 in Case R 956/2015-2

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Second Board of Appeal of 8 October 2015 in Case R 956/2015-2 concerning Community Trademark Application No. 013 455 019 'DRIVEWISE';

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

Pleas in law

— Infringement of Articles 7(1)(b), 7(1)(c) and 7(2) of Regulation No. 207/2009;

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

Action brought on 18 January 2016 — De Masi v Commission

(Case T-11/16)

(2016/C 078/47)

Language of the case: German

Parties

Applicant: Fabio De Masi (Brussels, Belgium) (represented by: Prof. A. Fischer-Lescano)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Commission of 9 December 2015 on the application for access to the documents of the Code of Conduct Group;

— annul the decision of the European Commission on the restrictive access to the documents of the Code of Conduct Group of 9 November 2015;

— order the European Commission to pay the costs of the proceedings and the costs of any intervening party, pursuant to Article 87(2) of the Rules of Procedure of the General Court.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law, of which two concern the European Commission decision of 9 December 2015 and two concern the decision of 9 November 2015.

— Regarding the European Commission decision of 9 December 2015

1. First plea in law: Infringement of Article 8(1) of Regulation (EC) No 1049/2001 ([1])

   The applicant submits that the decision of 9 December 2015 infringes the right to an appropriate decision on the confirmatory application decision, laid down in the aforementioned provision.

2. Second plea in law: Infringement of Article 15(3) TFEU in conjunction with Article 2(1) of Regulation (EC) No 1049/2001

   The applicant also submits that the refusal of full access to the documents which the defendant issued concerning the Code of Conduct Group (Business Taxation) set up by the Council in addition infringes its right of scrutiny over those documents, which is guaranteed by the aforementioned provisions.

— Regarding the European Commission decision of 9 November 2015

3. Third plea in law: Infringement of the second paragraph of Article 230 TFEU in conjunction with Article 10(2) TEU in conjunction with obligations to provide information

   The applicant claims in that regard that, as a Member of the European Parliament, he has a subjective right under primary law to full access to documents, in so far as those documents are necessary for the exercise of parliamentary scrutiny.

4. Fourth plea in law: Infringement of the interinstitutional Framework Agreement on relations between the European Parliament and the European Commission

   Lastly, the applicant claims that the decision of 9 November 2015 also infringes the aforementioned interinstitutional Framework Agreement, in the application of which the rationale of Article 230 TFEU — widest possible access to documents — must be observed.

([1]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Order of the General Court of 9 December 2015 — BT Limited Belgian Branch v Commission

(Case T-335/13) ([1])

(2016/C 078/48)

Language of the case: English

The President of the Fourth Chamber has ordered that the case be removed from the register.

([1]) OJ C 245, 24.8.2013.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (Second Chamber) of 20 January 2016 — Proia v Commission

(Case F-61/15) ([1])

(Civil Service — Member of contract staff — Remuneration — Expatriation allowance — Conditions laid down in Article 4(1)(a) of Annex VII to the Staff Regulations — Usual residence prior to the entry into service — Period of study followed by a traineeship and successive employment contracts in the State of employment — Presumed intention of the member of staff concerned to move the permanent centre of his interests from the start of his studies in the State of employment — Absence)

(2016/C 078/49)

Language of the case: French

Parties

Applicant: Alessandro Proia (Brussels, Belgium) (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission (represented by: T.S. Bohr and F. Simonetti, acting as Agents)

Re:

Application for annulment of the decision of the Office for the Administration and Payment of Individual Entitlements of the Commission of 25 September 2014 refusing to grant the applicant the expatriation allowance.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of the European Commission of 25 September 2014 refusing to grant Mr Proia the expatriation allowance under Article 4(1)(a) of Annex VII to the Staff Regulations of Officials of the European Union;*

2. *Orders the European Commission to bear its own costs and to pay the costs incurred by Mr Proia.*

([1]) OJ C 221, 6.7.2015, p. 27.

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