Official Journal of the European Union

C 191

English edition

Information and Notices

Volume 63

8 June 2020

Contents

EN

General Court

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

Last publications of the Court of Justice of the European Union in the *Official Journal of the European Union*

(2020/C 191/01)

Last publication

OJ C 175, 25.5.2020

Past publications

OJ C 162, 11.5.2020

OJ C 161, 11.5.2020

OJ C 137, 27.4.2020

OJ C 129, 20.4.2020

OJ C 114, 6.4.2020

OJ C 103, 30.3.2020

These texts are available on:

EUR-Lex: http://eur-lex.europa.eu

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Wojewódzki Sąd Administracyjny we Wrocławiu (Poland) lodged on 23 December 2019 — Grupa Warzywna Sp. z o.o. v Dyrektor Izby Administracji Skarbowej we Wrocławiu

(Case C-935/19)

(2020/C 191/02)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny we Wrocławiu

Parties to the main proceedings

Applicant: Grupa Warzywna Sp. z o.o.

Defendant: Dyrektor Izby Administracji Skarbowej we Wrocławiu

Question referred

Is an additional tax liability such as that provided for in Article 112b(2) of the Law on VAT compatible with the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [1] (in particular Articles 2, 250 and 273 thereof), Article 4(3) of the Treaty on European Union, Article 325 TFEU and the principle of proportionality?

[1] OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 31 December 2019 — M.A. v Konsul Rzeczypospolitej Polskiej w N.

(Case C-949/19)

(2020/C 191/03)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: M.A.

Defendant: Konsul Rzeczypospolitej Polskiej w N.

Question referred

Must Article 21(2a) of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ([1]) in conjunction with the first paragraph of Article 47 of the Charter of Fundamental Rights of the European Union be interpreted as meaning that a third-country national who has been refused a long-stay visa and who cannot exercise the right to move freely within the territories of the other Member States under Article 21(1) of the Convention implementing the Schengen Agreement must have the right to an effective remedy before a tribunal?

([1]) OJ 2000 L 239, p. 19.

Request for a preliminary ruling from the Sąd Okręgowy w Gdańsku (Poland) lodged on 16 January 2020 — I.W. and R.W. v Bank BPH Spółka Akcyjna

(Case C-19/20)

(2020/C 191/04)

Language of the case: Polish

Referring court

Sąd Okręgowy w Gdańsku

Parties to the main proceedings

Applicants: I.W. and R.W.

Defendant: Bank BPH Spółka Akcyjna

Questions referred

1. Must Article 3(1) and (2) in conjunction with Article 4(1) and Articles 6(1) and 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts … ([1]) be interpreted as meaning that the national court is obliged to declare that a term in a contract concluded with a consumer is unfair (within the meaning of Article 3(1) of the directive) including where, as a result of an amendment to the contract made by the parties by way of an annex, that term has been amended such that it is no longer unfair and a finding that the term in its original wording was unfair may result in the annulment (invalidation) of the entire contract?

2. Must Article 6(1), in conjunction with Article 3(1), the second sentence of Article 3(2) and Article 2 of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts … be interpreted as permitting a national court to find that only certain elements of a contract term relating to the exchange rate fixed by the bank for the currency to which the loan extended to the consumer is indexed (such as in the main proceedings) are unfair, namely, by eliminating the provision allowing the bank's margin, which is a component of the exchange rate, to be determined unilaterally and in an unclear manner, where leaving an unambiguous provision referring to the average exchange rate announced by the central bank (the Narodowy Bank Polski — National Bank of Poland), which does not require the eliminated term to be replaced with any legal provision, […] will result in real balance between the consumer and the trader being restored, although it will change the essence of the provision concerning the performance by the consumer of his obligation in a manner that is advantageous to him?

3. Must Article 6(1) in conjunction with Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts … be interpreted as meaning that, even if the national legislature has introduced measures to prevent the continued use of unfair contract terms, such as that at issue in the main proceedings, by introducing provisions which require banks to stipulate in detail the methods and time limits for determining the exchange rate on the basis of which the amount of credit and principal and interest payments are calculated, and the rules for converting amounts into the currency in which the loan was disbursed or is to be repaid, the public interest militates against the finding that only certain elements of the term in question are unfair in the manner described in Question 2?

4. Should the annulment of the contract referred to in Article 6(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts …, as a result of the exclusion of unfair terms as defined in Article 2(a) in conjunction with Article 3 of the directive, be understood as a sanction resulting from a constitutive court decision made at the express request of the consumer with consequences from the date of conclusion of the contract, that is to say, *ex tunc*, and do restitution claims by the consumer and the trader become due and payable upon the judgment becoming final?

5. Must Article 6(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts … in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union of 30 March 2010 (OJ 2010 C 83, p. 389) be interpreted as imposing an obligation on the national court to inform a consumer who has requested that a contract be annulled in connection with the elimination of unfair terms of the legal consequences of such a judgment, including possible restitution claims by the trader (bank), even if such claims have not been raised in the proceedings in question, and also claims whose validity has not been clearly established, even if the consumer is represented by a professional legal representative?

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

Request for a preliminary ruling from the Oberlandesgericht Köln (Germany) lodged on 23 January 2020 — Biofa AG v Sikma D. Vertriebs GmbH und Co. KG

(Case C-29/20)

(2020/C 191/05)

Language of the case: German

Referring court

Oberlandesgericht Köln

Parties to the main proceedings

Applicant: Biofa AG

Defendant: Sikma D. Vertriebs GmbH und Co. KG

Question referred

Where an active substance is approved in an implementing regulation adopted pursuant to Article 9(1)(a) of Regulation (EU) No 528/2012, (1) can it be taken as given in court proceedings in a Member State that the substance on which the approval is based is intended within the meaning of Article 3(1)(a) of Regulation (EU) No 528/2012 to act by any means other than mere physical or mechanical action, or is it for the adjudicating national court to establish in fact whether the preconditions for the application of Article 3(1)(a) of Regulation (EU) No 528/2012 are fulfilled even after an implementing regulation has been adopted?

(1) 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).

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 29 January 2020 — E v Finanzamt N

(Case C-45/20)

(2020/C 191/06)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: E

Defendant: Finanzamt N

Questions referred

1. Does Article 168(a), read in conjunction with Article 167 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) conflict with national case-law precluding the right to deduct VAT in cases in which the trader is entitled to choose the allocation of a supply at the time of purchase if the tax authorities have not adopted a decision on its allocation on expiry of the statutory deadline for submission of the annual VAT return?

2. Does Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax conflict with national case-law whereby allocation to private assets is assumed or presumed in the absence of (sufficient) evidence for allocation to the assets of the business?

([1]) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 29 January 2020 — Z v Finanzamt G

(Case C-46/20)

(2020/C 191/07)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Z

Defendant: Finanzamt G

Questions referred

1. Does Article 168(a), read in conjunction with Article 167 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) conflict with national case-law precluding the right to deduct VAT in cases in which the trader is entitled to choose the allocation of a supply at the time of purchase if the tax authorities have not adopted a decision on its allocation on expiry of the statutory deadline for submission of the annual VAT return?

2. Does Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax conflict with national case-law whereby allocation to private assets is assumed or presumed in the absence of (sufficient) evidence for allocation to the assets of the business?

([1]) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 28 January 2020 — UAB 'P' v Dyrektor Izby Skarbowej w Białymstoku

(Case C-48/20)

(2020/C 191/08)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: UAB 'P'

Defendant: Dyrektor Izby Skarbowej w Białymstoku

Question referred

Must Article 203 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax … ([1]) [,as amended,] and the principle of proportionality be interpreted as precluding the application, in a situation such as that in the main proceedings, of a national provision such as Article 108(1) of the Ustawa z dnia 11 marca 2004 r. o podatku od towarów i usług (Law of 11 March 2004 on [the] tax on goods and services) … ([2]) to invoices with VAT incorrectly indicated that were issued by a taxable person acting in good faith, if:

— the taxable person's actions did not involve tax fraud, but resulted from an erroneous interpretation of the law by the parties to the transaction, based on an interpretation given by the tax authorities and a common practice in that respect at the time of the transaction, which incorrectly assumed that the issuer of the invoice was supplying goods when in fact it was providing a VAT-exempt financial intermediation service; and

— the recipient of the invoice with the VAT incorrectly indicated would have been entitled to claim a VAT refund if the transaction had been correctly invoiced by a taxable person who was actually supplying the recipient with goods?

([1]) OJ 2006 L 347, p. 1.
([2]) Journal of Laws (Dziennik Ustaw) of 2011, No 177, item 1054, as amended.

Request for a preliminary ruling from the Sąd Dyscyplinarny Izby Adwokackiej w Warszawie (Poland) lodged on 31 January 2020 — Ministerstwo Sprawiedliwości v R.G.

(Case C-55/20)

(2020/C 191/09)

Language of the case: Polish

Referring court

Sąd Dyscyplinarny Izby Adwokackiej w Warszawie

Parties to the main proceedings

Appellant: Ministerstwo Sprawiedliwości

Other party to the proceedings: R.G.

Questions referred

1. Are the provisions of Chapter III of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ([1]) ('**the Services Directive**'), including Article 10(6) of the Services Directive, applicable to proceedings concerning the disciplinary liability of Polish advocates and foreign lawyers registered with a Bar Association, in connection with which liability an advocate may, inter alia, be fined, suspended, or expelled from the bar, and a foreign lawyer may, inter alia, be fined, have his right to provide legal assistance in the Republic of Poland suspended, or be prohibited from providing legal assistance in the Republic of Poland? If the answer to the above question is in the affirmative, do the provisions of the Charter of Fundamental Rights of the European Union ('**the Charter**'), including Article 47 thereof, apply to the above proceedings before Bar Association courts in cases where there is no right of appeal against the rulings of those courts to national courts or where such rulings are subject only to an extraordinary appeal, such as an appeal on a point of law to the Sąd Najwyższy (Supreme Court), also in cases where all the essential elements are present within a single Member State?

2. In a case where, in the proceedings referred to in Question 1, under the national legislation in force the body competent to hear an appeal on a point of law against a ruling or decision of a Bar Association disciplinary court or an objection to an order refusing such an appeal on a point of law is a body that, in the view of that court, which is consistent with the view expressed by the Sąd Najwyższy (Supreme Court) in its judgment of 5 December 2019, case reference III PO 7/18, is not an independent and impartial tribunal for the purposes of Article 47 of the Charter, is it necessary to disregard the national provisions establishing the jurisdiction of that body and is it the duty of the Bar Association disciplinary court to refer such an appeal on a point of law or objection to a judicial body which would have jurisdiction if those national provisions had not precluded it?

3. In a case where — in the proceedings referred to in Question 1 — no appeal on a point of law can be lodged against a ruling or decision of a Bar Association disciplinary court, according to the position of that court, either by the Public Prosecutor General or the Ombudsman, and that position is:

   (a) contrary to the position expressed in the resolution of 27 November 2019, case reference II DSI 67/18, adopted by a seven-judge panel of the Izba Dyscyplinarna Sądu Najwyższego (Disciplinary Chamber of the Supreme Court), that is, the body which, under the national legislation in force, is competent to hear an objection to an order refusing an appeal on a point of law, but which, in the view of the Bar Association disciplinary court, which is consistent with the view expressed by the Sąd Najwyższy (Supreme Court) in its judgment of 5 December 2019, case reference III PO 7/18, is not an independent and impartial tribunal for the purposes of Article 47 of the Charter;

   (b) consistent with the position previously expressed by the Izba Karna Sądu Najwyższego (Criminal Chamber of the Supreme Court), that is, the judicial body that would have jurisdiction to hear such an objection if those national provisions had not precluded it,

   may (or should) the Bar Association disciplinary court disregard the position expressed by the Izba Dyscyplinarna Sądu Najwyższego (Disciplinary Chamber of the Supreme Court)?

4. If in the case referred to in Question 3, an appeal by the Minister for Justice has been lodged with a Bar Association disciplinary court, and:

   (a) one of the factors which in the view of the Sąd Najwyższy (Supreme Court) as expressed in its judgment of 5 December 2019, case reference III PO 7/18, as well as in the view of the Bar Association disciplinary court, justify the assumption that the Izba Dyscyplinarna Sądu Najwyższego (Disciplinary Chamber of the Supreme Court), that is, the body referred to in Question 3(a), is not an independent and impartial tribunal for the purposes of Article 47 of the Charter, is the influence of the executive, including the Minister for Justice, on its composition;

(b) the function of Public Prosecutor General, who — according to the position expressed by the Izba Dyscyplinarna Sądu Najwyższego (Disciplinary Chamber of the Supreme Court), that is, the body referred to in Question 3(a), would be entitled to lodge an appeal on a point of law against the decision made on appeal, and according to the position of the Izba Karna Sądu Najwyższego (Criminal Chamber of the Supreme Court), that is, the judicial body referred to in Question 3(b), and also according to the position of the Bar Association disciplinary court, is not entitled to lodge such an appeal, is by operation of law actually performed by the Minister for Justice,

should the Bar Association disciplinary court ignore that appeal if it is the only way in which it can ensure that the proceedings are compatible with Article 47 of the Charter and, in particular, prevent interference in those proceedings by a body which is not an independent and impartial tribunal for the purposes of that provision?

(1) OJ 2006 L 376, p. 36.

Request for a preliminary ruling from the Bundesfinanzgericht (Austria) lodged on 4 February 2020 — K v Finanzamt Linz

(Case C-58/20)

(2020/C 191/10)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Appellant: K

Respondent authority: Finanzamt Linz

Question referred

Must Article 135(1)(g) of Directive 2006/112/EC (1) be interpreted as meaning that the term 'management of special investment funds' also covers the tax-related responsibilities entrusted by the management company to a third party, consisting of ensuring that the income received by unit-holders from investment funds is taxed in accordance with the law?

(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 Bundesfinanzgericht (Austria) lodged on 4 February 2020 — DBKAG v Finanzamt Linz

(Case C-59/20)

(2020/C 191/11)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Applicant: DBKAG

Defendant: Finanzamt Linz

Question referred

Must Article 135(1)(g) of Directive 2006/112/EC [1] be interpreted as meaning that, for the purposes of the tax exemption provided for by that provision, the term 'management of special investment funds' also includes the granting by a third-party licensor to an investment management company ('IMC') of a right to use specialist software specifically designed for the management of special investment funds where, as in the case in the main proceedings, that specialist software is intended exclusively to perform specific and essential activities in connection with the management of the special investment funds but runs on the technical infrastructure of the IMC and can perform its functions only subject to the minor participation of the IMC and subject to ongoing recourse to market data provided by the IMC?

[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 Bundesgerichtshof (Germany) lodged on 13 February 2020 — ZM in his capacity as liquidator in the insolvency proceedings relating to Oeltrans Befrachtungsgesellschaft mbH v E.A. Frerichs

(Case C-73/20)

(2020/C 191/12)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant in the appeal on a point of law: ZM in his capacity as liquidator in the insolvency proceedings relating to Oeltrans Befrachtungsgesellschaft mbH

Defendant in the appeal on a point of law: E.A. Frerichs

Question referred

Are Article 13 of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings [1] and Article 12(1)(b) 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] to be interpreted as meaning that the law applicable to a contract under the latter regulation also governs the payment made by a third party in performance of a contracting party's contractual payment obligation?

[1] OJ 2000 L 160, p. 1.
[2] OJ 2008 L 177, p. 6.

Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 27 February 2020 — RC v Autoridade Tributária e Aduaneira

(Case C-103/20)

(2020/C 191/13)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Applicant: RC

Defendant: Autoridade Tributária e Aduaneira

Questions referred

1. Do Articles 12 EC, 18 EC, 39 EC, 43 EC and 56 EC preclude national legislation, such as that in dispute in the main proceedings, that, *by default*, subjects capital gains resulting from the disposal of immovable property situated in a Member State, where that disposal was made by a resident of another Member State, to tax treatment *different* from that which would apply, in relation to the same type of transaction, to capital gains realised by a resident of the State in which that immovable property is situated, but provides that the *non-resident taxable person can elect* to be taxed in the same way as a resident taxable person?

2. Specifically, do those provisions of EU law preclude the coexistence of:

   (i) a rule according to which a special rate of tax of 28 % applies to capital gains on immovable property realised by non-residents;

   (ii) a rule according to which only 50 % of the balance of capital gains realised in a year is taken into account in relation to disposals made by residents; and

   (iii) a rule according to which residents in another EU Member State can elect to be taxed at the general rates applicable to residents (instead of the special rate applicable to non-residents) provided they aggregate their entire income, including income obtained inside and outside the territory of that Member State, on the same terms as apply to residents?

3. That is to say, do the provisions of EU law preclude a non-resident from having to elect between

   (i) being taxed on 100 % at the special rate; or

   (ii) being taxed on 50 %, in the same way as residents, at the rates applicable to residents provided they aggregate their entire income on the same terms as apply to residents?

Request for a preliminary ruling from the Cour de cassation du Grand-Duché de Luxembourg (Luxembourg) lodged on 9 March 2020 — XI v Caisse pour l'avenir des enfants

(Case C-129/20)

(2020/C 191/14)

Language of the case: French

Referring court

Cour de cassation du Grand-Duché de Luxembourg

Parties to the main proceedings

Appellant: XI

Respondent: Caisse pour l'avenir des enfants

Question referred

Must clauses 1.1, 1.2, 2.1 and 2.3(b) of the framework agreement on parental leave concluded on 14 December 1995 between the general cross-industry organisations UNICE, CEEP and the ETUC, which was implemented by Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC, ([1]) be interpreted as precluding the application of a provision of national law, such as Article 29bis of the amended Law of 16 April 1979 laying down the general regulations applicable to State officials in the version resulting from the Law of 22 December 2006 (Mémorial, A, 2006, No 242, p. 4838), which makes the grant of parental leave subject to the twofold condition that the worker is lawfully employed in a workplace and affiliated in that regard to the social security scheme, first, without interruption for a continuous period of at least 12 months immediately preceding the start of the parental leave and, secondly, at the time of the birth or of the reception of the child or children to be adopted, compliance with that second condition being required even if the birth or reception occurred more than 12 months before the start of the parental leave?

([1]) OJ 1996 L 145, p. 4.

GENERAL COURT

Judgment of the General Court of 2 April 2020 — Isigny-Sainte Mère v EUIPO (Shape of a golden container with a type of wave)

(Case T-546/19) ([1])

(EU trade mark — Application for a three-dimensional EU trade mark — Shape of a golden container with a type of wave — Absolute ground for refusal — Article 7(1)(b) of Regulation (EU) 2017/1001 — Lack of distinctive character)

(2020/C 191/15)

Language of the case: French

Parties

Applicant: Isigny-Sainte Mère (Isigny-sur-Mer, France) (represented by: D. Mallo Saint-Jalmes, lawyer)

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

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 22 May 2019 (Case R 1513/2018-5), concerning an application for registration of a three-dimensional sign comprising the shape of a golden container with a type of wave as an EU trade mark.

Operative part of the judgment

1. The action is dismissed;

2. Isigny-Sainte Mère is ordered to pay the costs.

([1]) OJ C 312, 16.9.2019.

Order of the General Court of 26 March 2020 — AF v FRA

(Case T-31/19) ([1])

(Action for annulment and damages — Civil service — Members of the temporary staff — Contract for an indefinite period — Duties as an administrator as a policy adviser in grade AD 12 — Assignment to the type of post 'administrator' — 2014 Staff Regulations — No eligibility for reclassification in the grade above — 2017 reclassification exercise — Refusal to consider the applicant for the purposes of his reclassification in grade AD 13 — Action manifestly lacking any foundation in law)

(2020/C 191/16)

Language of the case: English

Parties

Applicant: AF (represented by: L. Levi and N. Flandin, lawyers)

Defendant: European Union Agency for Fundamental Rights (represented by: M. O'Flaherty, acting as Agent, and by B. Wägenbaur, lawyer)

Re:

Action under Article 270 TFEU seeking, first, annulment of the FRA decision of 9 May 2018 not to include the applicant's name in the list of temporary staff eligible for reclassification to grade AD 13 in the 2017 reclassification exercise and, secondly, compensation for the loss he has allegedly suffered as a result of that decision.

Operative part of the order

1. The action is dismissed.

2. The European Union Agency for Fundamental Rights (FRA) shall bear its own costs and pay one quarter of the costs incurred by AF.

3. AF shall bear three quarters of his own costs.

([1]) OJ C 103, 18.3.2019.

Order of the General Court of 9 March 2020 — Republic of Cyprus v EUIPO — Filotas Bellas & Yios (Halloumi Vermion)

(Case T-60/19) ([1])

(EU trade mark — Cancellation of the trade mark on which the application for a declaration of invalidity is based — No need to adjudicate)

(2020/C 191/17)

Language of the case: English

Parties

Applicant: Republic of Cyprus (represented by: S. Malynicz QC and V. Marsland, Solicitor)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Filotas Bellas & Yios AE (Alexandreia, Greece)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 20 November 2018 (Case R 2296/2017-4) relating to invalidity proceedings between the Republic of Cyprus and Filotas Bellas & Yios.

Operative part of the order

1. There is no longer any need to adjudicate on the action.

2. The Republic of Cyprus shall bear the costs.

([1]) OJ C 112, 25.3.2019.

Order of the General Court of 31 March 2020 — AP v EIF

(Case T-155/19) ([1])

(Action for annulment and for damages — Civil service — EIF Staff — Tendering by the member of staff of her resignation for personal reasons — Leave due to serious illness starting before the end date of the employment contract chosen by the member of staff — Application for withdrawal of the resignation after the end date of the employment contract chosen by the member of staff — EIF's refusal to accept the retroactive withdrawal of the resignation — End date of the contract delayed on account of sick leave — Whether Article 33 of the EIF Staff Regulations is applicable — Action in part manifestly inadmissible and in part manifestly lacking any foundation in law)

(2020/C 191/18)

Language of the case: English

Parties

Applicant: AP (represented by: L. Levi, lawyer)

Defendant: European Investment Fund (represented by: M. Leander, N. Panayotopoulos and F. Dascalescu, acting as Agents, and by P-E. Partsch and T. Evans, lawyers)

Re:

Application under Article 270 TFEU and Article 50a of the Statute of the Court of Justice of the European Union seeking, first, annulment of the EIF's letters of 30 August and 3 October 2018 rejecting the applicant's request of 20 June 2018, secondly, that the EIF be ordered to pay the applicant the benefits under Article 33 of the EIF Staff Regulations and, thirdly, compensation for the non-material harm that the applicant claims to have suffered.

Operative part of the order

1. The action is dismissed as in part manifestly inadmissible and in part manifestly lacking any foundation in law.

2. AP shall pay the costs.

([1]) OJ C 155, 6.5.2019.

Order of the General Court of 23 March 2020 — Highgate Capital Management v Commission

(Case T-280/19) ([1])

(Action for annulment — State aid — Complaint — Measure not open to challenge — Inadmissibility)

(2020/C 191/19)

Language of the case: English

Parties

Applicant: Highgate Capital Management LLP (London, United Kingdom) (represented by: M. Struys, lawyer)

Defendant: European Commission (represented by: K. Blanck, A. Bouchagiar and K.-Ph. Wojcik, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of the Commission's decision rejecting a complaint relating to unlawful State aid granted to Eurobank Ergasias SA through the acquisition of Piraeus Bank Bulgaria (SA.53105), allegedly contained in the letter of 8 March 2019 from the Commission's Directorate-General for Competition and in the public statement of 20 March 2019 of the Commissioner responsible for competition.

Operative part of the order

1. The action is dismissed as being inadmissible.

2. There is no need to rule on the application to intervene of the Hellenic Financial Stability Fund.

3. Highgate Capital Management LLP shall pay the costs, including those relating to the proceedings for interim measures, with the exception of those relating to the application to intervene.

4. The Hellenic Financial Stability Fund shall bear its own costs relating to the application to intervene.

(1) OJ C 213, 24.6.2019.

Order of the General Court of 2 April 2020 — Gerber v Parliament and Council

(Case T-326/19) (1)

(Action for annulment — Customs territory of the European Union — Regulation (EU) 2019/474 — Directive (EU) 2019/475 — Inclusion of the municipality of Campione d'Italia and the Italian waters of Lake Lugano — Not individually concerned — Inadmissibility)

(2020/C 191/20)

Language of the case: Italian

Parties

Applicant: Tibor Gerber (Campione d'Italia, Italy) (represented by: N. Amadei, lawyer)

Defendants: European Parliament (represented by: L. Visaggio and C. Biz, acting as Agents), Council of the European Union (represented by: A. Lo Monaco and E. Ambrosini, acting as Agents)

Re:

First, application under Article 263 TFEU seeking annulment of Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code (OJ 2019 L 83, p. 38), in so far as concerns the part relating to the inclusion of the Italian municipality of Campione d'Italia and the Italian waters of Lake Lugano in the customs territory of the Union; second, application under Article 264 TFEU seeking a declaration that Council Directive (EU) 2019/475 of 18 February 2019 amending Directives 2006/112/EC and 2008/118/EC as regards the inclusion of the Italian municipality of Campione d'Italia and the Italian waters of Lake Lugano in the customs territory of the Union and in the territorial application of Directive 2008/118/EC (OJ 2019 L 83, p. 42) has no effect; and, third, application under Articles 278 and 279 TFEU seeking the grant of interim measures suspending the application of Regulation 2019/474, Directive 2019/475 and of any other implementing measure relating thereto.

Operative part of the order

1. The action is dismissed.

2. There is no need to rule on the applications for leave to intervene made by the European Commission and the Italian Republic.

3. Mr Tibor Gerber shall bear his own costs and pay those incurred by the European Parliament and the Council of the European Union, including those relating to the interim proceedings.

4. The Commission and the Italian Republic shall bear their own costs relating to the applications for leave to intervene.

(1) OJ C 238, 15.7.2019.

Order of the General Court of 31 March 2020 — ZU v EEAS

(Case T-499/19) (1)

(Action for annulment — Civil service — Officials — Sick leave — Negative opinion by the medical service — Amendments made in the Human Resource Management information system — Acts not amenable to review — Acts not adversely affecting an official — Failure to follow the pre-litigation procedure — Premature challenge — Inadmissibility)

(2020/C 191/21)

Language of the case: English

Parties

Applicant: ZU (represented by: C. Bernard-Glanz, lawyer)

Defendant: European External Action Service (represented by: R. Spac and S. Marquardt, acting as Agents)

Re:

Application based on Article 270 TFEU seeking annulment of the alleged decisions of the EEAS of 31 August 2018 and 10 January 2019, of the European Commission note of 30 August 2018 providing for a reduction of the applicant's sick leave and, so far as necessary, of the Commission's decision of 1 April 2019 rejecting his complaint of 30 November 2018 against that note and against any subsequent decision to deduct his absence from 28 to 31 August 2018 from his annual leave.

Operative part of the order

1. The application is dismissed as inadmissible.

2. ZU shall pay the costs.

(1) OJ C 348, 14.10.2019.

Order of the General Court of 31 March 2020 — Merly v Parliament

(Case T-505/19) ([1])

(Action for annulment — Civil service — Accredited parliamentary assistant — Special leave for the birth of children born via surrogacy — Answer to a request for information — No act adversely affecting an official — Inadmissibility)

(2020/C 191/22)

Language of the case: English

Parties

Applicant: Grégory Merly (Brussels, Belgium) (represented by: T. Oeyen, lawyer)

Defendant: European Parliament (represented by: M. Windisch and C. González Argüelles, acting as Agents)

Re:

Application under Article 270 TFEU seeking annulment of the alleged decision of the Parliament of 30 October 2018 refusing to grant the applicant special leave, equivalent to maternity leave or to the special leave to which adopted parents are entitled.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Mr Grégory Merly shall pay the costs.

([1]) OJ C 305, 9.9.2019.

Order of the President of the General Court of 13 March 2020 — Helsingin kaupunki v Commission

(Case T-597/19 R)

(Application for interim measures — State aid — Decision declaring the aid to be incompatible with the internal market and ordering its recovery — Application for suspension of operation of a measure — No urgency)

(2020/C 191/23)

Language of the case: Finnish

Parties

Applicant: Helsingin kaupunki (Finland) (represented by: I. Aalto-Setälä, lawyer)

Defendant: European Commission (represented by: M. Huttunen and F. Tomat, acting as Agents)

Intervener in support of the applicant: Republic of Finland (represented by: J. Heliskoski, acting as Agent)

Re:

Application under Articles 278 and 279 TFEU seeking suspension of operation of Commission Decision C(2019) 3152 final of 28 June 2019 relating to State aid SA.33846 (2015/C) (ex 2014/NN) (ex 2011/CP) implemented by Finland for Helsingin Bussiliikenne Oy.

Operative part of the order

1. The application for interim measures is dismissed.

2. The order of 19 September 2019, Helsingin kaupunki v *Commission (T-597/19 R, not published) is set aside.*

3. There is no need to adjudicate on the application for leave to intervene of Nobina Oy and of Nobina AB or the application for confidentiality made by Helsingin kaupunki.

4. The costs are reserved, except for those incurred by Nobina Oy and Nobina AB, which shall bear their own costs relating to their application for leave to intervene in the proceedings for interim measures.

Order of the General Court of 6 March 2020 — Nutravita v EUIPO — Pegaso (nutravita Healthy Mind, Body & Soul.)

(Case T-814/19) ([1])

(European Union trade mark — Opposition proceedings — Withdrawal of the opposition — No need to adjudicate)

(2020/C 191/24)

Language of the case: English

Parties

Applicant: Nutravita Ltd (Maidenhead, United Kingdom) (represented by: H. Dhondt and J. Cassiman, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Pegaso Srl (Negrar, Italy)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 11 September 2019 (Case R 80/2019-4), relating to opposition proceedings between Pegaso Srl and Nutravita Ltd

Operative part of the order

1. There is no longer any need to adjudicate on the action.

2. Nutravita Ltd shall bear its own costs and pay those incurred by the European Union Intellectual Property Office (EUIPO).

([1]) OJ C 27, 27.1.2020.

Action brought on 20 February 2020 — Gruppe Nymphenburg Consult v EUIPO (Limbic® Types)

(Case T-96/20)

(2020/C 191/25)

Language of the case: German

Parties

Applicant: Gruppe Nymphenburg Consult AG (Munich, Germany) (represented by: R Kunze and G. Würtenberger, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark Limbic® Types — Application No 12 316 469

Contested decision: Decision of the EUIPO Grand Board of Appeal of 2 December 2019 in Case R 1276/2017-G

Forms of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs of the proceedings.

Pleas in law

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

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

— Infringement of Article 72(6) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 95 of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 96 of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 24 February 2020 — IN v EASME

(Case T-119/20)

(2020/C 191/26)

Language of the case: French

Parties

Applicant: IN (represented by: L. Levi, lawyer)

Defendant: Executive Agency for Small and Medium-sized Enterprises

Form of order sought

The applicant claims that the General Court should:

— declare the present action admissible and well founded;

— annul the decision of 15 April 2019, made by the Executive Directive of EASME in his capacity as the authority empowered to conclude contracts ('AECE'), not to renew the applicant's contract beyond the term thereof (30 April 2019);

— annul the applicant's appraisal for the year 2018, which was finalised on 3 June 2019;

— if necessary, annul the decision of the AECE of 15 November 2019 rejecting the applicant's complaint;

— order the defendant to pay compensation in respect of the damage suffered;

— order the defendant to pay the entirety of the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the right to be heard, as well as infringement of the decision of 4 February 2019, 'EASME Policy for Management of Employment Contracts'.

2. Second plea, alleging infringement of the duty to have regard for the welfare of officials.

3. Third plea, alleging manifest errors of assessment.

4. Fourth plea, alleging infringement of the principles of legal certainty and legality, infringement of the principle that decisions must be adopted within a reasonable time, and infringement of the principle of sound administration and of the duty to have regard for the welfare of officials.

5. Fifth plea, concerning the application for annulment of the appraisal, alleging manifest errors of assessment.

The applicant takes the view, moreover, that the illegalities set out in the pleas for annulment constitute the same number of failures on the part of the defendant. Consequently, he seeks compensation in respect of the non-material damage suffered as a result of the contested decisions.

Action brought on 27 February 2020 — France v ECHA

(Case T-127/20)

(2020/C 191/27)

Language of the case: French

Parties

Applicant: French Republic (represented by: A.-L. Desjonquères and E. Leclerc, acting as Agents)

Defendant: European Chemicals Agency

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Board of Appeal of the ECHA of 17 December 2019 in joined cases A-003-2018, A-004-2018 and A-005-2018 annulling the ECHA's three decisions of 21 December 2017 on the substance evaluation of aluminium chloride, aluminium chloride basic and aluminium sulphate;

— order the ECHA to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas, alleging an error of law.

1. First plea in law, in which the applicant alleges that the Board of Appeal erred in law in finding, in the contested decision, that the ECHA should have taken into account the Schönholzer (1997) study even though that study had not been introduced to it during the evaluation procedure. In that regard, the applicant raises the following complaints:

— first, infringement of Article 47(1) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1);

— second, breach of the duty on manufacturers and importers to provide all relevant and available information on the risks presented by the substances, which constitutes one of the core principles of the protection system established by that regulation;

— third, the exercise of an inadequate standard of review of the ECHA's three decisions on the substance evaluations concerned.

2. Second plea in law, in which the applicant alleges that the Board of Appeal erred in law in relying, in the contested decision, on an erroneous interpretation of the case-law of the General Court of the European Union according to which, in order to demonstrate that a request for additional information on a substance is necessary, the ECHA must, inter alia, establish that there is a realistic possibility that the information requested would lead to improved risk management measures being taken.

Action brought on 19 March 2020 — BSH Hausgeräte v EUIPO (Home Connect)

(Case T-152/20)

(2020/C 191/28)

Language of the case: German

Parties

Applicant: BSH Hausgeräte GmbH (Munich, Germany) (represented by: S. Biagosch, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark Home Connect — Application for registration No 18 077 851

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 10 January 2020 in Case R 1751/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

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

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

Action brought on 19 March 2020 — Bachmann v EUIPO (LIGHTYOGA)

(Case T-153/20)

(2020/C 191/29)

Language of the case: German

Parties

Applicant: Gabriele Bachmann (Bad Grönenbach, Germany) (represented by: C. Weil, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark LIGHTYOGA — Application for registration No 18 054 218

Contested decision: Decision of the Second Board of Appeal of EUIPO of 16 December 2019 in Case R 2346/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— uphold the appeal;

— order EUIPO to pay the costs.

Pleas in law

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

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

Action brought on 19 March 2020 — Bachmann v EUIPO (LICHTYOGA)

(Case T-157/20)

(2020/C 191/30)

Language of the case: German

Parties

Applicant: Gabriele Bachmann (Bad Grönenbach, Germany) (represented by: C. Weil, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark LICHTYOGA — Application for registration No 18 054 208

Contested decision: Decision of the Second Board of Appeal of EUIPO of 9 December 2019 in Case R 2317/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— uphold the appeal;

— order EUIPO to pay the costs.

Pleas in law

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

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

Action brought on 20 March 2020 — TrekStor v EUIPO — Yuneec Europe (Breeze)

(Case T-158/20)

(2020/C 191/31)

Language in which the application was lodged: German

Parties

Applicant: TrekStor Ltd (Hongkong, China) (Represented by: O. Spieker, A. Schönfleisch, N. Willich and N. Achilles, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other parties to the proceedings before the Board of Appeal: Yuneec Europe GmbH (Kaltenkirchen, Germany)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: Application for EU word mark Breeze — Application No 16 369 613

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 14 January 2020 in Case R 470/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to bear its own costs.

Pleas in law

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

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

Action brought on 2 April 2020 — Isopix v Parliament

(Case T-163/20)

(2020/C 191/32)

Language of the case: French

Parties

Applicant: Isopix SA (Ixelles, Belgium) (represented by: P. Van den Bulck and J. Fahner, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul, pursuant to Article 263 of the Treaty on the Functioning of the European Union, the European Parliament's decision communicated by letter of 24 March 2020 informing the applicant that its tender for public contract COMM/DG/AWD/2019/854 had not been accepted and that that contract had been awarded to another tenderer;

— order the Parliament to reconsider the tenders; in the alternative, order the Parliament to pay the applicant damages for the harm suffered as a result of the loss of an opportunity to be awarded the contract and for the costs and expenses incurred in participating in that tendering procedure;

— order the Parliament to produce the tender analysis report;

— order the Parliament to pay all of 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 infringement of the obligation to state reasons. The applicant submits that the letters sent by the Parliament do not constitute a statement of reasons which complies with the requirements of the General Financial Regulation, on the ground that they do not set out the qualitative benefits of the successful tender, information in relation to the price criterion, or the final score received by the applicant's tender.

2. Second plea in law, alleging an infringement of the principles of transparency and equal treatment. The applicant submits that its tender, which was prepared specially to be displayed on a screen, was considered on the basis of a paper version contrary to the provisions of the invitation to tender. Accordingly, a crucial part of the file was not taken into consideration, contrary to the requirements of transparency and equal treatment.

3. Third plea in law, alleging an infringement of the duty of care. According to the applicant, the Parliament failed to comply with its duty of care to verify whether the photographers whose CVs were submitted in the successful tenderer's tender had agreed to work in Brussels and Strasbourg.

4. Fourth plea in law, alleging that the Parliament committed a manifest error of assessment by not excluding the successful tenderer's tender even though it was incompatible with the selection criterion requiring that the tenderer have a team of at least 15 people for lot 1 and 12 people for lot 2.

Action brought on 20 March 2020 — Creaton South-East Europe v EUIPO — Henkel (CREATHERM)

(Case T-168/20)

(2020/C 191/33)

Language of the case: English

Parties

Applicant: Creaton South-East Europe Kft. (Lenti, Hungary) (represented by: J. Muyldermans and P. Maeyaert, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Henkel AG & Co. KGaA (Düsseldorf, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark CREATHERM — Application for registration No 17 481 011

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 15 January 2020 in Case R 1090/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the intervener to bear their own costs and to pay those 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 23 March 2020 — Marina Yachting Brand Management Company v EUIPO — Industries Sportswear Company (MARINA YACHTING)

(Case T-169/20)

(2020/C 191/34)

Language of the case: English

Parties

Applicant: Marina Yachting Brand Management Company Ltd (Dublin, Ireland) (represented by: A. von Mühlendahl, C. Eckhartt and P. Böhner, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Industries Sportswear Company SRL (Venice, Italy)

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 MARINA YACHTING — European Union trade mark No 11 111 317

Procedure before EUIPO: Revocation of register entry

Contested decision: Decision of the Second Board of Appeal of EUIPO of 10 February 2020 in Joined Cases R 252/2019-2 and R 253/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the other party to the proceedings before the Board of Appeal, if it should intervene in these proceedings, to pay the costs.

Pleas in law

— Infringement of Article 103(1) and (2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 27(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 18 March 2020 — Rochefort v Parliament

(Case T-170/20)

(2020/C 191/35)

Language of the case: French

Parties

Applicant: Robert Rochefort (Paris, France) (represented by: M. Stasi, J. Teheux and J. Rikkers, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Secretary-General of the European Parliament of 17 December 2019;

— annul the debit note No 7000000069 of 22 January 2020 ordering the recovery of EUR 61 423,40;

— order the European Parliament to pay the costs.

Pleas in law and main arguments

In support of the action against the decision of the Secretary-General of the European Parliament of 17 December 2019 to proceed with the recovery of sums unduly paid to the applicant in respect of parliamentary assistance and the debit note relating to those sums, the applicant relies on four pleas in law.

1. First plea in law, alleging inadequate reasoning in the contested decision in so far as the Secretary-General of the European Parliament's reasoning is ambiguous and in so far as it does not state to what extent the documents produced were not evidence of work done.

2. Second plea in law, alleging reversal of the burden of proof. In that regard, the applicant considers that it is not for him to adduce evidence of the work of his parliamentary assistant, rather it is for the Parliament to adduce evidence to the contrary.

3. Third plea in law, alleging an error of assessment in the contested decision in that the facts relied on by the Secretary-General of the European Parliament are incorrect.

4. Fourth plea in law, concerning the principle of proportionality in so far as the sum claimed from the applicant is based on the assumption that the parliamentary assistant has never worked for the applicant.

Action brought on 18 March 2020 — Rochefort v Parliament

(Case T-171/20)

(2020/C 191/36)

Language of the case: French

Parties

Applicant: Robert Rochefort (Paris, France) (represented by: M. Stasi, J. Teheux and J. Rikkers, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Secretary-General of the European Parliament of 17 December 2019;

— annul debit note No 7000000071 of 22 January 2020 ordering the recovery of EUR 27 241;

— order the European Parliament to pay the costs.

Pleas in law and main arguments

In support of the action against the decision of the Secretary-General of the European Parliament of 17 December 2019 to proceed with the recovery of sums unduly paid to the applicant in respect of parliamentary assistance and the debit note relating to those sums, the applicant relies on four pleas in law.

1. First plea in law, alleging inadequate reasoning in the contested decision in so far as the Secretary-General of the European Parliament's reasoning is ambiguous and in so far as it does not state to what extent the documents produced were not evidence of work done.

2. Second plea in law, alleging reversal of the burden of proof. In that regard, the applicant considers that it is not for him to adduce evidence of the work of his parliamentary assistant, rather it is for the Parliament to adduce evidence to the contrary.

3. Third plea in law, alleging an error of assessment in the contested decision in that the facts relied on by the Secretary-General of the European Parliament are incorrect.

4. Fourth plea in law, concerning the principle of proportionality in so far as the sum claimed from the applicant is based on the assumption that the parliamentary assistant worked for the applicant only for a few days.

Action brought on 18 March 2020 — Rochefort v Parliament

(Case T-172/20)

(2020/C 191/37)

Language of the case: French

Parties

Applicant: Robert Rochefort (Paris, France) (represented by: M. Stasi, J. Teheux and J. Rikkers, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Secretary-General of the European Parliament of 17 December 2019;

— annul debit note No 7000000019 of 22 January 2020 ordering the recovery of EUR 60 499,38;

— order the European Parliament to pay the costs.

Pleas in law and main arguments

In support of the action against the decision of the Secretary-General of the European Parliament of 17 December 2019 to proceed with the recovery of sums unduly paid to the applicant in respect of parliamentary assistance and the debit note relating to those sums, the applicant relies on four pleas in law.

1. First plea in law, alleging inadequate reasoning in the contested decision in so far as the Secretary-General of the European Parliament's reasoning is ambiguous and in so far as it does not state to what extent the documents produced were not evidence of work done.

2. Second plea in law, alleging reversal of the burden of proof. In that regard, the applicant considers that it is not for him to adduce evidence of the work of his parliamentary assistant, rather it is for the Parliament to adduce evidence to the contrary.

3. Third plea in law, alleging an error of assessment in the contested decision in that the facts relied on by the Secretary-General of the European Parliament are incorrect.

4. Fourth plea in law, concerning the principle of proportionality in so far as the sum claimed from the applicant is based on the assumption that the parliamentary assistant has never worked for the applicant.

Action brought on 23 March 2020 — Henry Cotton's Brand Management Company v EUIPO — Industries Sportswear Company (Henry Cotton's)

(Case T-173/20)

(2020/C 191/38)

Language of the case: English

Parties

Applicant: Henry Cotton's Brand Management Company Ltd (Dublin, Ireland) (represented by: A. von Mühlendahl, C. Eckhartt and P. Böhner, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Industries Sportswear Company SRL (Venice, Italy)

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 Henry Cotton's — European Union trade mark No 821 769 and No 2 580 728

Procedure before EUIPO: Revocation of register entry

Contested decision: Decision of the Second Board of Appeal of EUIPO of 10 February 2020 in Joined Cases R 254/2019-2 and R 255/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the other party to the proceedings before the Board of Appeal, if it should intervene in these proceedings, to pay the costs.

Pleas in law

— Infringement of Article 103(1) and (2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 27(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 30 March 2020 — Sam McKnight v EUIPO — Carolina Herrera (COOL GIRL)

(Case T-176/20)

(2020/C 191/39)

Language of the case: English

Parties

Applicant: Sam McKnight Ltd (London, United Kingdom) (represented by: V. von Bomhard and J. Fuhrmann, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Carolina Herrera Ltd (New York, New York, United States)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark COOL GIRL — Application for registration No 16 681 975

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 30 January 2020 in Case R 689/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order that the costs of the proceedings be borne by the Defendant, and in case the other party to the proceedings before the Board of Appeal joins the proceedings, the Intervener.

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 30 March 2020 — Himmel v EUIPO — Ramirez Monfort (Hispano Suiza)

(Case T-177/20)

(2020/C 191/40)

Language of the case: English

Parties

Applicant: Erwin Leo Himmel (Walchwil, Switzerland) (represented by: A. Gomoll, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Gonzalo Andres Ramirez Monfort (Barcelona, 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 word mark Hispano Suiza — Application for registration No 16 389 397

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 21 January 2020 in Case R 67/2019-1

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 46(1)(a) in conjunction with Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 6 April 2020 — Bavaria Weed v EUIPO (BavariaWeed)

(Case T-178/20)

(2020/C 191/41)

Language of the case: German

Parties

Applicant: Bavaria Weed GmbH (Herrsching am Ammersee, Germany) (represented by: J. Wolhändler, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark — Application for registration No 17 997 323

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 22 January 2020 in Case R 1458/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs, including those incurred in the proceedings before the Board of Appeal.

Pleas in law

— Infringement of Article 7(1)(f) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Breach of the principles of equal treatment and good administration.

Action brought on 31 March 2020 — Griba v CPVO (Stark Gugger)

(Case T-181/20)

(2020/C 191/42)

Language of the case: English

Parties

Applicant: Griba Baumschulgenossenschaft landwirtschaftliche Gesellschaft (Terlan, Italy) (represented by: G. Würtenberger, lawyer)

Defendant: Community Plant Variety Office (CPVO)

Details of the proceedings before CPVO

Community Plant Variety at issue: Apple variety Stark Gugger — Community Plant Variety Right No. 2011/1918

Contested decision: Decision of the Board of Appeal of CPVO of 24 January 2020 in Case A 008/2018

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order CPVO to pay the costs of the proceedings.

Pleas in law

— Infringement of Article 76 of Regulation (EU) 2100/94 of the Council;

— Infringement of Article 8 of Regulation (EU) 2100/94 of the Council;

— Infringement of Article 57(3) of Regulation (EU) 2100/94 of the Council;

— Infringement of Article 75 of Regulation (EU) 2100/94 of the Council;

— Infringement of the principle of equal treatment.

Action brought on 31 March 2020 — Griba v CPVO (Gala Perathoner)

(Case T-182/20)

(2020/C 191/43)

Language of the case: English

Parties

Applicant: Griba Baumschulgenossenschaft landwirtschaftliche Gesellschaft (Terlan, Italy) (represented by: G. Würtenberger, lawyer)

Defendant: Community Plant Variety Office (CPVO)

Details of the proceedings before CPVO

Community Plant Variety at issue: Apple variety Gala Perathoner — Community Plant Variety Right No. 2009/0353

Contested decision: Decision of the Board of Appeal of CPVO of 17 January 2020 in Case A 004/2016

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order CPVO to pay the costs of the proceedings.

Pleas in law

— Infringement of Article 76 of Regulation (EU) 2100/94 of the Council;

— Infringement of Article 8 of Regulation (EU) 2100/94 of the Council;

— Infringement of Article 57(3) of Regulation (EU) 2100/94 of the Council;

— Infringement of Article 75 of Regulation (EU) 2100/94 of the Council;

— Infringement of the principle of equal treatment.

Action brought on 7 April 2020 — Schneider v EUIPO — Raths (Teslaplatte)

(Case T-183/20)

(2020/C 191/44)

Language in which the application was lodged: German

Parties

Applicant: Christian Schneider (Leverkusen, Germany) (represented by: R. Buttron, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Oliver Raths (Männedorf, Switzerland)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark Teslaplatte — EU trade mark No 11 222 155

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 15 January 2020 in Case R 247/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— alter the contested decision to the effect that the appeal by the party concerned dated 28 January 2019 is dismissed in its entirety;

— order EUIPO to pay the costs of the proceedings.

Plea in law

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

Action brought on 31 March 2020 — Tikal Marine Systems v EUIPO — Ultra Safety Systems (Tikal Tef-Gel)

(Case T-185/20)

(2020/C 191/45)

Language of the case: English

Parties

Applicant: Tikal Marine Systems GmbH (Norderstedt, Germany) (represented by: M. Mahnkopf, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Ultra Safety Systems Inc. (Mangonia Park, Florida, United States)

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 Tikal Tef-Gel — European Union trade mark No 12 971 461

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 29 January 2020 in Case R 2500/2018-4

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Cancellation Division of 28 November 2018;

— annul the contested decision;

— declare the trade mark at issue valid;

— order EUIPO and intervener to pay the costs.

Plea in law

— Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 3 April 2020 — Chatwal v EUIPO — Timehouse Capital (THE TIME)

(Case T-186/20)

(2020/C 191/46)

Language of the case: English

Parties

Applicant: Chatwal Hotels & Resorts LLC (New York, New York, United States) (represented by: N. Hine, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Timehouse Capital GmbH (Grasbrunn, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark THE TIME — Application for registration No 16 614 471

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 28 January 2020 in Case R 2264/2018-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— refuse the opposition;

— accept the contested application;

— order EUIPO and/or the other party to pay the 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 9 April 2020 — Davide Groppi v EUIPO — Viabizzuno (Lamps)

(Case T-187/20)

(2020/C 191/47)

Language in which the application was lodged: Italian

Parties

Applicant: Davide Groppi Srl (Piacenza, Italy) (represented by: F. Boscariol de Roberto, D. Capra and V. Malerba, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Viabizzuno Srl (Bentivoglio, Italy)

Details of the proceedings before EUIPO

Proprietor of the design at issue: Applicant before the Court

Design at issue: Community design No 2 503 680-0001

Contested decision: Decision of the Third Board of Appeal of EUIPO of 23 January 2020 in Case R 126/2019-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the defendant and respondent to pay the costs.

Plea in law

Infringement of Article 6 and Article 25(1)(b) of Council Regulation (EC) No 6/2002.

Action brought on 6 April 2020 — Chiquita Brands v EUIPO — Fyffes International (HOYA)

(Case T-189/20)

(2020/C 191/48)

Language of the case: English

Parties

Applicant: Chiquita Brands LLC (Fort Lauderdale, Florida, United States) (represented by: W. Pors, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Fyffes International Unlimited Company (Dublin, Ireland)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark HOYA in colours yellow, blue and black — European Union trade mark No 10 612 166

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 21 January 2020 in Case R 962/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— grant the applicant's application for revocation in full;

— order EUIPO and the intervener to pay the full costs of the proceedings.

Pleas in law

— Infringement of Article 64(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 95(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of the prohibition of *reformatio in peius* and Article 71(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 58(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 7 April 2020 — Almea v EUIPO — Sanacorp Pharmahandel (Almea)

(Case T-190/20)

(2020/C 191/49)

Language of the case: English

Parties

Applicant: Almea Ltd (London, United Kingdom) (represented by: R. Furneaux and E. Humphreys, Solicitors)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Sanacorp Pharmahandel GmbH (Planegg, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark Almea — Application for registration No 14 030 126

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 15 January 2020 in Case R 246/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— decide on costs for the proceedings before the Board of Appeal and the General Court.

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 9 April 2020 — Tikal Marine Systems v EUIPO — Ultra Safety Systems (Ultra Tef-Gel)

(Case T-192/20)

(2020/C 191/50)

Language of the case: English

Parties

Applicant: Tikal Marine Systems GmbH (Norderstedt, Germany) (represented by: M. Mahnkopf, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Ultra Safety Systems Inc. (Mangonia Park, Florida, United States)

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 Ultra Tef-Gel — European Union trade mark No 15 369 739

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 29 January 2020 in Case R 2499/2018-4

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Cancellation Division of 28 November 2018;

— annul the contested decision;

— declare the trade mark at issue valid;

— order the defendant and intervener to pay the costs.

Plea in law

— Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 6 April 2020 — Berebene v EUIPO — Consorzio vino Chianti Classico (GHISU)

(Case T-201/20)

(2020/C 191/51)

Language in which the application was lodged: Italian

Parties

Applicant: Berebene Srl (Rome, Italy) (represented by: A. Massimiani, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Consorzio vino Chianti Classico (Radda in Chianti, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark in colour GHISU — Application for registration No 17 232 571

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 23 January 2020 in Case R 592/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— and, as a result, order the registration of EU figurative mark GHISU No 17 232 571 also for the goods in Class 33 of the Nice Agreement;

— order EUIPO to pay the costs of the opposition and appeal proceedings.

Plea in law

— Incorrect comparison of the marks at issue and incorrect global assessment of the likelihood of confusion and unfair advantage.

Action brought on 9 April 2020 — JH v Europol

(Case T-208/20)

(2020/C 191/52)

Language of the case: German

Parties

Applicant: JH (represented by: M. Quaas, lawyer)

Defendant: European Union Agency for Law Enforcement Cooperation (Europol)

Form of order sought

The applicant claims that the Court should:

— declare that the order adopted on 2 April 2019 by the defendant's head official discharging the applicant with immediate effect from leadership of the organisational unit GDPT (Personal Protection) of the Governance Directorate of the European Police Office (Europol) was unlawful; and

— order the defendant to pay the applicant such compensation as the Court may deem appropriate.

Pleas in law and main arguments

The action is based on the following pleas in law:

1. Infringement of the Europol Staff Regulations

   The applicant claims that the preconditions for the contested disciplinary measure under the Europol Staff Regulations have not been met. The defendant has disregarded the applicable provisions of the Staff Regulations and attempts to justify the adopted disciplinary measure (only) months later through a retroactive redeployment order and by reference to a reorganisation.

2. Injury to health and incapacity for work

   Furthermore, the applicant seeks compensation because his health has demonstrably been harmed as a result of the unlawful measure and his further professional activity has therefore become impossible.

Action brought on 17 April 2020 — Gaz-System v ACER

(Case T-212/20)

(2020/C 191/53)

Language of the case: English

Parties

Applicant: Operator Gazociągów Przesylowych Gaz-System S.A. (Warsaw, Poland) (represented by: E. Buczkowska, M. Trepka, lawyers)

Defendant: European Union Agency for the Cooperation of Energy Regulators

Form of order sought

The applicant claims that the Court should:

— annul the Board of Appeal of ACER Decision No. A-006-2019 of 7 February 2020;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error in the interpretation of Article 28(4) of Regulation (EU) 2019/942 [1], as the Board of Appeal of ACER failed to conduct a full review and scrutiny of the ACER's Decision No. 10/2019. This unjustified self-limitation allegedly made by the Board of Appeal of ACER had a direct impact on the operative part of the Contested Decision.

2. Second plea in law, alleging an error in assuming that ACER was not in breach of the transparency principle enshrined in Article 15 TFEU, Article 41 of the Charter of Fundamental Rights of the European Union, Article 37(3) of Regulation (EU) 2017/459 ([2]) and Article 6(4) of Regulation (EU) 2019/942, although ACER *(i)* arbitrarily changed the requirements related to the technical quality requirements criteria that must be met by submitted offers and *(ii)* has chosen the option of repetition of the proceedings leading to the designation of the platform from the very beginning, without giving any justification of that change and choice.

3. Third plea in law, alleging an error in assuming that ACER was not in breach of the principle of equal treatment by setting requirements for the Case Study in Task B(i) and B(ii) in an arbitrary way that favoured platforms which had not fulfilled the basic requirements at the time the offers were submitted.

4. Fourth plea in law, alleging an error in assuming that ACER was not in breach of the principle of transparency, enshrined in Article 15 of TFEU and Article 41(1) and Article 41(2)(c) of the Charter, by acting arbitrarily and not providing an explanation of the requirements of the Case Study which affected the preparation of the offers by capacity booking platforms, before those offers were submitted.

5. Fifth plea in law, alleging an error in assuming that the ACER Decision 10/2019 was duly reasoned and therefore does not manifestly breach Article 296 TFEU and Article 41 (2)(c) and 47 of the Charter, while the justification presented therein does not allow for reconstruction of ACER's reasoning which led to the choice of RBP Platform and significantly hinders the Applicant's ability to challenge that decision.

([1]) Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (OJ 2019, L 158, p. 22–53).

([2]) Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (OJ L 72, 17.3.2017, p. 1–28).

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN