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Information and Notices

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(2019/C 72/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Ninth Chamber) of 10 January 2019 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — procedure initiated by A Oy

(Case C-410/17) ([1])

(Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Article 2(1)(a) and (c) — Article 14(1) — Article 24(1) — Transactions for consideration — Transactions for consideration constituted partly by services or goods — Demolition contract — Purchase contract for dismantling)

(2019/C 72/02)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Party to the main proceedings

A Oy

Operative part of the judgment

1. *Article 2(1)(a) and (c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read together with Article 14(1) and Article 24(1) thereof, must be interpreted as meaning that, where, pursuant to a demolition contract, the service provider, namely a demolition company, is required to carry out demolition works and may, in so far as the demolition waste contains scrap metal, resell that scrap metal, that contract consists of a supply of services for consideration, that is to say the performance of demolition works, and also a supply of goods for consideration, that is the supply of the scrap metal, if the purchaser, that is to say the demolition company, attributes a value to that supply of goods, which it factors in when calculating the price quoted for the performance of the demolition works, that supply of goods being, however, subject to value added tax only if it is made by a taxable person acting as such.*

2. *Article 2(1)(a) and (c) of Directive 2006/112, read together with Article 14(1) and Article 24(1) thereof, must be interpreted as meaning that, where, pursuant to a purchase contract for dismantling, the purchaser, namely a demolition company, purchases goods to be dismantled and undertakes, subject to a contractual penalty, to demolish or dismantle and dispose of those goods and to dispose of the waste within a period fixed in the contract, that contract consists of a supply of goods for consideration, that is the supply of goods to be dismantled, which is subject to value added tax only if it is made by a taxable person acting as such, which is for the referring court to ascertain. In so far as the purchaser is required to demolish or dismantle and dispose of those goods and to dispose of*

the resulting waste, thereby specifically meeting the needs of the seller, which is for the referring court to ascertain, that contract also includes a supply of services for consideration, that is the performance of demolition works or dismantling and waste disposal, if that purchaser attributes a value to that supply of goods which it factors in to the price quoted as a factor reducing the purchase price of the goods to be dismantled, which is for the referring court to ascertain.

(1) OJ C 300, 11.9.2017.

Judgment of the Court (First Chamber) of 10 January 2019 (request for a preliminary ruling from the Rechtbank Noord-Nederland — Netherlands) — criminal proceedings against ET

(Case C-97/18) (1)

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — Principle of mutual recognition of confiscation orders — Framework Decision 2006/783/JHA — Article 12(1) and (4) — Law governing the execution — Law of the executing State authorising recourse to imprisonment for the non-execution of the confiscation order — Conformity — Law of the issuing State also authorising recourse to a term of imprisonment — Lack of effect)

(2019/C 72/03)

Language of the case: Dutch

Referring court

Rechtbank Noord-Nederland

Party to the main, criminal proceedings

ET

Operative part of the judgment

1. *Article 12(1) and (4) of Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders must be interpreted as not precluding the application of the legislation of an executing State, such as that at issue in the main proceedings, which, for the purpose of enforcing a confiscation order adopted in an issuing State, authorises, where necessary, a term of imprisonment to be imposed.*

2. *The fact that the legislation of the issuing State also authorises possible recourse to a term of imprisonment has no bearing on the application of such a measure in the executing State.*

(1) OJ C 182, 28.5.2018.

Request for a preliminary ruling from the Tribunal Económico Administrativo Central de Madrid (Spain) lodged on 7 November 2018 — Ente Público Radio Televisión Madrid v Agencia Estatal de la Administración Tributaria (AEAT)

(Case C-694/18)

(2019/C 72/04)

Language of the case: Spanish

Referring court

Tribunal Económico Administrativo Central de Madrid

Parties to the main proceedings

Applicant: Ente Público Radio Televisión Madrid

Defendant: Agencia Estatal de la Administración Tributaria (AEAT)

Questions referred

1. Is it possible to treat entities like those described, together with the bodies governed by public law which create them, as single taxable persons for VAT purposes, as defined by Article 11 of Directive 2006/112/EC? ([1])

2. If the answer to the previous question is affirmative, is it necessary to consider that the funding received by such entities from the bodies governed by public law which create them cannot under any circumstances be classified as consideration for the provision of services subject to VAT?

3. As regards the deduction of input VAT payments by those entities, must it be the single taxable person which, as such, calculates the deductible amount by applying Article 168 of Directive 2006/112/EC on the basis of the activities which it carries out?

4. In particular, and as far as public service television activities are concerned, assuming that those entities are capable of having a dual nature and also assuming that, together with the bodies governed by public law which are their majority shareholders, they are treated as single taxable persons, must only the portion of input VAT which can be considered to relate to their economic activity be treated as deductible?

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

Request for a preliminary ruling from the Tribunal Económico Administrativo Central de Madrid (Spain) lodged on 7 November 2018 — Agencia Pública Empresarial de la Radio y Televisión de Andalucía (RTVA) v Agencia Estatal de la Administración Tributaria (AEAT)

(Case C-695/18)

(2019/C 72/05)

Language of the case: Spanish

Referring court

Tribunal Económico Administrativo Central de Madrid

Parties to the main proceedings

Applicant: Agencia Pública Empresarial de la Radio y Televisión de Andalucía (RTVA)

Defendant: Agencia Estatal de la Administración Tributaria (AEAT)

Questions referred

1. Is it possible to treat entities like those described, together with the bodies governed by public law which create them, as single taxable persons for VAT purposes, as defined by Article 11 of Directive 2006/112/EC? ([1])

2. If the answer to the previous question is affirmative, is it necessary to consider that the funding received by such entities from the bodies governed by public law which create them cannot under any circumstances be classified as consideration for the provision of services subject to VAT?

3. As regards the deduction of input VAT payments by those entities, must it be the single taxable person which, as such, calculates the deductible amount by applying Article 168 of Directive 2006/112/EC on the basis of the activities which it carries out?

4. In particular, and as far as public service television activities are concerned, assuming that those entities are capable of having a dual nature and also assuming that, together with the bodies governed by public law which are their majority shareholders, they are treated as single taxable persons, must only the portion of input VAT which can be considered to relate to their economic activity be treated as deductible?

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

Request for a preliminary ruling from the Tribunal Económico Administrativo Central de Madrid (Spain) lodged on 7 November 2018 — Radiotelevisión del Principado de Asturias SAU v Agencia Estatal de la Administración Tributaria (AEAT)

(Case C-696/18)

(2019/C 72/06)

Language of the case: Spanish

Referring court

Tribunal Económico Administrativo Central de Madrid

Parties to the main proceedings

Applicant: Radiotelevisión del Principado de Asturias SAU

Defendant: Agencia Estatal de la Administración Tributaria (AEAT)

Questions referred

1. Is it possible to treat entities like those described, together with the bodies governed by public law which create them, as single taxable persons for VAT purposes, as defined by Article 11 of Directive 2006/112/EC? ([1])

2. If the answer to the previous question is affirmative, is it necessary to consider that the funding received by such entities from the bodies governed by public law which create them cannot under any circumstances be classified as consideration for the provision of services subject to VAT?

3. As regards the deduction of input VAT payments by those entities, must it be the single taxable person which, as such, calculates the deductible amount by applying Article 168 of Directive 2006/112/EC on the basis of the activities which it carries out?

4. In particular, and as far as public service television activities are concerned, assuming that those entities are capable of having a dual nature and also assuming that, together with the bodies governed by public law which are their majority shareholders, they are treated as single taxable persons, must only the portion of input VAT which can be considered to relate to their economic activity be treated as deductible?

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

Request for a preliminary ruling from the Tribunal Económico Administrativo Central de Madrid (Spain) lodged on 7 November 2018 — Televisión Autonómica de Castilla La Mancha v Agencia Estatal de la Administración Tributaria (AEAT)

(Case C-697/18)

(2019/C 72/07)

Language of the case: Spanish

Referring court

Tribunal Económico Administrativo Central de Madrid

Parties to the main proceedings

Applicant: Televisión Autonómica de Castilla La Mancha

Defendant: Agencia Estatal de la Administración Tributaria (AEAT)

Questions referred

1. Is it possible to treat entities like those described, together with the bodies governed by public law which create them, as single taxable persons for VAT purposes, as defined by Article 11 of Directive 2006/112/EC? ([1])

2. If the answer to the previous question is affirmative, is it necessary to consider that the funding received by such entities from the bodies governed by public law which create them cannot under any circumstances be classified as consideration for the provision of services subject to VAT?

3. As regards the deduction of input VAT payments by those entities, must it be the single taxable person which, as such, calculates the deductible amount by applying Article 168 of Directive 2006/112/EC on the basis of the activities which it carries out?

4. In particular, and as far as public service television activities are concerned, assuming that those entities are capable of having a dual nature and also assuming that, together with the bodies governed by public law which are their majority shareholders, they are treated as single taxable persons, must only the portion of input VAT which can be considered to relate to their economic activity be treated as deductible?

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

Request for a preliminary ruling from the Amtsgericht Nürnberg (Germany) lodged on 9 November 2018 — Geld-für-Flug GmbH v Ryanair DAC

(Case C-701/18)

(2019/C 72/08)

Language of the case: German

Referring court

Amtsgericht Nürnberg

Parties to the main proceedings

Applicant: Geld-für-Flug GmbH

Defendant: Ryanair DAC

Question referred

Is Article 3(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts ([1]) to be interpreted as meaning that a clause contained in a commercial air carrier's general terms and conditions which has not been individually negotiated and under which an electronically concluded contract with a passenger is subject to the law of the Member State applicable where the air carrier has its registered office and which is not identical to the law of the passenger's habitual residence is unfair in so far as it misleads the passenger by not indicating that the choice of a different law in accordance with Article 5(2), subsection 2, of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) ([2]) is possible only to a limited extent and not any, but only legal provisions referred to in Article 5(2), subsection 2, of the Rome I Regulation may be relied on?

([1]) OJ 1993 L 95, p. 29.
([2]) OJ 2008 L 177, p. 6.

Request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia (Spain) lodged on 13 November 2018 — Agencia Estatal de la Administración Tributaria v SJ

(Case C-705/18)

(2019/C 72/09)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Appellant: Agencia Estatal de la Administración Tributaria

Respondent: SJ

Question referred

Are a provision in a collective agreement and an employer's practice, pursuant to which, for the purposes of remuneration and promotion, the length of service of a part-time female employee whose working hours are 'distributed vertically' over the whole year is to be calculated solely on the basis of time actually worked, contrary to Clause 4(1) and (2) of the Framework Agreement on part-time work [annexed to] Council Directive 97/81/EC of 15 December 1997, ([1]) and to Articles 2(1)(b) and 14(1) of 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 (recast)? ([2])

([1]) Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC (OJ 1998 L 14, p. 9).
([2]) 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 (OJ 2006 L 204, p. 23).

Request for a preliminary ruling from the Korkein oikeus (Finland) lodged on 3 December 2018 — Yhtiö A v B

(Case C-772/18)

(2019/C 72/10)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Appellant: Yhtiö A

Respondent: B

Questions referred

1. Is the amount of the advantage received from an alleged infringement of a trade mark by a private individual relevant when assessing whether his conduct is the use of a trade mark in the course of trade within the meaning of Article 5(1) of the Trade Marks Directive ([1]) or a private matter? If a private individual uses a trade mark, does use in the course of trade require the satisfaction of criteria other than the requirement of economic advantage obtained from the transaction in question concerning the trade mark?

2. If the economic advantage must have a certain degree of substantiality, and a person, on the basis of the triviality of the economic advantage received by him and the non-fulfilment of other possible criteria of use in the course of trade, may not be regarded as having used a trade mark in the course of his own trade, is the condition of use in the course of trade within the meaning of Article 5(1) of the Trade Marks Directive satisfied if a private individual uses a trade mark on behalf of another person as part of that other person's trade, where he is not, however, an employee in the service of that other person?

3. Does a person keeping goods use a trade mark in relation to goods within the meaning of Article 5(1) and (3)(b) of the Trade Marks Directive if the goods marked with the trade mark, sent to a Member State and released into free circulation there, are received on behalf of a reselling company and stored by a person, into whose possession the goods have passed, who does not carry on the importation and storage of goods and who does not have a licence to operate a customs warehouse or tax warehouse?

4. May a person be regarded as importing goods marked with a trade mark within the meaning of Article 5(3)(c) of the Trade Marks Directive if the goods were not imported at the person's request, but the person provided his address to a reseller and received on behalf of the reseller the goods released into free circulation in the Member State, kept them in his possession for some weeks, and released them for transmission to a third country outside the European Union for the purpose of resale there?

([1]) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (Codified version) (OJ 2008 L 299, p. 25).

Request for a preliminary ruling from the Conseil d'État (France) lodged on 14 December 2018 — GAEC Jeanningros v Institut National de l'origine et de la qualité (INAO), Ministre de l'Agriculture et de l'Alimentation, Ministre de l'Économie et des Finances

(Case C-785/18)

(2019/C 72/11)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Appellant: GAEC Jeanningros

Respondents: Institut National de l'origine et de la qualité (INAO), Ministre de l'Agriculture et de l'Alimentation, Ministre de l'Économie et des Finances

Interested party: Comité interprofessionel de gestion du Comté

Question referred

Must Article 53 of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, ([1]) Article 6 of Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules, ([2]) and Article 10 of Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council, ([3]) in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that, in the specific case where the European Commission has upheld the application by the national authorities of a Member State seeking to have the specification of a name amended and to secure registration of the controlled designation of origin (*appellation d'origine contrôlée*), although that application is still the subject of an action pending before the national courts of that State, those courts may decide that there is no longer any need to adjudicate on the dispute, or, in view of the effects attached to a possible annulment of the contested measure on the validity of the registration by the European Commission, must those courts rule on the lawfulness of that measure adopted by the national authorities?

([1]) OJ 2012 L 343, p. 1.

([2]) Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules (OJ 2014 L 179, p. 17).

([3]) Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ 2014 L 179, p. 36).

Request for a preliminary ruling from the Högsta förvaltningsdomstolen (Sweden) lodged on 17 December 2018 — Skatteverket v Sögård Fastigheter AB

(Case C-787/18)

(2019/C 72/12)

Language of the case: Swedish

Referring court

Högsta förvaltningsdomstolen

Parties to the main proceedings

Appellant: Skatteverket

Respondent: Sögård Fastigheter AB

Questions referred

1. If a seller of a property, on the basis of the rules introduced by the Member State in accordance with Article 188(2) of the VAT Directive, ([1]) has not adjusted a deduction of input tax because the purchaser intends to use the property exclusively for transactions giving rise to a right of deduction, does that then preclude, in a case where the adjustment period continues to run, the purchaser being required to adjust the deduction at a subsequent time when the purchaser in turn transfers the property to someone who does not intend to use the property for such transactions?

2. Does it alter the answer to the first question if the first transfer referred to in that question constitutes a transfer of assets as referred to in Article 19 of the VAT Directive?

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

Appeal brought on 17 December 2018 by the Hellenic Republic against the judgment of the General Court (Third Chamber) delivered on 4 October 2018 in Case T-272/16 *Greece* v *Commission*

(Case C-797/18 P)

(2019/C 72/13)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: G. Kanellopoulos, E. Leftheriotou and A. Vasilopoulou, acting as Agents)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that its appeal should be upheld; that the judgment under appeal of the General Court of the European Union of 4 October 2018 in Case T-272/16 should be set aside to the extent that the General Court dismissed its action; that the action of the Hellenic Republic of 25 June 2016 should be upheld; that Commission Implementing Decision (EU) 2016/417 of 17 March 2016 ([1]) should be annulled, in so far as by means of that decision: (a) financial corrections amounting to EUR 166 797 866,22 are imposed for the claim years 2012-2013 in the decoupled direct aid sector, (b) an overall financial correction amounting to EUR 3 880 460,50 is imposed for the financial years 2010-2013 in the sector of Rural Development EAFRD, Axes 1 + 3 — Investment Oriented Measures 125 and 121 (2007-2013); and that the Commission should be ordered to pay the costs.

Grounds of appeal and main arguments

In support of its appeal the appellant relies on six grounds of appeal:

A. With respect to the part of the judgment under appeal that deals with the first, second and third pleas in law of the action and concerns the correction imposed in the decoupled direct aid sector there are three grounds of appeal.

The first ground of appeal is based on the misinterpretation and misapplication of Article 2 of Commission Regulation (EC) No 796/2004 ([2]) of 21 April 2004 on the definition of pasture and on the insufficient and erroneous statement of reasons in the judgment under appeal.

The second ground of appeal is based on the misinterpretation of the Guidelines (Document VI/5330/97) with respect to whether the conditions for the imposition of a 25 % financial correction are met, misinterpretation and misapplication of Articles 43, 44 and 137 of Regulation (EC) No 73/2009, ([3]) insufficient and contradictory statement of reasons, and distortion of the sense of the Conciliation Body's summary report.

Further, by the third ground of appeal the appellant challenges the misinterpretation and misapplication of Article 31(2) of Regulation (EC) No 1290/2005 ([4]) and the related Guidelines, the *ne bis in idem* principle, the principle of proportionality, and an insufficient and contradictory statement of reasons.

B. With respect to the part of the judgment under appeal that deals with the fourth and fifth pleas in law of the action in relation to the correction which was imposed in the sector of Measure 125 of the Rural Development Programme, there are two grounds of appeal. The first (the fourth ground of appeal) is based on the misinterpretation and misapplication of Article 71(2) and (3) of Council Regulation (EC) No 1698/2005, ([5]) and the insufficient and erroneous statement of reasons in the judgment under appeal, while by the second (the fifth ground of appeal), the judgment under appeal is claimed to have erroneously interpreted and applied Article 31(4) of Regulation (EC) No 1290/2005, and further, is criticised as having an insufficient and erroneous statement of reasons.

C. Last, with respect to the part of the judgment under appeal that rejects the sixth and seventh pleas in law of the action in relation to the correction which was imposed in the sector of Measure 121 of the Rural Development Programme, it is claimed by the sixth ground of appeal, in its two limbs, that there was an erroneous interpretation and application of Article 73 of Commission Regulation (EC) No 817/2004, ([6]) an insufficient statement of reasons and distortion of the sense of the evidence.

([1]) *OJ 2016, L 75, p. 16.*
([2]) *OJ 2004, L 141, p 18.*
([3]) *OJ 2009, L 30, p. 16.*
([4]) *OJ 2005, L 209, p. 1.*
([5]) *OJ 2005, L 277, p. 1.*
([6]) *OJ 2004, L 153, p. 31.*

Appeal brought on 18 December 2018 by Terna SpA against the judgment of the General Court (Fifth Chamber) delivered on 18 October 2018 in Case T-387/16 *Terna* v *Commission*

(Case C-812/18 P)

(2019/C 72/14)

Language of the case: Italian

Parties

Appellant: Terna SpA (represented by: F. Covone, A. Police, L. Di Via, D. Carria, F. Degni, avvocati)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside and/or vary the judgment of the General Court of the European Union (Fifth Chamber) of 18 October 2018 delivered in Case T-387/16 and, consequently, principally, annul the decision of the European Commission reference ENER/SRD.3/JCM/cID (2016)2952913 of 23 May 2016, which merely confirms the previous measure Move.srd.3.dir (2015)2669621 of 6 July 2015, together with the measure of the European Commission reference SRD.3/JCM/cl/D (2016)4477388 of 14 June 2016 communicating Debit Note No 3241608548 ordering payment of EUR 494 871.39 by 28 July 2016, and consequently annulling the decision of the European Commission reference Move.srd3.dir(2015) 2669621 of 6 July 2015, in so far as that decision does not allow reimbursement of the costs incurred by Terna in connection with Project No 2009-E255/09-ENER/09-TEN-E-S 12.564583 and Project No 2007-E221/07/2007-TREN/ 07TEN-E-S 07.91403 and imposes an obligation to repay the sums granted in connection with those projects in the amounts set out in the table appended to the contested measure;

— in the alternative, annul the decision of the European Commission reference ENER/SRD.3/JCM/cID (2016)2952913 of 23 May 2016, together with the decision of the European Commission reference Move.srd3.dir(2015)2669621 of 6 July 2015, in so far as that decision does not provide for a reduction in the reimbursement of the costs incurred by Terna in connection with Project No 2009-E255/09-ENER/09-TEN-E-S 12.564583 and Project No 2007-E221/07/2007-TREN/07/TEN-E-S 07.91.403 commensurate with the profits made by CESI S.p.A;

— order the European Commission to pay the costs.

Grounds of appeal and main arguments

First ground of appeal: the judgment under appeal is incorrect in so far as the General Court ruled that there was no error in the classification of the relationship between the tasks and framework agreements entered into by Terna and CESI. — Misapplication of Articles 14 and 37 of Directive 2004/17/EC [1] in connection with the subcontracting of services — Failure to conduct inquiries and absence of adequate reasons in the contested measure. — Misapplication of Article III.7, paragraphs 1, 4 and 6, of Annex III to Decision D/207630 of 2008 and misapplication of Article III.3.7, paragraphs 1, 4 and 6, of Annex III to Decision D/7181 of 2010 resulting from the unjustifiable reduction in reimbursement for projects on the ground of an alleged failure on the part of Terna properly to apply formal procurement procedures. — Failure to conduct inquiries and absence of adequate reasons.

Second ground of appeal: the judgment under appeal is incorrect in so far as the General Court ruled that there were no technical reasons justifying the award of contracts to a particular operator without prior publication of a contract notice. — Misapplication of Article 40(3)(c) of Directive 2004/17/EC.

Third ground of appeal: the judgment under appeal is incorrect in so far as the General Court ruled that the principle of legitimate expectations had not been infringed. — Misapplication of Directive 2004/17/EC and failure to have regard for Terna's legitimate expectations by reason of the fact that the claims for reimbursement relating to the contracts forming part of the framework agreement were disallowed as ineligible, notwithstanding the publication of the contract award notice in the *Official Journal of the European Union* and the irrelevance of some of the amounts for the purposes of the application of European procedures.

Fourth ground of appeal: the judgment under appeal is incorrect in that it infringes the principles of reasonableness and proportionality by reason of the decision to disallow the claims for reimbursement in their entirety, rather than reducing them on a proportionate basis.

[1] Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ 2004 L 134, p. 1).

GENERAL COURT

Judgment of the General Court of 7 December 2018 — Belgium v Commission

(Case T-664/14) ([1])

(State Aid — Aid implemented by Belgium for the benefit of financial cooperatives in the ARCO Group — Guarantee scheme protecting the shares held by individual members of those cooperatives — Decision declaring the aid incompatible with the internal market and prohibiting the payment of guaranteed amounts to individual members — Subject matter of the dispute — Recovery — Proportionality)

(2019/C 72/15)

Language of the case: French

Parties

Applicant: Kingdom of Belgium (represented by: C. Pochet and J.-C. Halleux, acting as Agents, and J. Meyers, lawyer)

Defendant: European Commission (represented by: L. Flynn and B. Stromsky, acting as Agents)

Re:

Action brought under Article 263 TFEU seeking annulment of Article 2(4) of Commission Decision 2014/686/EU of 3 July 2014 on State aid SA.33927 (12/C) (ex 11/NN) implemented by Belgium — Guarantee scheme protecting the shares of individual members of financial cooperatives (OJ 2014 L 284, p. 53).

Operative part of the judgment

The Court:

1. *Annuls Article 2(4) of Commission Decision 2014/686/EU of 3 July 2014 on State aid SA.33927 (12/C) (ex 11/NN) implemented by Belgium — Guarantee scheme protecting the shares of individual members of financial cooperatives;*

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

([1]) OJ C 380, 27.10.2014.

Judgment of the General Court of 10 December 2018 — Bank Refah Kargaran v Council

(Case T-552/15) ([1])

(Non-contractual liability — Common foreign and security policy — Restrictive measures taken against Iran — Compensation of the harm allegedly suffered by the applicant as a result of its name being included and maintained on the list of persons and entities covered by the freezing of funds and economic resources — Jurisdiction of the General Court — Sufficiently serious breach of a rule of law conferring rights on individuals)

(2019/C 72/16)

Language of the case: French

Parties

Applicant: Bank Refah Kargaran (Tehran, Iran) (represented by: J.-M. Thouvenin, lawyer)

Defendant: European Council (represented by: V. Piessevaux and M. Bishop, acting as Agents)

Intervener in support of the defendant: European Commission (represented by: R. Tricot and A. Aresu, acting as Agents)

Re:

Action under Article 268 TFEU seeking compensation in respect of the harm allegedly suffered by the applicant as a result of the adoption of restrictive measures against it.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Bank Refah Kargaran to bear its costs and pay those of the Council of the European Union;*

3. *Orders the European Commission to bear its own costs.*

(1) OJ C 398, 30.11.2015.

Judgment of the General Court of 12 December 2018 — Freistaat Bayern v Commission

(Case T-683/15) (1)

(State aid — Aid in favour of the Bavarian dairy sector — Funding of milk quality tests — Decision declaring the aid to be incompatible with the internal market — Procedural rights of the Land of Bavaria — Article 108(2) TFEU — Article 6(1) of Regulation (EC) No 659/1999)

(2019/C 72/17)

Language of the case: German

Parties

Applicant: Freistaat Bayern (represented by: U. Soltész and H. Weiß, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche, K. Herrmann and P. Němečková, acting as Agents)

Re:

Application under Article 263 TFEU seeking partial annulment of Commission Decision (EU) 2015/2432 of 18 September 2015 concerning State aid SA.35484 (2013/C) (ex SA.35484 (2012/NN)) granted by Germany in respect of milk quality tests pursuant to the Milk and Fat Law (OJ 2015 L 334, p. 23).

Operative part of the judgment

The Court:

1. *Annuls Articles 1 to 4 of Commission Decision (EU) 2015/2432 of 18 September 2015 concerning State aid SA.35484 (2013/C) (ex SA.35484 (2012/NN)) granted by Germany in respect of milk quality tests pursuant to the Milk and Fat Law in so far as they declare that the grant by the Federal Republic of Germany of State aid is incompatible with the internal market in respect of the milk quality tests carried out in Bavaria and order recovery of that aid;*

2. *Orders the European Commission to bear its own costs and pay those incurred by Freistaat Bayern.*

(1) OJ C 48, 8.2.2016.

Judgment of the General Court of 12 December 2018 — Interessengemeinschaft privater Milchverarbeiter Bayerns and Others v Commission

(Joined Cases T-722/15 to T-724/15) ([1])

(State aid — Aid for the Bavarian dairy sector — Financing of milk quality tests — Decision declaring the aid to be incompatible with the internal market — Right to participate in the administrative procedure — Article 108(2) TFEU — Article 6(1) of Regulation (EC) No 659/1999)

(2019/C 72/18)

Language of the case: German

Parties

Applicant in Case T-722/15: Interessengemeinschaft privater Milchverarbeiter Bayerns eV (Mertingen, Germany) (represented by: initially, C. Bittner and N. Thies and, subsequently, C. Bittner, lawyers)

Applicant in Case T-723/15: Genossenschaftsverband Bayern eV (Munich, Germany) (represented by: initially, C. Bittner and N. Thies and, subsequently, C. Bittner, lawyers)

Applicant in Case T-724/15: Verband der Bayerischen Privaten Milchwirtschaft eV (Munich) (represented by: initially, C. Bittner and N. Thies and, subsequently, C. Bittner, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche, K. Herrmann and P Němečková, acting as Agents, and P. Melcher, lawyer)

Re:

Application under Article 263 TFEU seeking annulment in part of Commission Decision (EU) 2015/2432 of 18 September 2015 concerning State Aid SA.35484 (2013/C) [ex SA.35484 (2012/NN)] granted by Germany in respect of milk quality tests pursuant to the Milk and Fat Law (OJ 2015, L 334, p. 23).

Operative part of the judgment

The Court:

1. *Annuls Articles 1 to 4 of Commission Decision (EU) 2015/2432 of 18 September 2015 concerning State Aid SA.35484 (2013/C) [ex SA.35484 (2012/NN)] granted by Germany in respect of milk quality tests pursuant to the Milk and Fat Law in so far as they state that the granting of State aid by the Federal Republic of Germany is incompatible with the internal market as regards milk quality tests carried out in Bavaria and order the recovery of that aid;*

2. *Orders the European Commission to bear its own costs and to pay the costs incurred by Interessengemeinschaft privater Milchverarbeiter Bayerns eV, Genossenschaftsverband Bayern eV and Verband der Bayerischen Privaten Milchwirtschaft eV.*

([1]) OJ C 59, 15.2.2016.

Judgment of the General Court of 14 December 2018 — Arysta LifeScience Netherlands v EFSA

(Case T-725/15) ([1])

(Plant protection products — Procedure for reviewing the approval of the active substance diflubenzuron — Article 21 of Regulation (EC) No 1107/2009 — Conclusion of the EFSA review — Partial publication of that conclusion — Article 63 of Regulation No 1107/2009 — Request for confidential treatment of certain sections — Protection of commercial interests — Refusal to grant confidential treatment — Interest in bringing proceedings)

(2019/C 72/19)

Language of the case: English

Parties

Applicant: Arysta LifeScience Netherlands BV, formerly Chemtura Netherlands BV (Amsterdam, Netherlands) (represented by: C. Mereu and K. Van Maldegem, lawyers)

Defendant: European Food Safety Authority (EFSA) (represented by: D. Detken and S. Gabbi, acting as Agents, and by R. Van der Hout and C. Wagner, lawyers)

Intervener in support of the defendant: European Commission (represented initially by: F. Moro and P. Ondrůšek, and subsequently by P. Ondrůšek and G. Koleva, acting as Agents)

Re:

Application under Article 263 TFEU for the annulment of the decision of EFSA of 10 December 2015 relating to the publication of certain sections of the EFSA peer review on the review of the approval of the active substance diflubenzuron concerning the metabolite PCA.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Arysta LifeScience Netherlands BV to bear its own costs and to pay those incurred by the European Food Safety Authority (EFSA) in the present action and in the proceedings for interim measures;*

3. *Orders the European Commission to bear its own costs.*

([1]) OJ C 68, 22.2.2016.

Judgment of the General Court of 12 December 2018 — Makhlouf v Council

(Case T-409/16) ([1])

(Common foreign and security policy — Restrictive measures taken against Syria — Freezing of funds — Rights of the defence — Right to effective judicial protection — Obligation to state reasons — Manifest error of assessment — Right to reputation — Right to property — Presumption of innocence — Restriction on entry into and transit through the territory of the European Union — Proportionality)

(2019/C 72/20)

Language of the case: French

Parties

Applicant: Ehab Makhlouf (Damascus, Syria) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union (represented by: initially, S. Kyriakopoulou, G. Étienne and A. Vitro, subsequently S. Kyriakopoulou and A. Vitro, and finally S. Kyriakopoulou, A. Vitro and V. Piessevaux, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking the annulment of Council Decision (CFSP) 2016/850 of 27 May 2016 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2016 L 141, p. 125) and of the subsequent measures giving effect to that decision, of Council Decision (CFSP) 2017/917 of 29 May 2017 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2017 L 139, p. 62), and of Council Decision (CFSP) 2018/778 of 28 May 2018 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2018 L 131, p. 16), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Ehab Makhlouf to bear his own costs and to pay those incurred by the Council of the European Union.*

([1]) OJ C 371, 10.10.2016.

Judgment of the General Court of 12 December 2018 — Syriatel Mobile Telecom v Council

(Case T-411/16) ([1])

(Common foreign and security policy — Restrictive measures taken against Syria — Freezing of funds — Rights of the defence — Right to effective judicial protection — Obligation to state reasons — Manifest error of assessment — Right to honour and reputation — Right to property — Presumption of innocence — Proportionality)

(2019/C 72/21)

Language of the case: French

Parties

Applicant: Syriatel Mobile Telecom (Joint Stock Company) (Damascus, Syria) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union (represented by: initially, S. Kyriakopoulou, A. Vitro and G. Étienne, subsequently S. Kyriakopoulou, A. Vitro and V. Piessevaux, and finally S. Kyriakopoulou and A. Vitro, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking the annulment of Council Decision (CFSP) 2016/850 of 27 May 2016 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2016 L 141, p. 125) and of the subsequent measures giving effect to that decision, of Council Decision (CFSP) 2017/917 of 29 May 2017 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2017 L 139, p. 62), and of Council Decision (CFSP) 2018/778 of 28 May 2018 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2018 L 131, p. 16), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Syriatel Mobile Telecom (Joint Stock Company) to bear its own costs and to pay those incurred by the Council of the European Union.*

(1) OJ C 364, 3.10.2016.

Judgment of the General Court of 12 December 2018 — Othman v Council

(Case T-416/16) (1)

(Common foreign and security policy — Restrictive measures taken against Syria — Freezing of funds — Rights of the defence — Right to effective judicial protection — Obligation to state reasons — Manifest error of assessment — Right to honour and reputation — Right to property — Presumption of innocence — Restrictions on entry into and transit through the territory of the European Union — Proportionality)

(2019/C 72/22)

Language of the case: French

Parties

Applicant: Razan Othman (Damascus, Syria) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union (represented by: initially, S. Kyriakopoulou, G. Étienne and A. Vitro, subsequently S. Kyriakopoulou and A. Vitro, and finally S. Kyriakopoulou, A. Vitro and V. Piessevaux, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking the annulment of Council Decision (CFSP) 2016/850 of 27 May 2016 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2016 L 141, p. 125) and of the subsequent measures giving effect to that decision, of Council Decision (CFSP) 2017/917 of 29 May 2017 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2017 L 139, p. 62), and of Council Decision (CFSP) 2018/778 of 28 May 2018 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2018 L 131, p. 16), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ms Razan Othman to bear her own costs and to pay those incurred by the Council of the European Union.*

(1) OJ C 364, 3.10.2016.

Judgment of the General Court of 12 December 2018 — Colin v Commission

(Case T-614/16) ([1])

(Civil service — Recruitment — Notice of competition — Open competition — Conditions of admission — Non-inclusion on the reserve list — Diploma — Professional experience)

(2019/C 72/23)

Language of the case: French

Parties

Applicant: Caroline Colin (Waterloo, Belgium) (represented initially by N. de Montigny and J.-N. Louis and subsequently by N. de Montigny, lawyers)

Defendant: European Commission (represented by: L. Radu Bouyon and F. Simonetti, acting as Agents)

Re:

Application pursuant to Article 270 TFEU seeking the annulment, first, of the decision of 18 February 2015 of the selection board in Open Competition EPSO/AST-SC/01/14, organised by the European Personnel Selection Office (EPSO), not to include the applicant's name on the reserve list from which to recruit officials in the institutions of the European Union, secondly, of the decision of 17 September 2015, of the same selection board, to reject her request for a review and, thirdly, of the Commission's rejection decision of 12 May 2016 in response to the applicant's complaint against the selection board's decision.

Operative part of the judgment

The Court:

1. *Annuls the decision of 17 September 2015 by which the selection board in Open Competition EPSO/AST-SC/01/14 confirmed, after review, that the applicant could not be included in the reserve list from that competition;*

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

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

([1]) OJ C 371, 10.10.2016 (case initially registered before the European Union Civil Service Tribunal under Case F-44/16 and transferred to the European Union Civil Service Tribunal on 1.9.2016).

Judgment of the General Court of 6 December 2018 — Deichmann v EUIPO — Vans (Representation of lines on a shoe)

(Case T-638/16) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark representing lines on a shoe — Earlier EU trade mark comprised of two stripes on the side of a shoe — Proof of the existence, validity and scope of the protection of an earlier international trade mark — Rule 19(2)(a)(ii) of Regulation (EC) No 2868/95 (now Article 7(2)(a)(ii) of Delegated Regulation (EU) 2018/625) — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001 — Legitimate expectations)

(2019/C 72/24)

Language of the case: German

Parties

Applicant: Deichmann SE (Essen, Germany) (represented by: C. Onken, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Walicka, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the General Court: Vans, Inc. (Cypress, California, United States) (represented by: M. Hirsch, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 6 July 2016 (Case R 408/2015-4) relating to opposition proceedings between Deichmann and Vans.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

([1]) OJ C 392, 24.10.2016.

Judgment of the General Court of 6 December 2018 — Vans v EUIPO — Deichmann (V)

(Case T-817/16) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark V — Earlier international figurative mark V — Proof of the existence, validity and scope of the protection of an earlier trade mark — Rule 19(2)(a)(ii) of Regulation (EC) No 2868/95 (now Article 7(2)(a)(ii) of Delegated Regulation (EU) 2018/625) — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2019/C 72/25)

Language of the case: German

Parties

Applicant: Vans, Inc. (Cypress, California, United States) (represented by: M. Hirsch, lawyer)

Defendant: European Union Intellectual Property Office (represented initially by: S. Hanne, subsequently by: A. Söder and D. Hanf, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the General Court: Deichmann SE (Essen, Germany) (represented by: C. Onken, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 19 September 2016 (Case R 2030/2015-4) relating to opposition proceedings between Deichmann and Vans.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Vans, Inc. to pay the costs.*

(1) OJ C 22, 23.1.2017.

Judgment of the General Court of 6 December 2018 — Deichmann v EUIPO — Vans (V)

(Case T-848/16) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative mark V — Earlier international figurative marks V — Proof of the existence, validity and scope of the protection of an earlier trade mark — Rule 19(2)(a)(ii) of Regulation (EC) No 2868/95 (now Article 7(2)(a)(ii) of Delegated Regulation (EU) 2018/625))

(2019/C 72/26)

Language of the case: German

Parties

Applicant: Deichmann SE (Essen, Germany) (represented by: C. Onken, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Söder and D. Hanf, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the General Court: Vans, Inc. (Cypress, California, United States) (represented by: M. Hirsch, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 20 September 2016 (Case R 2129/2015-4) relating to opposition proceedings between Deichmann and Vans.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 20 September 2016 (Case R 2129/2015-4);*

2. *Orders EUIPO to bear its own costs as well as those incurred by Deichmann SE;*

3. *Orders Vans, Inc. to bear its own costs.*

(1) OJ C 38, 6.2.2017.

Judgment of the General Court of 12 December 2018 — Groupe Canal + v Commission

(Case T-873/16) (1)

(Competition — Cartels — TV distribution — Decision making commitments binding — Territorial exclusivity — Preliminary evaluation — Assignment of third-party contractual rights — Proportionality)

(2019/C 72/27)

Language of the case: French

Parties

Applicant: Groupe Canal + (Issy-les-Moulineaux, France) (represented by: P. Wilhelm, P. Gassenbach and O. de Juvigny, lawyers)

Defendant: European Commission (represented by: A. Dawes, C. Urraca Caviedes and L. Wildpanner, acting as Agents)

Interveners in support of the applicant: French Republic (represented by D. Colas, J. Bousin, E. de Moustier and P. Dodeller, acting as Agents); Union des producteurs de cinéma (UPC) (Paris, France) (represented by: É. Lauvaux, lawyer); C More Entertainment AB (Stockholm, Sweden) (represented by: L. Johansson and A. Acedevo, lawyers); and European Film Agency Directors — EFADs (Brussels, Belgium) (represented by: O. Sasserath, lawyer)

Intervener in support of the defendant: Bureau européen des unions de consommateurs (BEUC) (Brussels, Belgium) (represented by: A. Fratini, lawyer)

Re:

Action under Article 263 TFEU seeking annulment of the decision of the European Commission of 26 July 2016 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (case AT. 40023 — Cross-border access to pay TV), which makes the commitments offered by Paramount Pictures International Ltd and Viacom Inc. legally binding, in the context of licence agreements on audiovisual content that they concluded with Sky UK Ltd and Sky plc.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Groupe Canal + to bear its own costs and to pay those of the European Commission, excluding those incurred in relation to the intervention of the French Republic, the European Film Agency Directors — EFADs, the Union des producteurs de cinéma (UPC) and C More Entertainment AB, and by the Bureau européen des unions de consommateurs (BEUC);*

3. *Orders the French Republic, EFADs, UPC and C More Entertainment AB to bear their own costs and pay those incurred by the Commission in relation to their interventions.*

(1) OJ C 38, 6.2.2017.

Judgment of the General Court of 6 December 2018 — Portugal v Commission

(Case T-22/17) ([1])

(EAFRD — Expenditure excluded from financing — Expenditure incurred by Portugal — Article 31(4)(c) of Regulation (EC) No 1290/2005 — Lack of evidence of serious and reasonable doubt — Key controls — Ancillary controls)

(2019/C 72/28)

Language of the case: Portuguese

Parties

Applicant: Portuguese Republic (represented by: P. Estêvão, L. Inez Fernandes, M. Figueiredo and J. Saraiva de Almeida, acting as Agents)

Defendant: European Commission (represented by: B. Rechena, A. Sauka and D. Triantafyllou, acting as Agents)

Re:

Action under Article 263 TFEU seeking annulment of Commission Implementing Decision (EU) 2016/2018 of 15 November 2016, excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2016 L 312, p. 26), in so far as it excludes the payments made by the competent paying agency of the Portuguese Republic under the EAFRD in the total amount of EUR 1 990 810,30.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Portuguese Republic to pay the costs.*

([1]) OJ C 104, 3.4.2017.

Judgment of the General Court of 11. December 2018 — BTB Holding Investments and Duferco Participations Holding v Commission

(Case T-100/17) ([1])

(State aid — Steel industry — Aid granted by Belgium in favour of a number of undertakings in the iron and steel industry — Decision declaring that aid incompatible with the internal market and ordering its recovery — Obligation to state reasons — Concept of State aid — Advantage — Private investor test)

(2019/C 72/29)

Language of the case: French

Parties

Applicants: BTB Holding Investments SA (Luxembourg, Luxembourg) and Duferco Participations Holding SA (Luxembourg) (represented by: J.-F. Bellis, R. Luff, M. Favart and Q. Declève, lawyers)

Defendant: European Commission (represented by: V. Bottka, G. Luengo and É. Gippini Fournier, acting as Agents)

Intervener in support of the applicants: Foreign Strategic Investments Holding (FSIH) (Liège, Belgium) (represented by: A. Verheyden and P. Laconte, lawyers)

Re:

Application pursuant to Article 263 TFEU and seeking partial annulment of Commission Decision (EU) 2016/2041 of 20 January 2016 on State aid SA.33926 2013/C (ex 2013/NN, 2011/CP) granted by Belgium to Duferco (OJ 2016 L 314, p. 22).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders BTB Holding Investments SA and Duferco Participations Holding SA to pay the costs.*

(1) OJ C 129, 24.4.2017.

Judgment of the General Court of 12 December 2018 — Der Grüne Punkt v EUIPO — Halston Properties (Representation of a circle with two arrows)

(Case T-253/17) (1)

(EU trade mark — Revocation proceedings — EU collective figurative mark representing a circle with two arrows — Genuine use of the mark — Revocation in part — Declaration of revocation in part — Article 15(1) of Regulation (EC) No 207/2009 (now Article 18(1) of Regulation (EU) 2017/1001) — Article 51(1)(a) of Regulation No 207/2009 (now Article 58(1)(a) of Regulation 2017/1001) — Rule 22 (4) of Regulation (EC) No 2868/95 (now Article 10(4) of Delegated Regulation (EU) 2018/625) — Presentation of the mark on the packaging — Perception of the relevant public)

(2019/C 72/30)

Language of the case: German

Parties

Applicant: Der Grüne Punkt — Duales System Deutschland GmbH (Cologne, Germany) (represented by: P. Goldenbaum, I. Rohr and N. Ebbecke, lawyers)

Defendant: European Union Intellectual Property Office (represented by: D. Hanf, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO: Halston Properties, s. r. o. (Bratislava, Slovakia)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 20 February 2017 (Case R 1357/2015-5), concerning revocation proceedings between Halston Properties and Der Grüne Punkt — Duales System Deutschland.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Der Grüne Punkt — Duales System Deutschland GmbH to pay the costs.*

(1) OJ C 195, 19.6.2017.

Judgment of the General Court of 7 December 2018 — GE.CO.P. v Commission

(Case T-280/17) ([1])

(Public procurement — Financial Regulation — Exclusion from procedures for the award of contracts and grants financed by the general budget of the European Union for a period of two years — Article 108 of the Financial Regulation — Rights of the defence — Proof of receipt of a notification)

(2019/C 72/31)

Language of the case: Italian

Parties

Applicant: GE.CO.P. Generale Costruzioni e Progettazioni SpA (Rome, Italy) (represented by: G. Naticchioni, lawyer)

Defendant: European Commission (represented by: F. Dintilhac and F. Moro, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment, first, of the Commission Decision of 7 March 2017 excluding the applicant from participation in procedures for the award of contracts and grants financed by the general budget of the European Union and participation in award procedures within the framework of Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the eleventh European Development Fund (OJ 2015 L 58, p. 17) and ordering the publication of that exclusion on the Commission's website and, secondly, of all relevant acts precedent or subsequent to that decision, including any of which the applicant is unaware.

Operative part of the judgment

The Court:

1. *Annuls the Commission Decision of 7 March 2017 excluding GE.CO. P. Generale Costruzioni e Progettazioni SpA from participation in procedures for the award of contracts and grants financed by the general budget of the European Union and participation in award procedures within the framework of Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the eleventh European Development Fund and ordering the publication of that exclusion on the Commission's website;*

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

3. *Orders the Commission to pay the costs.*

([1]) OJ C 213, 3.7.2017.

Judgment of the General Court of 12 December 2018 — SH v Commission

(Case T-283/17) ([1])

(Civil service — Officials — Remuneration — Family allowances — Third paragraph of Article 2(2) of Annex VII to the Staff Regulations — Concept of 'dependent child' — Guardianship judgment based on the legislation of a third country concerning the protection of minors — Refusal to grant dependent child status to children under guardianship — Equal treatment — Right to education — Best interests of the child)

(2019/C 72/32)

Language of the case: French

Parties

Applicant: SH (represented by: N. de Montigny, lawyer)

Defendant: European Commission (represented initially by M. Mensi, T. S. Bohr and A.-C. Simon, and subsequently by T. S. Bohr and G. Berscheid, acting as Agents)

Interveners in support of the defendant: European Parliament (represented by: J. Steele and M. Windisch, acting as Agents); and Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Re:

Application based on Article 270 TFEU and seeking annulment of the decision of the Commission of 13 July 2016 by which the authority empowered to conclude contracts of employment refused to extend the payment of the dependent child allowance to the applicant and, in so far as necessary, annulment of the decision of that institution of 3 February 2017 rejecting the applicant's complaint of 5 October 2016.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders SH to pay the costs;*

3. *Orders the European Parliament and the Council of the European Union to bear their own costs.*

([1]) OJ C 231, 17.7.2017.

Judgment of the General Court of 12 December 2018 — Mubarak v Council

(Case T-358/17) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in Egypt — Freezing of funds — Objectives — Criteria for inclusion of persons targeted — Maintenance of the applicant's designation on the list of persons targeted — Factual basis — Plea of illegality — Legal basis — Proportionality — Right to a fair trial — Presumption of innocence — Principle of good administration — Error of law — Manifest error of assessment — Right to property — Rights of defence — Right to effective judicial protection)

(2019/C 72/33)

Language of the case: English

Parties

Applicant: Mohamed Hosni Elsayed Mubarak (Cairo, Egypt) (represented by: B. Kennelly QC, J. Pobjoy, Barrister, G. Martin, M. Rushton and C. Enderby Smith, Solicitors)

Defendant: Council of the European Union (represented initially by: J. Kneale and M. Veiga, and subsequently by J. Kneale and A. Sikora-Kalėda, acting as Agents)

Re:

Application under Article 263 TFEU for annulment (i) of Council Decision (CFSP) 2017/496 of 21 March 2017 amending Decision 2011/172/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2017 L 76, p. 22); (ii) of Council Implementing Regulation (EU) 2017/491 of 21 March 2017 implementing Regulation (EU) No 270/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2017 L 76, p. 10); (iii) of Council Decision (CFSP) 2018/466 of 21 March 2018 amending Decision 2011/172/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2018 L 78I, p. 3); and (iv) of Council Implementing Regulation (EU) 2018/465 of 21 March 2018 implementing Regulation (EU) No 270/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2018 L 78I, p. 1), in so far as those acts apply to the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Mohamed Hosni Elsayed Mubarak to bear his own costs and to pay those incurred by the Council of the European Union.*

(1) OJ C 239, 24.7.2017.

Judgment of the General Court of 7 December 2018 — La Zaragozana v EUIPO — Heineken Italia (CERVISIA)

(Case T-378/17) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative mark CERVISIA — Earlier national word mark CERVISIA AMBAR — Relative ground for refusal — Similarity of the signs — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2019/C 72/34)

Language of the case: English

Parties

Applicant: La Zaragozana, SA (Saragossa, Spain) (represented by: L. Broschat García and A.M. Santos Pribañez, lawyers)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Heineken Italia SpA (Pollein, Italy) (represented by: P. Pozzi and G. Ghisletti, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 13 March 2017 (Case R 1241/2016-5) concerning opposition proceedings between La Zaragozana and Heineken Italia.

Operative part of the judgment

The Court:

1. *Annuls the Decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 13 March 2017 (Case R 1241/2016-5);*

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

(1) OJ C 256, 7.8.2017.

Judgment of the General Court of 11 December 2018 — Arca Capital Bohemia v Commission

(Case T-440/17) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to a procedure for reviewing State aid — Refusal to grant access — Exception relating to the protection of commercial interests of third parties — Exception relating to the protection of the purpose of inspections, investigations and audits — General presumption of confidentiality — Obligation to carry out a specific and individual examination — Overriding public interest)

(2019/C 72/35)

Language of the case: English

Parties

Applicant: Arca Capital Bohemia a.s. (Prague, Czech Republic) (represented by: M. Nedelka, lawyer)

Defendant: European Commission (represented by: A. Bouchagiar and A. Buchet, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking the annulment, first, of the decision allegedly contained in the Commission's response of 15 March 2017 to the initial application for access to documents relating to a procedure for reviewing State aid and, secondly, of Commission Decision C(2017) 3130 final of 4 May 2017 refusing to grant such access.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Arca Capital Bohemia a.s. to pay the costs.*

([1]) OJ C 347, 16.10.2017.

Judgment of the General Court of 11 December 2018 — Arca Capital Bohemia v Commission

(Case T-441/17) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to a procedure for reviewing State aid — Partial refusal to grant access — Exception relating to the protection of commercial interests of third parties — Exception relating to the protection of the purpose of inspections, investigations and audits — General presumption of confidentiality — Obligation to carry out a specific and individual examination — Overriding public interest)

(2019/C 72/36)

Language of the case: English

Parties

Applicant: Arca Capital Bohemia a.s. (Prague, Czech Republic) (represented by: M. Nedelka, lawyer)

Defendant: European Commission (represented by: A. Bouchagiar and A. Buchet, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking the annulment, first, of the decision allegedly contained in the Commission's response of 13 March 2017 to the initial application for access to documents relating to a procedure for reviewing State aid and, secondly, of Commission Decision C(2017) 3129 final of 4 May 2017 refusing to grant such access.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Arca Capital Bohemia a.s. to pay the costs.*

([1]) OJ C 347, 16.10.2017.

Judgment of the General Court of 6 December 2018 — Fifth Avenue Entertainment v EUIPO — Commodore Entertainment (THE COMMODORES)

(Case T-459/17) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark 'THE COMMODORES' — Unregistered earlier sign 'Commodores' — Article 8(4) of Regulation (EC) No 207/2009 (now Article 8(4) of Regulation (EU) 2017/1001) — Relative ground for refusal — Reference to the national law governing the earlier mark — Action for passing off)

(2019/C 72/37)

Language of the case: English

Parties

Applicant: Fifth Avenue Entertainment LLC (Orlando, Florida, United States) (represented by: B. Brandreth, Barrister, and D. Cañadas Arcas, lawyer)

Defendant: European Union Intellectual Property Office (represented by: H. O'Neill and S. Bonne, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Commodore Entertainment Corp. (Saint Paul, Minnesota, United States) (represented by: J. Mellor QC and J. Whelan, Solicitor)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 22 May 2017 (Case R 851/2016-5), relating to opposition proceedings between Commodore Entertainment and Fifth Avenue Entertainment.

Operative part of the judgment

The Court:

1. *Annuls the Decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 22 May 2017 (Case R 851/2016-5);*

2. *Orders EUIPO to bear its own costs and to pay those incurred by Fifth Avenue Entertainment LLC;*

3. *Orders Commodore Entertainment Corp. to bear its own costs.*

([1]) OJ C 309, 18.9.2017.

Judgment of the General Court of 7 December 2018 — Edison v EUIPO (EDISON)

(Case T-471/17) ([1])

(EU trade mark — EU figurative mark EDISON — Partial surrender — Article 50 of Regulation (EC) No 207/2009 (now Article 57 of Regulation (EU) 2017/1001) — Interpretation of terms contained in a class heading of the Nice Classification and the goods appearing on the accompanying alphabetic list)

(2019/C 72/38)

Language of the case: Italian

Parties

Applicant: Edison SpA (Milan, Italy) (represented by: F. Boscariol de Roberto, D. Martucci and I. Gatto, lawyers)

Defendant: European Union Intellectual Property Office (represented by: J. Crespo Carrillo and L. Rampini, acting as Agents)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 28 April 2017 (Case R 1355/2016-5) concerning the EU figurative mark EDISON.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Edison SpA to pay the costs.*

([1]) OJ C 309, 18.9.2017.

Judgment of the General Court of 6 December 2018 — China Construction Bank v EUIPO — Groupement des cartes bancaires (CCB)

(Case T-665/17) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark CCB — Earlier EU figurative mark CB — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Reputation and enhanced distinctiveness of the earlier mark — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Second sentence of Article 75 and Article 76(1) of Regulation No 207/2009 (now second sentence of Article 94(1) and Article 95(1) of Regulation 2017/1001))

(2019/C 72/39)

Language of the case: English

Parties

Applicant: China Construction Bank Corp. (Beijing, China) (represented by: A. Carboni and J. Gibbs, Solicitors)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Groupement des cartes bancaires (Paris, France) (represented by: C. Herissay Ducamp, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 14 June 2017 (Case R 2265/2016-1), relating to opposition proceedings between Groupement des cartes bancaires and China Construction Bank.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders China Construction Bank Corp. to pay the costs.*

(1) OJ C 402, 27.11.2017.

Action brought on 6 December 2018 — Phrenos and Others v Commission

(Case T-715/18)

(2019/C 72/40)

Language of the case: English

Parties

Applicants: Phrenos SPRL (Mont-sur-Marchienne, Belgium), Akkanto (Watermael-Boitsfort, Belgium) and Operational Management Solutions (Chaumont-Gistoux, Belgium) (represented by: R. Jafferali and R. van Melsen, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the decision of the European Commission, as notified to the applicants by letter of 27 November 2018, to award the contract for services relating to the planning, preparation, promotion and implementation of the 'European Development Days' event for its Directorate-General for International Cooperation and Development (EuropeAid/139729/DH/SER/BE) (2018/S 144- 328417) for the years 2019 to 2022 inclusive, to a third party;

— order the Commission to pay the costs of the main and interim proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant failed to state reasons for its award decision.

2. Second plea in law, alleging that the defendant failed to properly assess the (apparent) abnormally low prices of the chosen tender.

3. Third plea in law, alleging infringement of equal treatment with regard to the assessment of the tenders submitted.

4. Fourth plea in law, alleging that the award criterion for the evaluation of tenders applied by the defendant was illegal.

Action brought on 7 December 2018 — Barata v Parliament

(Case T-723/18)

(2019/C 72/41)

Language of the case: English

Parties

Applicant: João Miguel Barata (Evere, Belgium) (represented by: G. Pandey, D. Rovetta and V. Villante, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul, first, the decision of 23 July 2018 of the European Parliament's General Secretariat, which rejected the applicant's complaints under Article 90(2) of the Staff Regulations of Officials of the European Union, lodged on 2 February 2018 and 13 April 2018;

— annul, second, the decision of 22 March 2018 of the Director for Human Resources Development refusing to review the applicant's application to participate in the 2017 certification process training scheme and effectively excluding him from the 2017 certification process,

— annul, third, the decisions of 8 December 2017 and 21 December 2017 of the Director for Human Resources Development to consider the applicant's application as inadmissible, solely due to the lack of the index in his application for the purposes of the training programme under the 2017 certification procedure;

— annul, fourth, the Parliament's decision of 1 March 2018 notifying the applicant of general results and not including him in the list of the selected officials for 2017 certification procedure, as a result of inadmissibility of the application;

— annul, fifth, the internal notice of competition of 22 September 2017 circulated among the staff;

— annul, lastly, the resulting draft list of officials selected to take part in the aforesaid training programme.

— declare, as a preliminary matter, where appropriate, Article 90 of the Staff Regulation invalid and inapplicable in the present proceedings, under Article 277 of the Treaty on the Functioning of the European Union.

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 breach of the duty to state reasons, breach of Article 25 of the Staff Regulations and breach of Article 296 of the Treaty on the Functioning of the European Union.

2. Second plea in law, alleging breach of the principles of proportionality and sound administration, breach of the right of defence and rights to be heard of the applicant and thereby breach of Article 41 of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging breach of the duty of good administration under Article 41 of the Charter of Fundamental Rights of the European Union and also alleging manifest error of assessment.

4. Fourth plea in law, alleging breach of Articles 1, 2, 3 and 4 of Regulation No 1/58, ([1]) and, further, breach of the principles of equal treatment and non-discrimination.

([1]) Regulation No. 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ, English Special Edition 1952-1958 (I), p. 59).

Action brought on 13 December 2018 — Sumitomo Chemical and Tenka Best v Commission

(Case T-734/18)

(2019/C 72/42)

Language of the case: English

Parties

Applicants: Sumitomo Chemical (UK) plc (London, United Kingdom) and Tenka Best, SL (Aiguafreda, Spain) (represented by: K. Van Maldegem, lawyer and V. McElwee, solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Implementing Decision (EU) 2018/1251 of 18 September 2018 not approving empenthrin as an existing active substance for use in biocidal products of product-type 18; ([1])

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant failed to follow procedural steps that were required of it prior to adopting the contested act. Had such steps been followed, the act adopted might have been different.

2. Second plea in law, alleging that the defendant committed a manifest error of assessment in the following areas: in not taking into account the procedural irregularities in the review of empenthrin; in permitting a hypothetical risk to give rise to the non-approval of empenthrin; in failing to take into account animal welfare requirements stemming from the Biocidal Products Regulation. ([2])

3. Third plea in law, alleging that the defendant failed to ensure the first applicant's rights of defence

   — It is argued that the first applicant's comments and data have not been reviewed and its rights of defence necessarily infringed.

4. Fourth plea in law, alleging that the defendant has infringed the principle of sound administration.

— It is argued that the first applicant was not given the time to develop future data and that its data waivers were unfairly rejected.

(1) OJ 2018 L 235, p. 24.
(2) Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ 2012 L 167, p. 1).

Action brought on 17 December 2018 — Darment v Commission

(Case T-739/18)

(2019/C 72/43)

Language of the case: English

Parties

Applicant: Darment Oy (Helsinki, Finland) (represented by: C. Ginter, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision to reduce the quota allocated to the applicant for the year 2019 for the placing of hydrofluorocarbons on the market about which the applicant was informed by the letter of 16 October 2018 Ares (2018)5305174 and email of 12 December 2018;

— order the defendant to pay the 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 infringement of Regulation (EU) 517/2014 ([1]) from the defendant, by applying Article 25(2) strictly based on the data available in the registry set up under Article 17, even though a claim has been raised to correct the erroneous data in the registry.

2. Second plea in law, alleging a manifest error of assessment from the defendant for refusing to consider the applicant's explanations regarding placement of quota for bulk import on the market.

(1) Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006, OJ L 150, 20.05.2014, p. 150.

Action brought on 18 December 2018 — Taminco and Arysta LifeScience Great Britain v Commission

(Case T-740/18)

(2019/C 72/44)

Language of the case: English

Parties

Applicants: Taminco BVBA (Gent, Belgium) and Arysta LifeScience Great Britain Ltd (Edinburgh, United Kingdom) (represented by: C. Mereu and M. Grunchard, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Implementing Regulation (EU) 2018/1500 of 9 October 2018 concerning the non-renewal of approval of the active substance Thiram, and prohibiting the use and sale of seeds treated with plant protection products containing Thiram, ([1]) and remand the assessment of the active substance in question to the European Food Safety Authority (EFSA) and the defendant, as needed;

— order the prolongation of the expiry of the approval of the active substance in question to allow its reassessment;

— in the alternative, partially annul the contested regulation to the extent that it prohibits the renewal of the active substance in question with regard to seed treatment; and

— order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested regulation is procedurally flawed since the defendant failed to take into account the withdrawal of the application requested by the applicants to renew the approval of Thiram for use as a foliar spray and maintain only the seed treatment use.

2. Second plea in law, alleging that the contested regulation was adopted further to a manifest error of assessment.

3. Third plea in law, alleging that the contested regulation was adopted in violation of Article 4(5) of Regulation (EC) No 1107/2009. ([2])

4. Fourth plea in law, alleging that the defendant acted *ultra vires* by making a proposal regarding the classification of the active substance in question.

5. Fifth plea in law, alleging that the contested regulation results from a procedure during which the applicants' rights of defence have not been respected.

6. Sixth plea in law, alleging that the contested regulation was adopted in breach of the precautionary principle and of the fundamental principles of European Union law of proportionality and equal treatment.

(1) OJ 2018, L 254, p. 1.
(2) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009 L 309, p. 1).

Action brought on 21 December 2018 — Bronckers v Commission

(Case T-746/18)

(2019/C 72/45)

Language of the case: English

Parties

Applicant: Marco Bronckers (Brussels, Belgium) (represented by: P. Kreijger, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the (implied) decision of the Commission of 17 October 2018 rejecting, under Regulation (EC) 1049/2001, (1) the applicant's confirmatory application for access to documents relating to the Agreement between the European Community and the United Mexican States on the mutual recognition and protection of designations for spirit drinks; (2)

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging that the Commission violated Article 8 (3) of Regulation 1049/2001 by failing to decide within the prescribed time limit.

(1) Regulation (EC) 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) OJ 1997 L 152, p. 15.

Action brought on 20 December 2018 — Refan Bulgaria v EUIPO (Shape of a flower)

(Case T-747/18)

(2019/C 72/46)

Language of the case: English

Parties

Applicant: Refan Bulgaria OOD (Trud, Bulgaria) (represented by: A. Ivanova, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union tridimensional mark (Shape of a flower) — Application for registration No 16 544 025

Contested decision: Decision of the First Board of Appeal of EUIPO of 6 September 2018 in Case R 2518/2017-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision.

Plea in law

— Infringement of Article 7(1)(b) and (c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 21 December 2018 — Glimarpol v EUIPO — Metar (Pneumatic power tools)

(Case T-748/18)

(2019/C 72/47)

Language of the case: English

Parties

Applicant: Glimarpol sp. z o.o. (Bytom, Poland) (represented by: M. Kondrat, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Metar sp. z o.o. (Gliwice, Poland)

Details of the proceedings before EUIPO

Proprietor of the design at issue: Applicant before the General Court

Design at issue: European Union design 2 125 435-0001

Contested decision: Decision of the Third Board of Appeal of EUIPO of 4 October 2018 in Case R 1615/2017-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and refer the case back to EUIPO for reconsideration;

— alter the contested decision by stating that there are no grounds for declaring Registered Community design No 002125435-001 as invalid;

— award the costs in the applicant's favour.

Pleas in law

— Infringement of Article 6 of Council Regulation (EC) No 6/2002;

— Infringement of Article 7 of Council Regulation (EC) No 6/2002.

Action brought on 24 December 2018 — Tecnodidattica SpA v EUIPO (Base for lamps)

(Case T-752/18)

(2019/C 72/48)

Language of the case: Italian

Parties

Applicant: Tecnodidattica SpA (San Colombano Certenoli, Italy) (represented by: S. Corona and F. Corona, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for a three-dimensional EU trade mark (Shape of a base for lamps) — Application for registration No 14 997 308

Contested decision: Decision of the Second Board of Appeal of EUIPO of 9 October 2018 in Case R 76/2017-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea(s) in law

— Infringement of Article 7(1)(a)(ii) of Regulation 2017/1001 of the European Parliament and of the Council.

Action brought on 31 December 2018 — Koinopraxia Touristiki Loutrakiou v Commission

(Case T-757/18)

(2019/C 72/49)

Language of the case: English

Parties

Applicant: Koinopraxia Touristiki Loutrakiou AE OTA — Loutraki AE — Klab Otel Loutraki Kazino Touristikes kai Xenodocheiakes Epicheiriseis AE (Loutraki, Greece) (represented by: S. Pappas, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission's contested decision of 9 August 2018 on the measures to certain Greek casinos SA.28973 — C 16/2010 (ex NN 22/2010, ex CP 318/2009)

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on two alternative pleas in law to support that the contested decision infringed its procedural rights and therefore should be annulled.

1. First plea in law, alleging that the part of the contested decision in which the Commission examined whether the alleged state aid measure confers an 'attractiveness advantage' should be characterised as a decision not to raise objections adopted following the preliminary examination procedure. Therefore, the applicant claims that the Commission should have initiated the formal investigation procedure because there were serious doubts as to the existence of an attractiveness advantage financed through state resources.

2. Second plea in law, alleging that the Commission was in any case obliged to reopen the formal investigation procedure by virtue of judgment T-425/11. In fact, the applicant claims that the Commission was, in principle, obliged to give the parties concerned notice to submit their comments before the adoption of the contested decision.

Action brought on 21 December 2018 — La Caixa v EUIPO — Imagic Vision (imagin bank)

(Case T-761/18)

(2019/C 72/50)

Language in which the application was lodged: Spanish

Parties

Applicant: Fundación bancaria caixa d'estalvis i pensions de Barcelona La Caixa (Palma de Mallorca, Spain) (represented by: I. Valdelomar Serrano, P. Román Maestre, D. Liern Cendrero, D. Gabarre Armengol and J. Rodriguez Fuensalida, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Imagic Vision, SL (Madrid, Spain)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: European Union figurative mark imagin bank — Application for registration No 14 861 108

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 22 October 2018 in Case R 1954/2017-4

Form of order sought

The applicant claims that the Court should:

— Rule that the present action against the contested decision is admissible;

— Find that Article 8(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council was erroneously applied in that decision;

— Grant protection in respect of all goods and services sought in the application for registration of European Union figurative trade mark No 14 861 108, 'imagin bank', in Classes 9, 36 and 38;

— Order the defendant to pay the costs associated with these proceedings, including the representation costs incurred by the applicant.

Plea in law

Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 3 January 2019 — Thai World Import & Export v EUIPO — Elvir (Yaco)

(Case T-3/19)

(2019/C 72/51)

Language in which the application was lodged: French

Parties

Applicant: Thai World Import & Export Co. Ltd (Bangkok, Thailand) (represented by: S. Bénoliel-Claux, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Elvir (Conde sur Vire, France)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for EU figurative mark 'Yaco' — Application for registration No 14 980 148

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 2 October 2018 in Case R 319/2018-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 2 January 2019 — Hankintatukku Arno Latvus v EUIPO — Triaz Group (VIVANIA)

(Case T-4/19)

(2019/C 72/52)

Language of the case: English

Parties

Applicant: Hankintatukku Arno Latvus Oy (Helsinki, Finland) (represented by: A. Fottner and M. Müller, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Triaz Group GmbH (Freiburg, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant before the General Court

Trade mark at issue: European Union word mark VIVANIA — European Union trade mark No 11 637 121

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 25 October 2018 in Case R 767/2018-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject the request for declaration of invalidity of European Union trade mark No 11 637 121 'VIVANIA';

— order EUIPO and the other party before the Board of Appeal to bear the applicant's costs in the present procedure.

Plea in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 4 January 2019 — Scandlines Danmark et Scandlines Deutschland v Commission

(Case T-7/19)

(2019/C 72/53)

Language of the case: English

Parties

Applicants: Scandlines Danmark ApS (Copenhagen, Denmark) and Scandlines Deutschland GmbH (Hamburg, Germany) (represented by: L. Sandberg-Mørch, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the contested decision C(2018) 6268 final of 28 September 2018 on State aid SA.51981 (2018/FC);

— order the Commission to pay the costs.

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 that the Commission erred in law by finding that the State guarantees granted to A/S Femern Landanlæg have been authorised by the Construction Decision and that they do not constitute state aid.

2. Second plea in law, alleging that the Commission erred in law by finding that the aid in the form of a DKK 10 million capital injection (in excess of the DKK 500 million authorised by the Planning Decision) is compatible with the internal market.

3. Third plea in law, alleging that the Commission erred in law by finding that the State loans to Femern A/S and A/S Femern Landanlæg have been authorised in the Construction Decision and that the ones granted to A/S Femern Landanlæg do not constitute aid, while those granted to Femern A/S are compatible with the internal market.

4. Fourth plea in law, alleging that the Commission erred in law by finding that the State loans granted in excess of the DKK 1 445 million budget, have been authorised in the Planning Decision and that they constitute State aid that is compatible with the internal market.

5. Fifth plea in law, alleging that the Commission erred in law by finding that the tax advantages do not constitute State aid.

6. Sixth plea in law, alleging that the Commission infringed its obligation to initiate the formal investigation procedure under Article 108(2) TFEU.

7. Seventh plea in law, alleging that the Commission infringed its duty to state reasons, as enshrined in Article 296 TFEU.

Action brought on 8 January 2019 — Repsol v EUIPO (INVENTEMOS EL FUTURO)

(Case T-8/19)

(2019/C 72/54)

Language of the case: Spanish

Parties

Applicant: Repsol, SA (Madrid, Spain) (represented by: J.-B. Devaureix and J. C. Erdozain López, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: European Union word mark 'INVENTEMOS EL FUTURO' — Application for registration No 17 258 807

Contested decision: Decision of the Second Board of Appeal of EUIPO of 23 October 2018 in Case R 1173/2018-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

Infringement of Article 7(1)(b) and (3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 8 January 2019 — ClientEarth v EIB

(Case T-9/19)

(2019/C 72/55)

Language of the case: English

Parties

Applicant: ClientEarth (London, United Kingdom) (represented by: J. Flynn, QC and H. Leith, barrister)

Defendant: European Investment Bank

Form of order sought

The applicants claim that the Court should:

— annul the refusal of the EIB to conduct an internal review pursuant to Article 10 of the Aarhus Regulation ([1]);

— order the defendant to pay the 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 errors in law in the application of the Aarhus Regulation, with regard to the status of ClientEarth as a non-governmental organisation, the concept of 'administrative act', the definition of measures of individual scope, the legal effects of the EIB Board of Directors' decision, as well as the limits of 'environmental law'.

2. Second plea in law, alleging failure of the defendant to provide adequate reasons as required by Article 296 TFEU.

([1]) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies.

Action brought on 2 January 2019 — Mutualidad de la Abogacía and Others v ECB and SRB

(Case T-11/19)

(2019/C 72/56)

Language of the case: Spanish

Parties

Applicants: Mutualidad de la Abogacía (Madrid, Spain) and 75 other applicants (represented by: R. Pelayo Jiménez, A. Munoz Aranguren and P. Hermida Paredes, lawyers)

Defendants: European Central Bank and Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

— Establish the non-contractual liability of the ECB and the SRB as a consequence of the failures specified in the application, and order the defendants to compensate the applicants in respect of the harm suffered, estimated at the financial value of their shares which, according to the SRB's own 'Evaluation 1', amounted to EUR 2,0020217 per share; and, in the alternative, order the defendant institutions to pay compensation equivalent to EUR 0,8442 per share.

— Increase the compensation awarded by compensatory interest calculated at the annual rate of inflation declared by EUROSTAT in Spain, from 6 June 2017 up to the date of judgment, plus default interest (rate set by the ECB for its primary refinancing operations, increased by two percentage points), from the date of judgment awarding compensation for the harm suffered until due payment.

— Order the defendant institutions to pay the costs of the proceedings.

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 a combination of illicit or negligent actions or omissions on the part of the European Central Bank. In that connection, the applicants claim:

   — Infringement of the principle of legitimate expectations, on account of the ECB, as the institution responsible for conducting the Supervisory Review and Evaluation Process (SREP), having created legitimate expectations on the part of the shareholders of Banco Popular Español.

   — Breach of the obligation of diligence and good administration on the part of the ECB, having failed to adopt the appropriate early intervention and/or recovery measures in respect of Banco Popular Español, S.A., with a failure to fulfil obligations under the Guidelines on early intervention triggers (Article 27(4) of Directive 2014/59).

2. Second plea in law, alleging a combination of illicit or negligent actions on the part of the Single Resolution Board. In that connection, the applicants claim:

   — Infringement of Articles 7 and 13 of Regulation (EU) 806/2014 and Article 3(4) of Directive 2014/59, on account of the SRB's uncoordinated actions with the ECB, as well as the failure to update the Resolution Plan for Banco Popular Español.

   — Breach of the duty of confidentiality on the part of the SRB, with the related infringement of Article 339 TFEU and Article 88(1) of Regulation (EU) 806/2014.

   — Infringement of Article 20 of Regulation (EU) 806/2014, on account of the SRB's refusal to undertake a final valuation of Banco Popular Español, and the related breach of the obligation of diligence and good administration.

Action brought on 7 January 2019 — Nowhere v EUIPO — Junguo Ye (APE TEES)

(Case T-12/19)

(2019/C 72/57)

Language of the case: English

Parties

Applicant: Nowhere Co. Ltd (Tokyo, Japon) (represented by: A. Norris, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Junguo Ye (Elche, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark APE TEES — Application for registration No 14 319 578

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 8 October 2018 in Case R 2474/2017-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject the contested mark in respect of all of the contested goods;

— alternatively, remit the matter to the EUIPO for re-consideration;

— order the payment of the costs incurred by the applicant in connection with the appeal and opposition proceedings.

Plea in law

— Infringement of Article (8)(4) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 10 January 2019 — Activos e Inversiones Monterroso v SRB

(Case T-16/19)

(2019/C 72/58)

Language of the case: Spanish

Parties

Applicant: Activos e Inversiones Monterroso, SL (Pantoja, Spain) (represented by: S. Rodríguez Bajón, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the General Court should:

Take note of the present action for annulment of the decision adopted by the Single Resolution Board of 31 October 2018, in the framework of this procedure [Ares (2017) 61995390] and, the appropriate legal steps having been taken, give judgment annulling the decision of 31 October 2018 and upholding the form of order sought, granting access to all documents included in the relevant administrative file.

Pleas in law and main arguments

In support of the action, the applicant relies on infringement of Article 41 of the Charter of Fundamental Rights of the European Union and of Article 4 of 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. ([1])

— In that connection, the applicant argues that, in the present case, protection of the public interest as regards the economic or monetary policy of the European Union or a Member State, protection of the commercial interests of a natural or legal person, protection of privacy and the integrity of the individual, protection of the purpose of investigations, or the opposition of the originator of the information, are not applicable as exceptions to the disclosure of documents.

([1]) OJ 2001 L 145, p. 43.

Action brought on 11 January 2019 — Brown v Commission

(Case T-18/19)

(2019/C 72/59)

Language of the case: English

Parties

Applicant: Colin M. Brown (Brussels, Belgium) (represented by: I. Van Damme, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of 19 March 2018 of the Office for the Administration and Payment of Individual Entitlements that the applicant ceased to be entitled to the expatriation allowance and the travel allowance;

— order that the applicant's entitlement to the expatriation allowance and the travel allowance be restored with effect from 1 December 2017;

— order that the allowances which were not paid between 1 December 2017 and the date of re-establishment of the applicant's entitlement be paid to the applicant with interest;

— annul, if it accepts the plea of illegality, the application of Article 4(1)(b) of Annex VII to the Staff Regulations to the Applicant until such time as the Institutions replace it with non-discriminatory provisions;

— order the Commission 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 an incorrect interpretation of Article 4(1)(a) of Annex VII to the Staff Regulations because the Commission was wrong to interpret that provision as meaning that a right to an expatriation allowance, acquired based on the place of origin and center of interests of an official in another Member State prior to his recruitment, is to be re-assessed in case the official concerned subsequently acquires the nationality of the Member State where he remains employed.

2. Second plea in law, alleging that the decision of 19 March 2018 discriminates against the applicant by subjecting his entitlement to the expropriation allowance to the conditions laid down in Article 4(1)(b) of Annex VII to the Staff Regulations.

3. Third plea in law, alleging that, should the General Court find that the Commission was correct to determine the applicant's entitlement to the expatriation allowance on the basis of Article 4(1)(b) of Annex VII to the Staff Regulations, the Commission nevertheless failed to interpret that provision in accordance with the principle of non-discrimination.

4. Fourth plea in law, alleging, in the alternative, that, if all of three other pleas are rejected, Article 4(1) of Annex VII to the Staff Regulations is illegal and inapplicable in the sense that, and in so far as, it produces unjustified discrimination as regards persons in the situation of the applicant, for the reasons advanced in support of the second plea.

Action brought on 15 January 2019 — Pilatus Bank and Pilatus Holding v ECB

(Case T-27/19)

(2019/C 72/60)

Language of the case: English

Parties

Applicants: Pilatus Bank plc (Ta'Xbiex, Malta) and Pilatus Holding ltd. (Ta'Xbiex) (represented by: O. Behrends, L. Feddern and M. Kirchner, lawyers)

Defendant: European Central Bank

Form of order sought

The applicants claim that the Court should:

— annul the ECB's decisions dated 2 November 2018 and send to Pilatus Bank plc. on 5 November 2018 regarding the withdrawal of the banking license of Pilatus Bank;

— order the Defendant to pay all costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the ECB has failed to assume its responsibilities pursuant to Art. 14(5) of the SSM Regulation. ([1])

2. Second plea in law, alleging that the ECB erroneously assumed a legal ground for a license withdrawal.

3. Third plea in law, alleging that the ECB failed to consider appropriately the discretionary nature of the decision.
4. Fourth plea in law, alleging that the ECB failed to assess the relevant facts and failed to do so impartially and objectively.
5. Fifth plea in law, alleging that the ECB violated the principle of proportionality.
6. Sixth plea in law, alleging that the ECB violated the *nemo auditur* principle.
7. Seventh plea in law, alleging that the ECB erred in law with respect to its considerations in connection with the presumption of innocence.
8. Eighth plea in law, alleging that the ECB violated the principal of equal treatment and acted in a discriminatory manner.
9. Ninth plea in law, alleging that the ECB violated Art. 19 and Recital 75 SSM Regulation and committed a *détournement de pouvoir*.
10. Tenth plea in law, alleging that the ECB violated the Applicants' right of defence and their right to be heard.
11. Eleventh plea in law, alleging that the ECB failed to provide an adequately reasoned decision.

(1) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

Order of the President of the General Court of 6 November 2018 — Berliner Stadtwerke v EUIPO (berlinGas)

(Case T-595/18) (1)

(2019/C 72/61)

Language of the case: German

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

(1) OJ C 436, 3.12.2018.

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