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Information and Notices

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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*

(2015/C 236/01)

Last publication

OJ C 228, 13.7.2015

Past publications

OJ C 221, 6.7.2015

OJ C 213, 29.6.2015

OJ C 205, 22.6.2015

OJ C 198, 15.6.2015

OJ C 190, 8.6.2015

OJ C 178, 1.6.2015

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (First Chamber) of 21 May 2015 — Ralf Schräder v Community Plant Variety Office (CPVO), Jørn Hansson

(Case C-546/12 P) ([1])

(Appeal — Community plant variety rights — Community Plant Variety Office (CPVO) — Regulation (EC) No 2100/94 — Articles 20 and 76 — Regulation (EC) No 874/2009 — Article 51 — Application to initiate nullity proceedings in respect of Community plant variety rights — Principle of examination by the CPVO of its own motion — Proceedings before the Board of Appeal of the CPVO — Substantial evidence)

(2015/C 236/02)

Language of the case: German

Parties

Appellant: Ralf Schräder (represented by: T. Leidereiter, Rechtsanwalt)

Other parties to the proceedings: Community Plant Variety Office (CPVO) (represented by: M. Ekvad, acting as Agent, and A. von Mühlendahl, Rechtsanwalt), Jørn Hansson (represented by: G. Würtenberger, Rechtsanwalt)

Operative part of the judgment

The Court:

1) *Dismisses the appeal;*

2) *Orders Mr Ralf Schräder to pay the costs.*

([1]) OJ C 38, 9.2.2013.

Judgment of the Court (Fifth Chamber) of 13 May 2015 (request for a preliminary ruling from the Industrial Tribunal (Northern Ireland) — United Kingdom) — Valerie Lyttle and Others v Bluebird UK Bidco 2 Limited

(Case C-182/13) ([1])

(Reference for a preliminary ruling — Social policy — Collective redundancies — Directive 98/59/EC — Article 1(1)(a) — Meaning of 'establishment' — Method of calculating the number of workers made redundant)

(2015/C 236/03)

Language of the case: English

Referring court

Industrial Tribunal (Northern Ireland)

Parties to the main proceedings

Claimants: Valerie Lyttle, Sarah Louise Halliday, Clara Lyttle, Tanya McGerty

Respondent: Bluebird UK Bidco 2 Limited

Operative part of the judgment

The term 'establishment' in Article 1(1)(a)(ii) of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies must be interpreted in the same way as the term in Article 1(1)(a)(i) of that directive.

Article 1(1)(a)(ii) of Directive 98/59 must be interpreted as not precluding national legislation that lays down an obligation to inform and consult workers in the event of the dismissal, within a period of 90 days, of at least 20 workers from a particular establishment of an undertaking, and not where the aggregate number of dismissals across all of the establishments or across some of the establishments of an undertaking over the same period reaches or exceeds the threshold of 20 workers.

([1]) OJ C 189, 29.6.2013.

Judgment of the Court (Fourth Chamber) of 21 May 2015 (request for a preliminary ruling from the Landgericht Dortmund — Germany) — Cartel Damage Claims (CDC) Hydrogen Peroxide SA v Akzo Nobel NV, Solvay SA/NV, Kemira Oyj, FMC Foret SA

(Case C-352/13) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Judicial cooperation in civil and commercial matters — Regulation (EC) No 44/2001 — Special jurisdiction — Article 6(1) — Action, brought against several defendants domiciled in various Member States and which have participated in a cartel found to be contrary to Article 81 EC and Article 53 of the Agreement on the European Economic Area, seeking an order for the defendants to pay damages jointly and severally and for disclosure of information — Jurisdiction of the court seised with regard to the other defendants — Withdrawal of the action in relation to the defendant domiciled in the Member State of the court seised — Jurisdiction in tort, delict or quasi-delict — Article 5(3) — Jurisdiction clauses — Article 23 — Effective enforcement of the prohibition of anti-competitive agreements, decisions and concerted practices)

(2015/C 236/04)

Language of the case: German

Referring court

Landgericht Dortmund

Parties to the main proceedings

Applicant: Cartel Damage Claims (CDC) Hydrogen Peroxide SA

Defendants: Akzo Nobel NV, Solvay SA/NV, Kemira Oyj, FMC Foret SA

Operative part of the judgment

1) *Article 6(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that the rule on centralisation of jurisdiction in the case of several defendants, as established in that provision, can apply in the case of an action for damages, and for disclosure in that regard, brought jointly against undertakings which have participated in different places and at different times in a single and continuous infringement, which has been established by a decision of the European Commission, of the prohibition of anti-competitive agreements, decisions and concerted practices provided for under EU law, even where the applicant has withdrawn its action against the sole co-defendant domiciled in the same State as the court seised, unless it is found that, at the time the proceedings were instituted, the applicant and that defendant had colluded to artificially fulfil, or prolong the fulfilment of, that provision's applicability;*

2) *Article 5(3) of Regulation No 44/2001 must be interpreted as meaning that, in the case of an action for damages brought against defendants domiciled in various Member States as a result of a single and continuous infringement of Article 101 TFEU and Article 53 of the Agreement on the European Economic Area of 2 May 1992, which has been established by the European Commission, in which the defendants participated in several Member States, at different times and in different places, the harmful event occurred in relation to each alleged victim on an individual basis and each of the victims can, by virtue of Article 5(3), choose to bring an action before the courts of the place in which the cartel was definitively concluded or, as the case may be, the place in which one agreement in particular was concluded which is identifiable as the sole causal event giving rise to the loss allegedly suffered, or before the courts of the place where its own registered office is located;*

3) *Article 23(1) of Regulation No 44/2001 must be interpreted as allowing, in the case of actions for damages for an infringement of Article 101 TFEU and Article 53 of the Agreement on the European Economic Area of 2 May 1992, account to be taken of jurisdiction clauses contained in contracts for the supply of goods, even if the effect thereof is a derogation from the rules on international jurisdiction provided for in Article 5(3) and/or Article 6(1) of that regulation, provided that those clauses refer to disputes concerning liability incurred as a result of an infringement of competition law.*

([1]) OJ C 298, 12.10.2013.

Judgment of the Court (Fifth Chamber) of 13 May 2015 (request for a preliminary ruling from the Juzgado de lo Social No 33 de Barcelona — Spain) — Andrés Rabal Cañas v Nexea Gestión Documental SA, Fondo de Garantía Salarial

(Case C-392/13) ([1])

(Reference for a preliminary ruling — Social policy — Collective redundancies — Directive 98/59/EC — Meaning of 'establishment' — Method of calculating the number of workers made redundant)

(2015/C 236/05)

Language of the case: Spanish

Referring court

Juzgado de lo Social No 33 de Barcelona

Parties to the main proceedings

Applicant: Andrés Rabal Cañas

Defendants: Nexea Gestión Documental SA, Fondo de Garantía Salarial

Operative part of the judgment

1. *Article 1(1)(a) of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies must be interpreted as precluding national legislation that introduces the undertaking and not the establishment as the sole reference unit, where the effect of the application of that criterion is to preclude the information and consultation procedure provided for in Articles 2 to 4 of that directive, when the dismissals in question would have been considered 'collective redundancies', under the definition in Article 1(1)(a) of that directive, had the establishment been used as the reference unit.*

2. *Article 1(1) of Directive 98/59 must be interpreted as meaning that, for the purposes of establishing whether 'collective redundancies', within the meaning of that provision, have been effected, there is no need to take into account individual terminations of contracts of employment concluded for limited periods of time or for specific tasks, when those terminations take place on the date of expiry of the contract or on the date on which that task was completed.*

3. *Article 1(2)(a) of Directive 98/59 must be interpreted as meaning that, for the purposes of establishing the existence of collective redundancies effected under contracts of employment concluded for limited periods of time or for specific tasks, it is not necessary for the cause of such collective redundancies to derive from the same collective contractual framework for the same duration or the same task.*

([1]) OJ C 260, 7.9.2013.

Judgment of the Court (Tenth Chamber) of 4 June 2015 — Stichting Corporate Europe Observatory v European Commission, Federal Republic of Germany

(Case C-399/13 P) ([1])

(Appeals — Regulation (EC) No 1049/2001 — Access to the documents of the European institutions — Documents relating to the trade negotiations between the European Union and the Republic of India — Full access — Refusal)

(2015/C 236/06)

Language of the case: English

Parties

Appellant: Stichting Corporate Europe Observatory (represented by: S. Crosby, Solicitor)

Other parties to the proceedings: European Commission (represented by: F. Clotuche-Duvieusart and I. Zervas, acting as Agents)

Federal Republic of Germany (represented by: T. Henze and J. Möller, acting as Agents)

Operative part of the judgment

The Court:

1) *Dismisses the appeal;*

2) *Orders Stichting Corporate Europe Observatory to pay the costs.*

([1]) OJ C 274, 21.9.2013.

Judgment of the Court (Sixth Chamber) of 7 May 2015 — Voss of Norway ASA v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-445/13 P) ([1])

(Appeal — Community trade mark — Regulation (EC) No 207/2009 — Article 7(1)(b) — Absolute ground for refusal — No distinctive character — Three-dimensional sign consisting of the shape of a cylindrical bottle)

(2015/C 236/07)

Language of the case: English

Parties

Appellant: Voss of Norway ASA (represented by: F. Jacobacci and B. La Tella, avvocati)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: V. Melgar, acting as Agent), Nordic Spirit AB (publ)

Intervener in support of the appellant: International Trademark Association (represented by T. De Haan, avocat, F. Folmer and S. Klos, advocaten, and S. Helmer, Solicitor)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Voss of Norway ASA to pay the costs;*

3. *Orders the International Trademark Association to bear its own costs.*

([1]) OJ C 344, 23.11.2013.

Judgment of the Court (First Chamber) of 4 June 2015 (request for a preliminary ruling from the Gerechtshof Arnhem-Leeuwarden — Netherlands) — Froukje Faber v Autobedrijf Hazet Ochten BV

(Case C-497/13) ([1])

(Reference for a preliminary ruling — Directive 1999/44/EC — Sale of consumer goods and associated guarantees — Status of the purchaser — Consumer status — Lack of conformity of the goods delivered — Duty to inform the seller — Lack of conformity which became apparent within six months of delivery of the goods — Burden of proof)

(2015/C 236/08)

Language of the case: Dutch

Referring court

Gerechtshof Arnhem-Leeuwarden

Parties to the main proceedings

Applicant: Froukje Faber

Defendant: Autobedrijf Hazet Ochten BV

Operative part of the judgment

1) *Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees must be interpreted as meaning that a national court before which an action relating to a contract which may be covered by that directive has been brought, is required to determine whether the purchaser may be classified as a consumer within the meaning of that directive, even if the purchaser has not relied on that status, as soon as that court has at its disposal the matters of law and of fact that are necessary for that purpose or may have them at its disposal simply by making a request for clarification.*

2) *Article 5(3) of Directive 1999/44 must be interpreted as meaning that it must be regarded as a provision of equal standing to a national rule which ranks, within the domestic legal system, as a rule of public policy and that the national court must of its own motion apply any provision which transposes it into domestic law.*

3) *Article 5(2) of Directive 1999/44 must be interpreted as not precluding a national rule which provides that the consumer, in order to benefit from the rights which he derives from that directive, must inform the seller of the lack of conformity in good time, provided that that consumer has a period of not less than two months from the date on which he detected that lack of conformity to give that notification, that the notification to be given relates only to the existence of that lack of conformity and that it is not subject to rules of evidence which would make it impossible or excessively difficult for the consumer to exercise his rights.*

4) *Article 5(3) of Directive 1999/44 must be interpreted as meaning that the rule that the lack of conformity is presumed to have existed at the time of delivery of the goods*

— *applies if the consumer furnishes evidence that the goods sold are not in conformity with the contract and that the lack of conformity in question became apparent, that is to say, became physically apparent, within six months of delivery of the goods. The consumer is not required to prove the cause of that lack of conformity or to establish that its origin is attributable to the seller;*

— *may be discounted only if the seller proves to the requisite legal standard that the cause or origin of that lack of conformity lies in circumstances which arose after the delivery of the goods.*

([1]) OJ C 367, 14.12.2013.

Judgment of the Court (Fourth Chamber) of 13 May 2015 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Dimensione Direct Sales Srl, Michele Labianca v Knoll International SpA

(Case C-516/13) ([1])

(Reference for a preliminary ruling — Copyright — Directive 2001/29/EC — Article 4(1) — Distribution right — Concept of 'distribution to the public' — Offer for sale and advertising by a trader of a Member State on its website, by direct mail and in the press in another Member State — Reproductions of protected furniture for sale without the consent of the holder of the exclusive distribution right — Offer or advertising not leading to the purchase of the original or copies of a protected work)

(2015/C 236/09)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicants: Dimensione Direct Sales Srl, Michele Labianca

Defendant: Knoll International SpA

Operative part of the judgment

Article 4(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society must be interpreted as meaning that it allows a holder of an exclusive right to distribute a protected work to prevent an offer for sale or a targeted advertisement of the original or a copy of that work, even if it is not established that that advertisement gave rise to the purchase of the protected work by an EU buyer, in so far as that advertisement invites consumers of the Member State in which that work is protected by copyright to purchase it.

([1]) OJ C 367, 14.12.2013.

Judgment of the Court (Grand Chamber) of 13 May 2015 (request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Lithuania)) — 'Gazprom' OAO

(Case C-536/13) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Scope — Arbitration — Not included — Recognition and enforcement of foreign arbitral awards — Order issued by an arbitral tribunal having its seat in a Member State — Order that proceedings not be brought or continued before a court of another Member State — Power of the courts of a Member State to refuse to recognise the arbitral award — New York Convention)

(2015/C 236/10)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Party to the main proceedings

Applicant: 'Gazprom' OAO

Interested party: Lietuvos Respublika

Operative part of the judgment

Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as not precluding a court of a Member State from recognising and enforcing, or from refusing to recognise and enforce, an arbitral award prohibiting a party from bringing certain claims before a court of that Member State, since that regulation does not govern the recognition and enforcement, in a Member State, of an arbitral award issued by an arbitral tribunal in another Member State.

([1]) OJ C 377, 21.12.2013.

Judgment of the Court (Third Chamber) of 4 June 2015 (request for a preliminary ruling from the Centrale Raad van Beroep — Netherlands) — Raad van bestuur van de Sociale verzekeringsbank v E. Fischer-Lintjens

(Case C-543/13) ([1])

(Reference for a preliminary ruling — Social security for migrant workers — Regulation (EEC) No 1408/71 — Article 27 — Annex VI, section R, point 1(a) and (b) — Concept of pensions payable under the legislation of two or more Member States — Benefits in kind — Retroactive award of a pension under the legislation of the Member State of residence — Enjoyment of health care benefits conditional on the taking out of compulsory health care insurance — Certificate of non-insurance under the legislation on compulsory health care insurance of the Member State of residence — No subsequent obligation to pay contributions to that Member State — Retroactive withdrawal of the certificate — No possibility of retroactive affiliation to compulsory health care insurance — Interruption of cover against the risk of sickness by such insurance — Effectiveness of Regulation No 1408/71)

(2015/C 236/11)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Applicant: Raad van bestuur van de Sociale verzekeringsbank

Defendant: E. Fischer-Lintjens

Operative part of the judgment

Article 27 of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 1992/2006 of the European Parliament and of the Council of 18 December 2006, in conjunction with section R, point 1(a) and (b), of Annex VI to Regulation No 1408/71, must be interpreted as meaning that the pension of a person entitled must, in circumstances such as those at issue in the main proceedings, be regarded as payable from the commencement of the period in respect of which that pension was actually paid to that person, whatever the date on which the entitlement to that pension was formally confirmed, including, if appropriate, where the period commences before the date of the decision awarding the pension.

Articles 27 and 84a of Regulation No 1408/71, as amended and updated by Regulation No 118/97, as amended by Regulation No 1992/2006, in conjunction with section R, point 1(a) and (b) of Annex VI to that regulation, must be interpreted as precluding, in circumstances such as those at issue in the main proceedings, legislation of a Member State which does not allow the recipient of a pension awarded by that Member State with retroactive effect of one year to become affiliated to compulsory health care insurance with the same retroactive effect, and which has the effect of depriving that person of all social security cover without all the relevant circumstances, in particular those relating to that person's personal situation, being taken into account.

([1]) OJ C 15, 18.1.2014.

Judgment of the Court (First Chamber) of 21 May 2015 (request for a preliminary ruling from the Bundesfinanzhof (Germany) — Finanzamt Ulm v Ingeborg Wagner-Raith

(Case C-560/13) ([1])

(Reference for a preliminary ruling — Free movement of capital — Derogation — Movement of capital involving the provision of financial services — National legislation providing for flat-rate taxation of investment income from holdings in foreign investment funds — Black funds)

(2015/C 236/12)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Appellant: Finanzamt Ulm

Respondent: Ingeborg Wagner-Raith

Intervener: Bundesministerium der Finanzen

Operative part of the judgment

Article 64 TFEU must be interpreted as meaning that national legislation, such as that at issue in the main proceedings, which provides for flat-rate taxation of the income of holders of units in a non-resident investment fund when the latter has not fulfilled certain statutory obligations constitutes a measure which relates to movement of capital involving the provision of financial services within the meaning of that article.

([1]) OJ C 24, 25.1.2014.

Judgment of the Court (Second Chamber) of 4 June 2015 (request for a preliminary ruling from the Centrale Raad van Beroep (Netherlands)) — P, S v Commissie Sociale Zekerheid Breda, College van Burgemeester en Wethouders van de gemeente Amstelveen

(Case C-579/13) ([1])

(Reference for a preliminary ruling — Status of third-country nationals who are long-term residents — Directive 2003/109/EC — Article 5(2) and Article 11(1) — National legislation imposing on third-country nationals with long-term resident status a civic integration obligation, attested by an examination, under pain of a fine)

(2015/C 236/13)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Applicants: P, S

Defendants: Commissie Sociale Zekerheid Breda, College van Burgemeester en Wethouders van de gemeente Amstelveen

Operative part of the judgment

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents and, in particular, Article 5(2) and Article 11(1) thereof do not preclude national legislation, such as that at issue in the main proceedings, which imposes on third-country nationals who already possess long-term resident status the obligation to pass a civic integration examination, under pain of a fine, provided that the means of implementing that obligation are not liable to jeopardise the achievement of the objectives pursued by that directive, which it is for the referring court to determine. Whether the long-term resident status was acquired before or after the obligation to pass a civic integration examination was imposed is irrelevant in that respect.

(1) OJ C 24, 25.1.2014.

Judgment of the Court (Third Chamber) of 21 May 2015 (request for a preliminary ruling from the Finanzgericht Düsseldorf — Germany) — Verder LabTec GmbH & Co. KG v Finanzamt Hilden

(Case C-657/13) (1)

(Reference for a preliminary ruling — Taxation — Freedom of establishment — Article 49 TFEU — Restrictions — Staggered recovery of tax on unrealised capital gains — Preservation of allocation of powers of taxation between Member States — Proportionality)

(2015/C 236/14)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicant: Verder LabTec GmbH & Co. KG

Defendant: Finanzamt Hilden

Operative part of the judgment

Article 49 TFEU must be interpreted as not precluding tax legislation of a Member State, such as that at issue in the main proceedings, which, in the case of a transfer of assets from a company located within the territory of that Member State to a permanent establishment of that company located within the territory of another Member State, provides for the disclosure of unrealised capital gains pertaining to those assets which have been generated within the territory of that first Member State, the taxation of such capital gains and the staggered recovery of the tax relating to those gains over 10 annual instalments.

(1) OJ C 71, 8.3.2014.

Judgment of the Court (Seventh Chamber) of 4 June 2015 — European Commission v Republic of Poland

(Case C-678/13) (1)

(Failure of a Member State to fulfil obligations — VAT — Directive 2006/112/EC — Annex III — Reduced rate of VAT applicable to medical equipment, aids and other appliances and pharmaceutical products)

(2015/C 236/15)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: L. Lozano Palacios and D. Milanowska, acting as Agents)

Defendant: Republic of Poland (represented by: B. Majczyna, acting as Agent)

Operative part of the judgment

The Court:

1. *Declares that, by applying a reduced rate of value added tax to supplies:*

   — *of medical equipment, aids and other appliances which are not reserved for the exclusive personal use of the disabled or which are not normally intended to alleviate or treat disability, and*

   — *of products which are not pharmaceutical products of a kind normally used for health care, prevention of illnesses and as treatment for medical and veterinary purposes, including products used for contraception and sanitary protection,*

   under headings 82, 92 and 103 of annex No 3 of the Law on tax on goods and services (Ustawa o podatku od towarów i usług) of 11 March 2004 the Republic of Poland has failed to fulfil its obligations under Articles 96 to 98 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with Annex III of that Directive;

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

3. *Orders the European Commission and the Republic of Poland to bear their own costs.*

(1) OJ C 61, 1.3.2014.

Judgment of the Court (Fourth Chamber) of 4 June 2015 — Andechser Molkerei Scheitz GmbH v European Commission

(Case C-682/13 P) (1)

(Appeals — Public health — List of food additives approved for use in foods — Steviol glycosides — Conditions of admissibility — Interest in bringing proceedings)

(2015/C 236/16)

Language of the case: German

Parties

Appellant: Andechser Molkerei Scheitz GmbH (represented by: H. Schmidt, Rechtsanwalt)

Other party to the proceedings: European Commission (represented by: S. Grünheid and P. Ondrůšek, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Andechser Molkerei Scheitz GmbH to pay the costs*

(1) OJ C 45, 15.2.2014.

Judgment of the Court (Third Chamber) of 4 June 2015 (request for a preliminary ruling from the Finanzgericht Hamburg — Germany) — Kernkraftwerke Lippe-Ems GmbH v Hauptzollamt Osnabrück

(Case C-5/14) ([1])

(Reference for a preliminary ruling — Article 267 TFEU — Interlocutory procedure for review of constitutionality — Examination of whether a national law complies with both EU law and with the Constitution of the Member State concerned — Discretion enjoyed by a national court to refer questions to the Court of Justice for a preliminary ruling — National legislation levying a duty on the use of nuclear fuel — Directives 2003/96/EC and 2008/118/EC — Article 107 TFEU — Articles 93 EA, 191 EA and 192 EA)

(2015/C 236/17)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Kernkraftwerke Lippe-Ems GmbH

Defendant: Hauptzollamt Osnabrück

Operative part of the judgment

1) *Article 267 TFEU must be interpreted as meaning that a national court which has doubts as to whether national legislation is compatible with both EU law and with the Constitution of the Member State concerned neither loses the right nor, as the case may be, is exempt from the obligation to submit questions to the Court of Justice of the European Union concerning the interpretation or validity of that law, on the ground that an interlocutory procedure for review of the constitutionality of that legislation is pending before the national court responsible for carrying out such review.*

2) *Article 14(1)(a) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity and Article 1(1) and (2) of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC are to be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which levies a duty on the use of nuclear fuel for the commercial production of electricity.*

3) *Article 107 TFEU must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which levies a duty on the use of nuclear fuel for the commercial production of electricity.*

4) *The first paragraph of Article 93 EA, Article 191 EA, in conjunction with the first paragraph of Article 3 of the Protocol (No 7) on the Privileges and Immunities of the European Union annexed to the EU, FEU and EAEC Treaties, and the second paragraph of Article 192 EA, in conjunction with the second paragraph of Article 1 EA and Article 2(d) EA, are to be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which imposes a duty on the use of nuclear fuel for the commercial production of electricity.*

([1]) OJ C 85, 22.3.2014.

Judgment of the Court (First Chamber) of 4 June 2015 — European Commission v MOL Magyar Olaj- és Gázipari Nyrt.

(Case C-15/14 P) ([1])

(Appeals — State aid — Agreement between Hungary and the oil and gas company MOL relating to mining fees in connection with the extraction of hydrocarbons — Subsequent amendment to the statutory rules increasing the rate of the fees — Increase in fees not applied to MOL — Decision declaring the aid incompatible with the common market — Selective nature)

(2015/C 236/18)

Language of the case: English

Parties

Appellant: European Commission (represented by: L. Flynn and K. Talabér-Ritz, Agents)

Other party to the proceedings: MOL Magyar Olaj- és Gázipari Nyrt. (represented by: N. Niejahr, Rechtsanwältin, and F. Carlin, Barrister)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

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

([1]) OJ C 61, 1.3.2014.

Judgment of the Court (Sixth Chamber) of 21 May 2015 — JAS Jet Air Service France (SARL) v European Commission

(Case C-53/14 P) ([1])

(Appeal — Customs union and Common Customs Tariff — Community Customs Code — Article 239 — Community Customs Code Implementing Regulation — Article 905 — Importation of jean trousers from the United States — Import duties — Decision declaring the refund of those duties unjustified — No 'special situation')

(2015/C 236/19)

Language of the case: French

Parties

Appellant: JAS Jet Air Service France (SARL) (represented by: T. Gallois and E. Dereviankine, lawyers)

Other party to the proceedings: European Commission (represented by: A. Caeiros, B.-R. Killmann and C. Soulay, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders JAS Jet Air Service France SARL to bear its own costs and pay those incurred by the European Commission.*

([1]) OJ C 102, 7.4.2014.

Judgment of the Court (Fourth Chamber) of 21 May 2015 (request for a preliminary ruling from the Tribunal du travail de Nivelles (Belgium)) — Charlotte Rosselle v Institut national d'assurance maladie-invalidité (INAMI), Union nationale des mutualités libres (UNM)

(Case C-65/14) ([1])

(Reference for a preliminary ruling — Social policy — Directive 92/85/EEC — Measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding — Article 11(2) and (4) — Established public servant assigned non-active status for personal reasons in order to work as a salaried employee — Refusal to grant her a maternity allowance on the ground that she has not completed, as a salaried employee, the minimum contribution period required in order to be eligible to receive certain social benefits)

(2015/C 236/20)

Language of the case: French

Referring court

Tribunal du travail de Nivelles

Parties to the main proceedings

Applicant: Charlotte Rosselle

Defendants: Institut national d'assurance maladie-invalidité (INAMI), Union nationale des mutualités libres (UNM)

Intervening party: Institut pour l'égalité des femmes et des hommes (IEFH)

Operative part of the judgment

The second subparagraph of Article 11(4) of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) must be interpreted as precluding a Member State from granting a worker a maternity allowance on the ground that, as an established public servant having obtained non-active status for personal reasons in order to work as a salaried employee, she has not completed, in the context of her work as a salaried employee, the minimum contribution period required under national law in order to be eligible to receive that maternity allowance, even if she has worked for over 12 months immediately prior to the presumed date of confinement.

([1]) OJ C 129, 28.4.2014.

Judgment of the Court (Second Chamber) of 4 June 2015 — European Commission v United Kingdom of Great Britain and Northern Ireland

(Case C-161/14) ([1])

(Failure of a Member State to fulfil obligations — Common system of value added tax — Directive 2006/112/EC — Article 98(2) — Category (10) of Annex III — Reduced rate of VAT applicable to the provision, construction, renovation and alteration of housing, as part of a social policy — Category (10a) of Annex III — Reduced rate of VAT applicable to renovation and repairing of private dwellings, excluding materials which account for a significant part of the value of the service supplied — National legislation applying a reduced rate of VAT to supplies of services of installing 'energy-saving materials' and supplies of such materials)

(2015/C 236/21)

Language of the case: English

Parties

Applicant: European Commission (represented by: M. Clausen and C. Soulay, acting as Agents)

Defendant: United Kingdom of Great Britain and Northern Ireland (represented by: L. Christie and M Holt, acting as Agents, and K. Lasok QC)

Operative part of the judgment

The Court:

1) *Declares that, by applying a reduced rate of value added tax to supplies of services of installing 'energy-saving materials' and to supplies of such materials by a person who installs those materials in residential accommodation:*

— *to the extent that those supplies cannot be considered as 'the provision, construction, renovation and alteration of housing, as part of a social policy' for the purposes of Category 10 of Annex III to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2009/47/EC of 5 May 2009;*

— *to the extent that those supplies fall outside the purview of 'renovation and repairing of private dwellings' for the purposes of Category 10a of Annex III to that directive, and*

— *to the extent that even where those supplies fall within the purview of renovation and repairing of private dwellings for the purposes of Category (10a) of Annex III to that directive, those supplies include materials which account for a significant part of the value of the services supplied,*

the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under Article 98 of Directive 2006/112, as amended by Directive 2009/47, read together with Annex III to that directive;

2) *Orders the United Kingdom of Great Britain and Northern Ireland to pay the costs.*

(1) OJ C 212, 7.7.2014.

Judgment of the Court (Ninth Chamber) of 4 June 2015 (request for a preliminary ruling from the Bundesgerichtshof (Germany)) — Bundesverband der Verbraucherzentralen und Verbraucherverbände — Verbraucherzentrale Bundesverband e.V. v Teekanne GmbH & Co. KG

(Case C-195/14) (1)

(Reference for a preliminary ruling — Directive 2000/13/EC — Labelling and presentation of foodstuffs — Articles 2(1)(a)(i) and 3(1)(2) — Labelling such as could mislead the purchaser as to the composition of foodstuffs — List of ingredients — Use of the indication 'raspberry and vanilla adventure' and of depictions of raspberries and vanilla flowers on the packaging of a fruit tea not containing those ingredients)

(2015/C 236/22)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Bundesverband der Verbraucherzentralen und Verbraucherverbände — Verbraucherzentrale Bundesverband e.V.

Defendant: Teekanne GmbH & Co. KG

Operative part of the judgment

Articles 2(1)(a)(i) and 3(1)(2) of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, as amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009, must be interpreted as precluding the labelling of a foodstuff and methods used for the labelling from giving the impression, by means of the appearance, description or pictorial representation of a particular ingredient, that that ingredient is present, even though it is not in fact present and this is apparent solely from the list of ingredients on the foodstuff's packaging.

([1]) OJ C 245, 28.7.2014.

Judgment of the Court (Sixth Chamber) of 21 May 2015 (request for a preliminary ruling from the Tribunalul Neamț — Romania) — Sindicatul Cadrelor Militare Disponibilizate în rezervă și în retragere (SCMD) v Ministerul Finanțelor Publice

(Case C-262/14) ([1])

(Reference for a preliminary ruling — Equal treatment in employment and occupation — Directive 2000/78/EC — Articles 2, 3(1) and 6 — Prohibition of discrimination based on age — Discrimination on grounds of membership of a socio-professional category or place of work — National legislation prohibiting, subject to certain limits, the combination of a pension with employment income from professional activity in the public sector — Automatic termination of the employment relationship or service relationship)

(2015/C 236/23)

Language of the case: Romanian

Referring court

Tribunalul Neamt

Parties to the main proceedings

Applicant: Sindicatul Cadrelor Militare Disponibilizate în rezervă și în retragere (SCMD)

Defendant: Ministerul Finanțelor Publice

Operative part of the judgment

Articles 2(2) and 3(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation do not apply to national legislation, such as that at issue in the main proceedings, that provides for automatic termination of employment relationships or service relationships of public sector employees benefitting from a pension that is higher than the gross average income who have not opted for continuing that employment relationship or service relationship within a specified time.

([1]) OJ C 315, 15.9.2014.

Judgment of the Court (Seventh Chamber) of 21 May 2015 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — Proceedings brought by Kansaneläkelaitos

(Case C-269/14) ([1])

(Reference for a preliminary ruling — Public procurement — Directive 2004/18/EC — Article 1(4) — Service concession — Definition — Aggregation of contracts between a social security authority and taxi companies providing for an electronic scheme for direct reimbursement of transport costs of insured persons and a system of booking journeys)

(2015/C 236/24)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Party to the main proceedings

Kansaneläkelaitos

Operative part of the judgment

Article 1(4) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, must be interpreted as meaning that an aggregation of contracts, such as that at issue in the main proceedings, may be considered to constitute a 'service concession', within the meaning of that provision, provided that the contracting authority has transferred the entirety of, or a significant share of, the risk which it bears in relation to the economic exploitation of the services; this being a matter which must be determined by the referring court taking into account all the inherent characteristics of the services covered by that aggregation of contracts.

([1]) OJ C 261, 11.8.2014.

Judgment of the Court (Tenth Chamber) of 4 June 2015 (request for a preliminary ruling from the Cour de cassation (France)) — Directeur général des douanes et droits indirects, Directeur régional des douanes et droits indirects d'Auvergne v Brasserie Bouquet SA

(Case C-285/14) ([1])

(Reference for a preliminary ruling — Taxation — Directive 92/83/EEC — Excise duty — Beer — Article 4 — Small independent breweries — Reduced rate of excise duty — Conditions — No operation under licence — Production in accordance with a process of a third party and authorised by it — Authorisation to use the trade marks of that third party)

(2015/C 236/25)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicants: Directeur général des douanes et droits indirects, Directeur régional des douanes et droits indirects d'Auvergne

Defendant: Brasserie Bouquet SA

Operative part of the judgment

For the purpose of applying the reduced rate of excise duty on beer the condition laid down in Article 4(2) of Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages according to which a brewery must not operate under licence, is not met if the brewery concerned makes its beer in accordance with an agreement pursuant to which it is authorised to use the trade marks and production process of a third party.

(1) OJ C 261, 11.8.2014.

Judgment of the Court (Third Chamber) of 21 May 2015 (request for a preliminary ruling from the Landgericht Krefeld — Germany) — Jaouad El Majdoub v CarsOnTheWeb.Deutschland GmbH

(Case C-322/14) (1)

(Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation (EC) No 44/2001 — Article 23 — Agreement conferring jurisdiction — Formal requirements — Communication by electronic means which provides a durable record of the agreement — Definition — General terms and conditions of sale which can be consulted and printed from a link which enables them to be displayed in a new window — Click-wrapping)

(2015/C 236/26)

Language of the case: German

Referring court

Landgericht Krefeld

Parties to the main proceedings

Applicant: Jaouad El Majdoub

Defendant: CarsOnTheWeb.Deutschland GmbH

Operative part of the judgment

Article 23(2) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that the method of accepting the general terms and conditions of a contract for sale by 'click-wrapping', such as that at issue in the main proceedings, concluded by electronic means, which contains an agreement conferring jurisdiction, constitutes a communication by electronic means which provides a durable record of the agreement, within the meaning of that provision, where that method makes it possible to print and save the text of those terms and conditions before the conclusion of the contract.

(1) OJ C 315, 15.9.2014.

Judgment of the Court (Tenth Chamber) of 21 May 2015 (request for a preliminary ruling from the Oberlandesgericht Nürnberg (Germany)) — Criminal proceedings against Andreas Wittmann

(Case C-339/14) (1)

(Reference for a preliminary ruling — Directive 2006/126/EC — Mutual recognition of driving licences — Period of prohibition — Issue of the driving licence by a Member State before the entry into force of a period of prohibition in the Member State of normal residence — Grounds for refusing to recognise in the Member State of normal residence the validity of a driving licence issued by another Member State)

(2015/C 236/27)

Language of the case: German

Referring court

Oberlandesgericht Nürnberg

Party in the criminal proceedings

Andreas Wittmann

Operative part of the judgment

The second subparagraph of Article 11(4) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences must be interpreted as meaning that a measure by which the Member State of normal residence of the driver of a motor vehicle, which is unable to withdraw his driving licence because he has already been subject to an earlier withdrawal decision, orders that a new driving licence may not be issued to him for a given period of time must be regarded as a measure restricting, suspending or withdrawing the driving licence for the purposes of that provision, with the consequence that it precludes the recognition of any licence issued by another Member State before the expiry of that period. The fact that the judgment concerning that measure became final after the issue of the driving licence in the second Member State is irrelevant in that regard, provided that the licence was obtained after the delivery of that judgment and the grounds justifying that measure existed on the date that licence was issued.

(1) OJ C 372, 20.10.2014.

Judgment of the Court (First Chamber) of 21 May 2015 (request for a preliminary ruling from the Conseil d'État — France) — Ministre délégué, chargé du budget v Marlène Pazdziej

(Case C-349/14) (1)

(Reference for a preliminary ruling — Protocol on the Privileges and Immunities of the European Union — Article 12, second paragraph — Tax levied for the benefit of local authorities on persons having the use of or having at their disposal residential premises in their area — Upper limit — Social policy measure — Taking into account salaries, wages and emoluments paid by the European Union to its officials and other servants)

(2015/C 236/28)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Ministre délégué, chargé du budget

Defendant: Marlène Pazdziej

Operative part of the judgment

The second paragraph of Article 12 of the Protocol on the Privileges and Immunities of the European Union, annexed to the EU, FEU and EAEC Treaties, must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which takes into consideration salaries, wages and emoluments paid by the Union to its officials and other servants in order to determine the upper limit on liability with respect to a residence tax levied for the benefit of local communities, with a view to the possible granting of relief from it.

(1) OJ C 372, 20.10.2014.

Order of the Court (Seventh Chamber) of 5 February 2015 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — Jednostka Innowacyjno-Wdrożeniowa Petrol S. C. Paczuski Maciej i Puławski Ryszard v Minister Finansów

(Case C-275/14) ([1])

(Reference for a preliminary ruling — Taxation of energy products — Directive 2003/96/EC — Article 2 (3) — Direct effect — Motor fuel additives coming under heading 3811 of the CN)

(2015/C 236/29)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Jednostka Innowacyjno-Wdrożeniowa Petrol S.C. Paczuski Maciej i Puławski Ryszard

Defendant: Minister Finansów

Operative part of the order

1. *The second subparagraph of Article 2(3) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity must be construed as precluding national provisions, such as those in issue in the main proceedings, which impose excise duty on additives coming under heading 3811 of the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1031/2008 of 19 September 2008, at a rate which differs from that applied to the fuel to which they are added.*

2. *The second subparagraph of Article 2(3) of Directive 2003/96 must be interpreted as meaning that it may be relied on by an individual as against the competent national authority in proceedings before a national court which seek to have set aside the application of national legal rules which are at variance with that provision.*

([1]) OJ C 171, 26.5.2015.

Order of the Court (First Chamber) of 4 June 2015 (request for a preliminary ruling from the Rechtbank van eerste aanleg te Antwerpen — Belgium) — Argenta Spaarbank NV v Belgische Staat

(Case C-578/14) ([1])

(Reference for a preliminary ruling — Corporation taxes — Directive 90/435/EEC — Article 1(2) and Article 4(2) — Parent companies and subsidiaries of different Member States — Common system of taxation — Deduction of taxable profits of the parent company — Factual and legislative context of the dispute in the main proceedings — Reasons justifying the need for an answer to the question referred for a preliminary ruling — Insufficient information — Manifest inadmissibility)

(2015/C 236/30)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg te Antwerpen

Parties to the main proceedings

Applicant: Argenta Spaarbank NV

Defendant: Belgische Staat

Operative part of the order

The request for a preliminary ruling from the Rechtbank van eerste aanleg te Antwerpen (Belgium), by Decision of 28 November 2014, is manifestly inadmissible.

([1]) OJ C 81, 9.3.2015.

Request for a preliminary ruling from the Sächsisches Oberverwaltungsgericht (Germany) lodged on 30 March 2015 — Der Bundesbeauftragte für Asylangelegenheiten v N

(Case C-150/15)

(2015/C 236/31)

Language of the case: German

Referring court

Sächsisches Oberverwaltungsgericht

Parties to the main proceedings

Applicant: Der Bundesbeauftragte für Asylangelegenheiten

Defendant: N

Other party: Federal Republic of Germany

Questions referred

1. Is Article 9(1)(a) in conjunction with Article 10(1)(b) of Directive 2011/95/EU ([1]) to be interpreted as follows:

   a) that a severe violation of the freedom of religion guaranteed by Article 10(1) CFREU (Charter of Fundamental Rights of the European Union) and Article 9(1) ECHR (European Convention on Human Rights) and thus an act of persecution under Article 9(1)(a) of the Directive must be assumed when religious acts or expressions of view that are mandated by a doctrine of faith that the applicant actively professes and which form a core element of the doctrine of faith or are based on the religious convictions of the applicant in the sense that they are a pillar of his religious identity, are prohibited by criminal law in the country of origin,

   or

   b) is it required that an applicant who actively declares his belief in a particular doctrine of faith must further prove that core elements mandated as religious acts or as or expressions of view by the doctrine of faith, which represent a prohibited religious activity subject to criminal prosecution in his country of origin, are 'particularly important' for the preservation of his religious identity and in this sense are 'essential'?

2. Is Article 9(3) in conjunction with Article 2(d) of Directive 2011/95/EU to be interpreted as follows:

that in order to determine a well-founded fear of being persecuted and a real risk of being persecuted or subjected to inhuman or degrading treatment or punishment by one of the actors specified in Article 6 of Directive 2011/95/EU, with regard to religious acts or expressions of view that are mandated by a doctrine of faith that the applicant actively professes and are a core element of the doctrine of faith or are based on the religious convictions of the applicant in the sense that they are a pillar of his religious identity, and are prohibited by criminal law in the country of origin,

a) it is necessary to evaluate the relationship by comparing the number of members of the applicant's faith who practice their faith despite the prohibition to the number of actual acts of persecution of these acts of faith in the applicant's country of origin, including any possible uncertainties or unknowns regarding governmental enforcement practices,

or

b) it is sufficient if, in the enforcement of the criminal law in the country of origin, the actual application of the laws threatening prosecution of religious acts or expressions of view that are mandated by a doctrine of faith that the applicant actively professes and which form a core element of the doctrine of faith or are based on the religious convictions of the applicant in the sense that they are a of particular importance for his religious identity can be proved?

3. Is a provision of national administrative law under which a trial court is bound by the legal judgment of the court of third instance (here: Section 144(6) VwGO (Verwaltungsgerichtsordnung) [Administrative Court Procedure Act]) compatible with the principle of the primacy of EU law if the trial court wishes to interpret a standard in EU law differently to the court of third instance but, even after implementation of a preliminary ruling procedure pursuant to Article 267(2) TFEU, is precluded from applying this interpretation of EU law by national law binding the court to the legal analysis of the court of third instance?

([1]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, p. 9).

Request for a preliminary ruling from the Finanzgericht Düsseldorf (Germany) lodged on 17 April 2015 — GE Healthcare GmbH v Hauptzollamt Düsseldorf

(Case C-173/15)

(2015/C 236/32)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicant: GE Healthcare GmbH

Defendant: Hauptzollamt Düsseldorf

Questions referred

1. Can royalties or licence fees within the meaning of Article 32(1)(c) of Council Regulation (EEC) No 2913/92 ([1]) establishing the Community Customs Code ('the Code') be included in the customs value even though it is not established either at the time the contract is concluded or at the relevant date as regards the incurring of the customs debt (the latter date being determined in the event of any dispute in accordance with Articles 201(2) and 214(1) of the Code) that royalties or licence fees have become chargeable?

2. If the reply to question 1 is in the affirmative: can royalties or licence fees for trade marks within the meaning of Article 32(1)(c) of the Code relate to the imported goods notwithstanding the fact that those royalties or licence fees are also paid for services and for the use of the key part of the name of the common group of companies?

3. If the reply to question 2 is in the affirmative: can royalties or licence fees for trade marks within the meaning of Article 32(1)(c) of the Code be a condition of the sale for export to the Community of the imported goods within the meaning of Article 32(5)(b) of the Code even though payment was demanded by an undertaking related to the seller and to the buyer, and was made?

4. If the reply to question 3 is in the affirmative and the royalties or licence fees relate, as here, partly to the imported goods and partly to post-importation services: does it follow from the appropriate apportionment made only on the basis of objective and quantifiable data, in accordance with Article 158(3) of Commission Regulation (EEC) No 2454/93 ([2]) of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ('the Implementing Regulation') and the interpretative note on Article 32(2) of the Code in Annex 23 to the Implementing Regulation, that only a customs value in accordance with Article 29 of the Code may be corrected, or, if a customs value cannot be determined in accordance with Article 29 of the Code, is the apportionment laid down in Article 158(3) of the Implementing Regulation also possible, in so far as those costs would not otherwise be taken into account, when determining a customs value to be established in accordance with Article 31 of the Code?

([1]) OJ 1992 L 302, p. 1.
([2]) OJ 1993 L 253, p. 1.

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 20 April 2015 — Taser International Inc. v SC Gate 4 Business SRL, Cristian Mircea Anastasiu

(Case C-175/15)

(2015/C 236/33)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Applicant: Taser International Inc.

Defendant: SC Gate 4 Business SRL, Cristian Mircea Anastasiu

Questions referred

Must Article 24 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ([1]) be interpreted as meaning that the expression 'jurisdiction derived from other provisions of this Regulation' also covers the situation in which the parties to a contract for the assignment of rights to a trade mark registered in a Member State of the European Union have decided, unequivocally and undisputedly, to confer jurisdiction to settle any dispute regarding fulfilment of contractual obligations on the courts of a State which is not a Member State of the European Union and in which the applicant is domiciled (has its seat), while the applicant has seised a court of a Member State of the European Union in whose territory the defendant is domiciled (has its seat)?

If the answer is in the affirmative:

Must Article 23(5) of that regulation be interpreted as not referring to a clause conferring jurisdiction on a State that is not a Member State of the European Union, so that the court seised pursuant to Article 2 of the regulation will determine jurisdiction according to the rules of private international law in its own national legislation?

Can a dispute relating to the enforcement, through the courts, of the obligation to assign rights to a trade mark registered in a Member State of the European Union, assumed under a contract between the parties to that dispute, be regarded as referring to a right 'required to be deposited or registered' within the meaning of Article 22(4) of the regulation, having regard to the fact that, under the law of the State in which the trade mark is registered, the assignment of rights to a trade mark must be entered in the Trade Mark Register and published in the Official Industrial Property Bulletin?

If the answer is in the negative, does Article 24 of the regulation preclude a court seised pursuant to Article 2 of the regulation, in a situation such as that described in the above question, from declaring that it does not have jurisdiction to determine the case, even though the defendant has entered an appearance before that court, including in the final instance, without contesting jurisdiction?

(1) OJ 2001 L 12, p. 1.

Request for a preliminary ruling from the Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco (Spain) lodged on 23 April 2015 — Florentina Martínez Andrés v Servicio Vasco de Salud

(Case C-184/15)

(2015/C 236/34)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco

Parties to the main proceedings

Appellant: Florentina Martínez Andrés

Respondent: Servicio Vasco de Salud

Questions referred

1. Must clause 5(1) of the Framework Agreement (1) on fixed-term work concluded by ETUC, UNICE and CEEP be interpreted as precluding national legislation which, in a situation of abuse arising from the use of fixed-term employment contracts, does not acknowledge that staff regulated under administrative law who are engaged on an occasional basis (*personal estatutario temporal eventual*) ('occasional regulated staff'), as opposed to staff who are in precisely the same position but who are employed by a public authority under contract, have a general right to remain in post on an indefinite but not permanent basis, in other words, to hold the temporary post until it is filled in the manner prescribed by law or eliminated in accordance with legally established procedures?

2. If the previous question is answered in the negative, must the principle of equivalence be interpreted as meaning that the national court may regard the situation of staff who are employed by a public authority under a fixed-term contract and that of occasional regulated staff as similar in cases where there has been misuse of fixed-term employment contracts, or, when assessing similarity, must the national court consider factors other than the fact that the employer is the same, the services provided are the same or similar and the contract of employment has a fixed term, such as the precise nature of the employee's relationship, whether contractual or regulated, or the power of the public authorities to organise the way they function, which justify treating the two situations differently?

(1) Annex to Council Directive 1999/70/EC of 28 June 1999 (OJ 1999 L 175, p. 43).

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 24 April 2015 — T. D. Rease, P. Wullems; other party: College bescherming persoonsgegevens

(Case C-192/15)

(2015/C 236/35)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Appellants: T.D. Rease, P. Wullems

Other party: College bescherming persoonsgegevens

Questions referred

1. Does an instruction to employ equipment for the processing of personal data within the territory of a Member State, issued outside the EU by a controller, within the meaning of Article 2(d) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31), to a detective agency established within the EU, come within the notion of 'making use of equipment' within the meaning of Article 4(1)(c) of that directive?

2. Does Directive 95/46/EC, in particular Article 28(3) and (4) thereof, given the objective of that directive, allow the national authorities the latitude, when enforcing the protection of individuals by the supervisory authorities provided for in that directive, to set priorities which result in such enforcement not taking place in the case where only an individual or a small group of persons submits a complaint alleging a breach of that directive?

Request for a preliminary ruling from the Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco (Spain) lodged on 29 April 2015 — Juan Carlos Castrejana López v Ayuntamiento de Vitoria

(Case C-197/15)

(2015/C 236/36)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco

Parties to the main proceedings

Appellant: Juan Carlos Castrejana López

Respondent: Ayuntamiento de Vitoria

Questions referred

1. Must clause 5(1) of the Framework Agreement ([1]) on fixed-term work concluded by ETUC, UNICE and CEEP be interpreted as precluding national legislation which, in a situation of abuse arising from the use of fixed-term employment contracts, does not acknowledge that *funcionarios interinos* (temporary civil servants regulated under administrative law), as opposed to staff who are in precisely the same position but who are employed by a public authority under contract, have a general right to remain in post on an indefinite but not permanent basis, in other words, to hold the temporary post until it is filled in the manner prescribed by law or eliminated in accordance with legally established procedures?

2. If the previous question is answered in the negative, must the principle of equivalence be interpreted as meaning that the national court may regard the situation of staff who are employed by a public authority under a fixed-term contract and that of temporary civil servants as similar in cases where there has been misuse of fixed-term employment contracts, or, when assessing similarity, must the national court consider factors other than the fact that the employer is the same, the services provided are the same or similar and the contract of employment has a fixed term, such as the precise nature of the employee's relationship, whether contractual or administrative, or the power of the public authorities to organise the way they function, which justify treating the two situations differently?

3. If the previous questions are answered in the negative, must the principle of effectiveness be interpreted in such a way that the issue of the appropriate penalty is to be heard and determined within the same proceedings as those in which the misuse of fixed-term employment contracts is established, through interlocutory proceedings in which the parties may request, claim and prove what they deem to be appropriate in that regard, or, on the contrary, is it permissible for the injured party to be referred, for that purpose, to new administrative or, as the case may be, judicial proceedings?

([1]) Annex to Council Directive 1999/70/EC of 28 June 1999 (OJ 1999 L 175, p. 43).

Request for a preliminary ruling from the Kúria (Hungary) lodged on 5 May 2015 — Stock '94 Szolgáltató Zrt. v Nemzeti Adó- és Vámhivatal Dél-dunántúli Regionális Adó Főigazgatósága (NAV)

(Case C-208/15)

(2015/C 236/37)

Language of the case: Hungarian

Referring court

Kúria

Parties to the main proceedings

Applicant: Stock '94 Szolgáltató Zrt.

Defendant: Nemzeti Adó- és Vámhivatal Dél-dunántúli Regionális Adó Főigazgatósága (NAV)

Questions referred

1. Must Article 1(2), Article 2(1)(a) and (c), Article 14(1), Article 24(1), Article 73, Article 78(b), and Article 135(1)(b) of Council Directive 2006/112/EC ([1]) of 28 November 2006 ('the VAT Directive') be interpreted as meaning that a supply of goods and a grant of a loan made in accordance with a contract concluded between an integrator and an integrated producer constitute distinct and independent transactions for the purposes of VAT liability, or as meaning that a single transaction is carried out, the tax base of which includes, in addition to the consideration for the goods supplied, the interest on the loan granted?

2. If the latter interpretation is in accordance with the VAT Directive, may the VAT Directive be interpreted, as regards the single transaction which covers the supply of goods subject to VAT and the supply of services exempt from VAT, as meaning that the transaction constitutes an exception to the principle of the general application of VAT? If so, what criteria must be met?

3. Does the fact that the integrator may, in accordance with the contract, supply further services to the integrated producer, at the latter's request, or may purchase all of the agricultural goods produced, influence the answer to the foregoing questions and if so, to what extent?

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

Appeal brought on 6 May 2015 by the Republic of Poland against the judgment of the General Court of 25 February 2015 in Case T-257/13 Republic of Poland v European Commission

(Case C-210/15 P)

(2015/C 236/38)

Language of the case: Polish

Parties

Appellant: Republic of Poland (represented by: B. Majczyna, acting as Agent)

Other party to the proceedings: European Commission

Form of order sought

— set aside in its entirety the judgment of the General Court of the European Union of 25 February 2015 in Case T-257/13 *Republic of Poland* v *European Commission*;

— annul Commission Implementing Decision 2013/123/EU of 26 February 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (notified under document C(2013) 981) ([1]), in so far as it excludes from European Union financing the sums of EUR 28 763 238,60 and EUR 5 688 440,96 paid by the paying agency accredited by the Republic of Poland;

— order the European Commission to pay the costs at first instance and on appeal.

Pleas in law and main arguments

The Republic of Poland raises against the judgment under appeal a plea of misinterpretation of Article 11(1) of Regulation No 1257/1999 and Article 23(2) of Regulation No 1698/2005 consisting in the acceptance that a condition of support for early retirement is that the transferor of the farm must have carried on commercial farming before the transfer of that farm, whereas those provisions give rise to a requirement that (commercial or non-commercial) farming has been carried on for 10 years before the transfer of the farm and a prohibition of commercial farming by the transferor of the farm after the transfer of that farm.

According to the Republic of Poland, a requirement that commercial farming has been carried on in the period preceding the transfer of the farm does not follow from EU law. Article 11(1) of Regulation No 1257/1999 and Article 23(2) of Regulation No 1698/2005 lay down a requirement that farming activity has been carried on for 10 years preceding the transfer of the farm, but the activity during that period may be commercial or non-commercial. In addition, those provisions prohibit commercial farming by the transferor of the farm after the transfer of the farm.

([1]) OJ 2013 L 67, p. 20.

Request for a preliminary ruling from the Varhoven kasatsionen sad (Bulgaria) lodged on 11 May 2015 — Vasilka Ivanova Gogova v Iliya Dimitrov Iliev

(Case C-215/15)

(2015/C 236/39)

Language of the case: Bulgarian

Referring court

Varhoven kasatsionen sad

Parties to the main proceedings

Appellant in cassation: Vasilka Ivanova Gogova

Respondent in the appeal in cassation: Iliya Dimitrov Iliev

Questions referred

1. Does the possibility, provided for by law, for civil courts to resolve a dispute between parents concerning their child's ability to travel abroad and the issue of identity documents, where the applicable substantive law requires that those parental rights be exercised jointly with regard to the child, constitute a matter relating to 'the attribution, exercise, delegation, restriction or termination of parental responsibility' within the meaning of Article 1(1)(b), in conjunction with Article 2(7), of Council Regulation (EC) No 2201/2003 ([1]) concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility to which Article 8(1) of that regulation applies?

2. Do grounds establishing international jurisdiction apply in civil cases concerning parental responsibility where the decision replaces a legal act central to an administrative procedure concerning the child and the applicable law provides that this procedure must take place in a specific EU Member State?

3. Must it be assumed that there is a prorogation of jurisdiction within the meaning of Article 12(1)(b) of Regulation (EC) No 2201/2003 where the respondent's representative has not challenged the jurisdiction of the court but where that representative has not been authorised by the respondent but rather appointed by the court owing to the difficulty in notifying the respondent in order that he might participate in the proceedings in person or through a representative instructed by him?

(1) OJ 2003 L 338, p. 1.

Reference for a preliminary ruling from High Court of Ireland (Ireland) made on 22 May 2015 — Minister for Justice and Equality v Francis Lanigan

(Case C-237/15)

(2015/C 236/40)

Language of the case: English

Referring court

High Court of Ireland

Parties to the main proceedings

Applicant: Minister for Justice and Equality

Defendant: Francis Lanigan

Questions referred

1. What is the effect of a failure to observe the time limits stipulated in Article 17 of the Framework Decision of the 13th June, 2002 on the European arrest warrant and the surrender procedures between member States (2002/584/JHA) (1) read in conjunction with the provisions of Article 15 of the said Framework decision?

2. Does failure to observe the time limits stipulated in Article 17 of the Framework Decision of the 13th June, 2002 on the European arrest warrant and the surrender procedures between member States (2002/584/JHA) give rise to rights on the part of an individual who has been held in custody pending a decision on his/her surrender for a period in excess of those time periods?

(1) OJ L 190, p. 1.

Appeal brought on 27 May 2015 by the Land Hessen against the judgment of the General Court (First Chamber) delivered on 17 March 2015 in Case T-89/09 Pollmeier Massivholz GmbH & Co. KG v European Commission

(Case C-242/15 P)

(2015/C 236/41)

Language of the case: German

Parties

Appellant: Land Hessen (represented by: U. Soltész, A. Richter, Rechtsanwälte)

Other parties to the proceedings: Pollmeier Massivholz GmbH & Co. KG, European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court (First Chamber) of 17 March 2015 in Case T-89/09 in so far as it annulled Commission Decision C(2008)6017 final of 21 October 2008, State aid No 512/2007 — Germany, Abalon Hardwood Hessen GmbH;

— dismiss the action in its entirety;

— order Pollmeier Massivholz GmbH & Co. KG to pay the costs incurred by the appellant during the proceedings before the General Court and the Court.

Pleas in law and main arguments

The appellant raises four grounds in support of its appeal:

1. By its first ground of appeal, the appellant claims that the General Court erred in its assessment of the Commission's margin of discretion. The determination of the value of aid in the form of guarantees is an economically complex issue, for the purposes of which the Commission is granted a margin of discretion. The Commission exercised that margin of discretion in accordance with its long established practice so as to calculate the value of aid in the form of guarantees from German Federal States in accordance with the detailed rules of the German authorities at 0,5 % of the guarantee value. The subsequent publication of the 2000 Guarantee Notice could in no way alter that finding.

2. In addition, the General Court erred (second ground of appeal) in so far as the concept of aid within the meaning of Article 107 TFEU is an objective concept, which may not be affected by Commission authorisation. The value of aid in the form of a guarantee may not be altered by the authorisation of the aid scheme. That is the case in particular with respect to *de-minimis* aid, since the latter does not come within the scope of Article 107 TFEU and consequently cannot be subject to a Commission decision approving an aid scheme.

3. By its third ground of appeal, the appellant alleges an infringement of the principle of equality. The calculation of the value of the aid in the form of guarantees, whether based on approved or non-approved aid schemes, concerns factually identical situations, which were treated differently without objective justification. In addition, the General Court erred in law by making a distinction, in the application of the 0,5 % method, between guarantees which were granted before publication of the 2000 Guarantee Notice and those granted after that publication. The Commission's practice vis-à-vis Germany is however in the present case more specific than the general Guarantee Notice, and the calculation method at issue in the present case would moreover be admissible were it to be assessed in accordance with the 2000 Guarantee Notice.

4. Finally, by its fourth ground of appeal, the appellant alleges an error of law in the application of the fundamental principles of legal certainty and of the protection of legitimate expectations. Of particular relevance is the expectation of the Land Hessen that the Commission accept the 0,5 % method in its consistent decision practice, a fact which it in addition expressly confirmed in its 1998 Notice. In addition, during its examination of the guarantee guidelines of the Land Hessen, it did not contest the 0,5 % method.

Appeal brought on 28 May 2015 by Pollmeier Massivholz GmbH & Co. KG against the judgment of the General Court (First Chamber) delivered on 17 March 2015 in Case T-89/09 Pollmeier Massivholz GmbH & Co. KG v European Commission

(Case C-246/15 P)

(2015/C 236/42)

Language of the case: German

Parties

Appellant: Pollmeier Massivholz GmbH & Co. KG (represented by: J. Heithecker, J. Ylinen, Rechtsanwälte)

Other parties to the proceedings: European Commission, Land Hessen

Form of order sought

The appellant claims that the Court should:

— annul paragraph 2 of the operative part of the judgment under appeal, in so far as it dismissed the third plea in law relating to the investment grant and the sale of public land;

— annul paragraphs 3 to 5 of the operative part of the judgment under appeal;

— order the Commission and the Land Hessen to pay the costs of the appeal proceedings.

In addition, the appellant's requests made at first instance should be granted in so far as it claims that the Court should:

— annul Commission Decision C(2008)6017 final of 21 October 2008, State aid No 512/2007 — Germany, Abalon Hardwood Hessen GmbH, in so far as it found that the notified regional aid is an existing aid within the meaning of Article 1(b)(ii) of Regulation (EC) No 659/1999;

— annul Commission Decision C(2008)6017 final of 21 October 2008, State aid No 512/2007 — Germany, Abalon Hardwood Hessen GmbH, in so far as it found that the sale of public land does not amount to aid within the meaning of Article 87(1) EC;

— order the Commission to pay all the costs at first instance.

Pleas in law and main arguments

The present proceedings concern the conditions under which the Commission may reject a complaint concerning State aid brought by a direct competitor of the recipient of the aid, without opening the formal investigation procedure pursuant to Article 108(2) TFEU.

The appellant claims that, in the judgment under appeal, the General Court should have upheld the third plea in law, which complained that the investigation procedure was not opened, not only — as happened in that proceedings — in relation to the contested aid measure in the form of guarantees, but also in relation to the further contested aid measures and the sale of public land.

The appellant puts forward five grounds of appeal:

1. The General Court wrongly held in relation to the investment grant that the decision of 6 December 2007 is irrelevant for the purposes of assessing the third plea in law since the Commission could not have known about the existence of that decision despite carrying out a successful detailed examination during the administrative procedure, and in addition that decision could not have had any impact on the result of the Commission's examination.

2. The General Court made a manifest error of assessment and committed several further errors of law in so far as it held that the expert report regarding the value of the public land put at the disposal of the aid recipient affects the expert opinion that the buildings on the land have no value.

3. The General Court erred in law in so far as it held that the Commission was correct to assume that the amount of EUR 1 400 000, which was deducted from the price of the land as evaluated by the expert report, corresponded to the market price for the demolition of all the buildings situated on the land transferred to the aid recipient.

4. The General Court made several errors of law in the examination of Paragraph 4(6) of the contract for the sale of the land, which provides that the aid recipient must demolish all the buildings situated on the land and must pay back payments to the seller of the land in the event that, within 10 years of the transfer thereof, the demolition is incomplete or that the ordinary costs of demolition are below the stated amount of EUR 1 400 000.

5. The General Court wrongly ordered the appellant to pay part of the costs of the proceedings, because the action was upheld with respect to three of the five contested aid measures and, with respect to the other two contested aid measures, the appellant only brought an action against them because neither the documents produced to it during the administrative procedure nor the Commission decision contained detailed information concerning those measures.

GENERAL COURT

Judgment of the General Court of 3 June 2015 — Pensa Pharma v OHIM — Ferring and Farmaceutisk Laboratorium Ferring (PENSA PHARMA and pensa)

(Joined Cases T-544/12 and T-546/12) ([1])

(Community trade mark — Invalidity proceedings — Community word mark PENSA PHARMA and Community figurative mark pensa — Earlier national and Benelux word marks PENTASA — Express consent to the registration of the Community trade mark before submission of the application for a declaration of invalidity — Article 53(3) of Regulation (EC) No 207/2009 — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation No 207/2009 and Article 53(1)(a) of Regulation No 207/2009)

(2015/C 236/43)

Language of the case: English

Parties

Applicant: Pensa Pharma, SA (Valencia, Spain) (represented by: M. Esteve Sanz, M. González Gordon and R. Kunze, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, interveners before the General Court: Ferring BV (Hoofddorp, Netherlands); and Farmaceutisk Laboratorium Ferring A/S (Copenhagen, Denmark) (represented by: initially I. Fowler, Solicitor, A. Renck, V. von Bomhard and D. Slopek, lawyers, subsequently I. Fowler, A. Renck, V. von Bomhard and J. Fuhrmann, lawyer, and lastly I. Fowler and J. Fuhrmann)

Re:

Two actions brought against the decisions of the Fifth Board of Appeal of OHIM of 1 October 2012 (Cases R 1883/2011-5 and R 1884/2011-5), relating to invalidity proceedings between Ferring BV and Farmaceutisk Laboratorium Ferring A/S, on the one hand, and Pensa Pharma SA, on the other.

Operative part of the judgment

The Court:

1. *Dismisses the actions;*

2. *Orders Pensa Pharma, SA, to pay the costs.*

([1]) OJ C 55, 23.2.2013.

Judgment of the General Court of 4 June 2015 — Stayer Ibérica v OHIM — Korporaciya 'Masternet' (STAYER)

(Case T-254/13) ([1])

(Community trade mark — Invalidity proceedings — Community figurative mark STAYER — Earlier international word mark STAYER — Relative ground for refusal — Likelihood of confusion — Article 8 (1)(b) and Article 53(1)(a) of Regulation No 207/2009)

(2015/C 236/44)

Language of the case: English

Parties

Applicant: Stayer Ibérica, SA (Pinto, Spain) (represented by: S. Rizzo, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: ZAO Korporaciya 'Masternet' (Moscow, Russia) (represented by: N. Bürglen, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 4 March 2013 (Case R 2196/2011-2), concerning invalidity proceedings between ZAO Korporaciya 'Masternet' and Stayer Ibérica, SA.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 4 March 2013 (Case R 2196/2011-2) to the extent that it has declared the Community figurative mark STAYER invalid in respect of 'parts of cutting and polishing diamond machines; bits and cutting wheels for the following industries: marble, granite, stone, clay, slabs, tiles and brick, and, in general terms, cutting tools as parts of the equipment included in Class 7' in Class 7 and 'hand held abrasive items (wheels and grinding wheels)' in Class 8;*

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

3. *Orders OHIM, Stayer Ibérica, SA and ZAO Korporaciya 'Masternet' to bear their own costs.*

([1]) OJ C 207, 20.7.2013.

Judgment of the General Court of 4 June 2015 — Versorgungswerk der Zahnärztekammer Schleswig-Holstein v ECB

(Case T-376/13) ([1])

(Access to documents — Decision 2004/258/EC — Exchange agreement of 15 February 2012 among Greece and the ECB and the Eurosystem national central banks — Annexes A and B — Partial refusal of access — Public interest — Monetary policy of the European Union and a Member State — Financial situation of the ECB and the Eurosystem national central banks — Stability of the financial system in the European Union)

(2015/C 236/45)

Language of the case: German

Parties

Applicant: Versorgungswerk der Zahnärztekammer Schleswig-Holstein (Kiel, Germany) (represented by: O. Hoepner and D. Unrau, lawyers)

Defendant: European Central Bank (ECB) (represented by: A. Sáinz de Vicuña Barroso, S. Lambrinoc and K. Laurinavičius, acting as Agents, and H.-G. Kamann and P. Gey lawyers)

Re:

Application for annulment of the decision of the ECB of 22 May 2013, partially refusing to grant the applicant access to Annexes A and B to the 'Exchange Agreement dated 15 February 2012 among the Hellenic Republic and the European Central Bank and the Eurosystem NCBs listed herein'.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Versorgungswerk der Zahnärztekammer Schleswig-Holstein to pay the costs.*

(1) OJ C 260, 7.9.2013.

Judgment of the General Court of 3 June 2015 — Bora Creations v OHIM — Beauté prestige international (essence)

(Case T-448/13) (1)

(Community trade mark — Invalidity proceedings — Community word mark essence — Absolute grounds for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009 — No distinctive character — Article 7(1)(b) of Regulation No 207/2009)

(2015/C 236/46)

Language of the case: English

Parties

Applicant: Bora Creations, SL (Ceuta, Spain) (represented by: R. Lange, G. Hild and C. Pape, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Beauté prestige international (Paris, France) (represented by: T. de Haan and P. Péters, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 6 June 2013 (Case R 1085/2012-5), relating to invalidity proceedings between Beauté prestige international and Bora Creations, SL.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Bora Creations, SL to pay the costs.*

(1) OJ C 304, 19.10.2013.

Judgment of the General Court of 10 June 2015 — AgriCapital v OHIM — agri.capital (AGRI. CAPITAL)

(Case T-514/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark AGRI. CAPITAL — Earlier Community word marks AgriCapital and AGRICAPITAL — Relative ground for refusal — No similarity between the services — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 236/47)

Language of the case: English

Parties

Applicant: AgriCapital Corp. (New York, United States) (represented by: P. Meyer and M. Gramsch, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: agri.capital GmbH (Münster, Germany) (represented by: A. Nordemann-Schiffel, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 10 July 2013 (Case R 2236/2012-2), relating to opposition proceedings between AgriCapital Corp. and agri.capital GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

([1]) OJ C 352, 30.11.2013.

Judgment of the General Court of 3 June 2015 — Giovanni Cosmetics v OHIM — Vasconcelos & Gonçalves (GIOVANNI GALLI)

(Case T-559/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark GIOVANNI GALLI — Earlier Community word mark GIOVANNI — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Distinctive character of a first name and a surname)

(2015/C 236/48)

Language of the case: English

Parties

Applicant: Giovanni Cosmetics, Inc. (Rancho Dominguez, California, United States) (represented by: J. van den Berg and M. Meddens-Bakker, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Vasconcelos & Gonçalves, SA (Lisbon, Portugal)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 13 August 2013 (Case R 1189/2012-2) concerning opposition proceedings between Giovanni Cosmetics, Inc. and Vasconcelos & Gonçalves, SA.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Giovanni Cosmetics, Inc. to pay the costs.*

([1]) OJ C 24, 25.1.2014.

Judgment of the General Court of 3 June 2015 — Luxembourg Pamol (Cyprus) and Luxembourg Industries v Commission

(Case T-578/13) ([1])

(Action for annulment — Plant protection products — Publication of documents relating to the inclusion of an active substance — Refusal of the request for confidential treatment of certain information — Contested act not attributable to the defendant — Inadmissibility)

(2015/C 236/49)

Language of the case: English

Parties

Applicants: Luxembourg Pamol (Cyprus) Ltd (Nicosia, Cyprus); and Luxembourg Industries Ltd (Tel Aviv, Israel) (represented by: C. Mereu and K. van Maldegem, lawyers)

Defendant: European Commission (represented by: G. von Rintelen and P. Ondrůšek, acting as Agents)

Re:

Action for the annulment of the decision, notified by letter of the European Food Safety Authority (EFSA) of 8 October 2013, to publish certain parts of documents in respect of which the applicants had requested confidentiality.

Operative part of the judgment

The Court:

1. *Dismisses the action as inadmissible;*

2. *Orders Luxembourg Pamol (Cyprus) Ltd and Luxembourg Industries Ltd to pay the costs, including those relating to the interim proceedings.*

([1]) OJ C 45, 15.2.2014.

Judgment of the General Court of 3 June 2015 — Levi Strauss v OHIM — L&O Hunting Group (101)

(Case T-604/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark 101 — Earlier Community word mark 501 — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 236/50)

Language of the case: German

Parties

Applicant: Levi Strauss & Co. (New Castle, California, United States) (represented initially by: V. von Bomhard and J. Schmitt, and subsequently by: V. von Bomhard, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider and M. Fischer, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: L&O Hunting Group GmbH (Isny im Allgäu, Germany) (represented by: K. Kuck, K. Landes and G. Müllejans, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 6 September 2013 (Case R 1538/2012-2) concerning opposition proceedings between Levi Strauss & Co. and L&O Hunting Group GmbH.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 6 September 2013 (Case R 1538/2012-2) concerning opposition proceedings between Levi Strauss & Co. and L&O Hunting Group GmbH;*

2. *Orders OHIM and L&O Hunting Group GmbH to bear their own costs and to pay the costs incurred by Levi Strauss & Co.*

([1]) OJ C 24, 25.1.2014.

Judgment of the General Court of 3 June 2015 — BP v FRA

(Case T-658/13) ([1])

(Appeal — Civil service — Member of the contract staff — Staff of the European Union Agency for Fundamental Rights — Non-renewal of a fixed-term contract for an indefinite period — Right to be heard — Reassignment to another department until expiry of the contract — Assessment of the facts — Distortion of the clear sense of the evidence — Obligation to state reasons)

(2015/C 236/51)

Language of the case: English

Parties

Appellant: BP (Barcelona, Spain) (represented by: L. Levi and M. Vandenbussche, lawyers)

Other party to the proceedings: European Union Agency for Fundamental Rights (FRA) (represented by: M. Kjærum, acting as Agent, assisted by B. Wägenbaur, lawyer)

Re:

Appeal against the judgment of the European Union Civil Service Tribunal (Second Chamber) of 30 September 2013 in *BP* v *FRA* (F-38/12, ECR-SC, EU:F:2013:138), seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the European Union Civil Service Tribunal (Second Chamber) of 30 September 2013 in BP v FRA (F-38/12, ECR-SC, EU:F:2013:138) in so far as it dismissed the application brought against the decision of the European Union Agency for Fundamental Rights (FRA), contained in a letter of 27 February 2012, not to renew BP's contract of service as a member of the contract staff;*

2. *Annuls the decision of the FRA, contained in a letter of 27 February 2012, not to renew BP's contract of service as a member of the contract staff;*

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

4. *Orders BP and the FRA to bear their own costs relating to the proceedings before the Civil Service Tribunal and on appeal.*

([1]) OJ C 61, 1.3.2014.

Judgment of the General Court of 4 June 2015 — Bora Creations v OHIM (gel nails at home)

(Case T-140/14) ([1])

(Community trade mark — Application for Community word mark gel nails at home — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009)

(2015/C 236/52)

Language of the case: German

Parties

Applicant: Bora Creations, SL (Ceuta, Spain) (represented by: R. Lange, G. Hild and E. Schalast, lawyers)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 5 December 2013 (Case R 450/2013-1) concerning registration of the word sign gel nails at home as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Bora Creations, SL to pay the costs.*

([1]) OJ C 135, 5.5.2014.

Judgment of the General Court of 4 June 2015 — Deluxe Laboratories v OHIM (deluxe)

(Case T-222/14) ([1])

(Community trade mark — Application for figurative Community mark deluxe — Absolute grounds for refusal — Lack of distinctiveness — Article 7(1)(b) of Regulation (EC) No 207/2009 — Lack of descriptiveness — Article 7(1)(c) of Regulation No 207/2009 — Lack of distinctiveness acquired through use — Article 7(3) of Regulation No 207/2009 — Duty to state reasons — Article 75 of Regulation No 207/2009)

(2015/C 236/53)

Language of the case: Spanish

Parties

Applicant: Deluxe Laboratories, Inc. (Burbank, California, United States) (represented by: S. Serrat Viñas, lawyer)

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

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 22 January 2014 (Case R 1250/2013-2) concerning an application for registration of the figurative sign deluxe as a Community trade mark.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 22 January 2014 (Case R 1250/2013-2);*

2. *Orders OHIM to pay the costs.*

([1]) OJ C 175, 10.6.2014.

Judgment of the General Court of 3 June 2015 — Lithomex v OHIM — Glaubrecht Stingel (LITHOFIX)

(Case T-273/14) ([1])

(Community trade mark — Invalidity proceedings — Community word mark LITHOFIX — Earlier national and international word marks LITHOFIN — Relative ground for refusal — Likelihood of confusion — Similarity of signs — Similarity of goods — No obligation for an examination to be carried out in relation to all the goods covered by the earlier mark — Article 8(1)(b) and Article 53(1)(a) of Regulation (EC) No 207/2009)

(2015/C 236/54)

Language of the case: English

Parties

Applicant: Lithomex ApS (Langeskov, Denmark) (represented by: L. Ullmann, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: S. Bonne, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Glaubrecht Stingel GmbH & Co. KG (Wendlingen, Germany) (represented by: T. Krüger, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 17 February 2014 (Case R 2280/2012-5), relating to invalidity proceedings between Glaubrecht Stingel GmbH & Co. KG and Lithomex ApS.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Lithomex ApS to pay the costs.*

([1]) OJ C 253, 4.8.2014.

Judgment of the General Court of 9 June 2015 — Navarro v Commission

(Case T-556/14 P) ([1])

(Appeal — Civil service — Members of the contract staff — Recruitment — Call for expressions of interest — Minimum qualifications required — Refusal to offer employment — Infringement of Article 116(2) of the Rules of Procedure of the Civil Service Tribunal — Error of law — Distortion of the facts)

(2015/C 236/55)

Language of the case: French

Parties

Appellant: Victor Navarro (Sterrebeek, Belgium) (represented by: S. Rodrigues and A. Blot, lawyers)

Other party to the proceedings: European Commission (represented by: C. Berardis-Kayser and G. Berscheid, Agents)

Re:

Appeal brought against the judgment of the European Union Civil Service Tribunal (Third Chamber) of 21 May 2014 in *Navarro* v *Commission* (F-46/13, ECR-SC, EU:F:2014:104) and seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Mr Victor Navarro to pay the costs.*

([1]) OJ C 351, 6.10.2014.

Judgment of the General Court of 4 June 2015 — Yoo Holdings v OHIM — Eckes-Granini Group (YOO)

(Case T-562/14) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark YOO — Earlier national and international word marks YO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 236/56)

Language of the case: English

Parties

Applicant: Yoo Holdings Ltd (London, United Kingdom) (represented by: D. Farnsworth, Solicitor)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Eckes-Granini Group GmbH (Nieder-Olm, Germany) (represented by: W. Berlit, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 29 April 2014 (Case R 762/2013-2) concerning opposition proceedings between Eckes-Granini Group GmbH and Yoo Holdings Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Yoo Holdings Ltd to pay the costs.*

([1]) OJ C 351, 6.10.2014.

Action brought on 10 April 2015 — Mabrouk/Council

(Case T-175/15)

(2015/C 236/57)

Language of the case: English

Parties

Applicant: Mohamed Marouen Ben Ali Bel Ben Mohamed Mabrouk (Tunis, Tunisia) (represented by: J.-R. Farthouat, J.-P. Mignard and N. Boulay, lawyers, S. Crosby, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2015/157 (OJ 2015 L 26/29) amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2011 L 28/62) insofar as they apply to the applicant, these restrictive measures being the freezing of assets in the EU; and

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that by their nature, substance and duration, the proceedings against the applicant do not provide the Council with a sufficient basis for the contested act.

2. Second plea in law, alleging that the contested act is incompatible with article 47 of the EU Charter of Fundamental Right because it was adopted in breach of the principle of reasonable time within the meaning of said article 47.

3. Third plea in law, alleging that Tunisia has successfully completed the transition to democracy, as acknowledged by inter alia the Council itself, so that the contested act is devoid of purpose and hence illegal.

4. Fourth plea in law, alleging infringement of the presumption of innocence and an ongoing infringement of the principle of good administration in which context the contested act infringes this principle and is illegal.

5. Fifth plea in law, alleging a manifest error of assessment in that the contested act was adopted by reference only to the Council's foreign policy and security policy objectives to the exclusion of the criminal aspects of the matter and in particular to the facts of the case.

6. Sixth plea in law, alleging infringement of the applicant's right to property.

Action brought on 27 April 2015 — Redpur v OHIM — Redwell Manufaktur (Redpur)

(Case T-227/15)

(2015/C 236/58)

Language in which the application was lodged: German

Parties

Applicant: Redpur GmbH (Hayingen, Germany) (represented by: S. Schiller, lawyer)

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

Other party to the proceedings before the Board of Appeal: Redwell Manufaktur GmbH (Hartberg, Austria)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'Redpur' — Application No 10 934 305

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 11 February 2015 in Case R 678/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and reject the opposition;

— allow Community trade mark application No 10 934 305 to proceed to registration in its entirety or, in the alternative, remit the case to the Board of Appeal;

— order OHIM to pay the costs incurred by the applicant in the present proceedings;

— order Redwell Manufaktur GmbH to pay the costs incurred by the applicant in the proceedings before the Opposition Division and the Board of Appeal.

Plea in law

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

Action brought on 15 May 2015 — Cryo-Save v OHIM — MedSkin Solutions Dr. Suwelack (Cryo-Save)

(Case T-239/15)

(2015/C 236/59)

Language in which the application was lodged: German

Parties

Applicant: Cryo-Save AG (Freienbach, Switzerland) (represented by: C. Onken, lawyer)

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

Other party to the proceedings before the Board of Appeal: MedSkin Solutions Dr. Suwelack AG (Billerbeck, Germany)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'Cryo-Save' — Community trade mark No 4 625 216

Procedure before OHIM: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 3 March 2015 in Case R 2567/2013-4

Form of order sought

The applicant claims that the Court should:

— alter the contested decision to the effect that the decision of the Cancellation Division of 30 October 2013 is annulled and the application for revocation of Community trade mark No 4 625 216 is rejected;

in the alternative: annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

— Infringement of Article 56(2) of Regulation No 207/2009 in conjunction with Rule 37(b)(iv) of Regulation No 2868/95;

— Infringement of Article 51(1)(a) of Regulation No 207/2009.

Action brought on 18 May 2015 — Grupo Bimbo v OHIM (Shape of bars with four circles)

(Case T-240/15)

(2015/C 236/60)

Language of the case: Spanish

Parties

Applicant: Grupo Bimbo, SAB de CV (Mexico City, Mexico) (represented by: N. Fernández Fernández-Pacheco, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Three-dimensional Community trade mark (Shape of bars with four circles) — Application for registration No 12 551 867

Contested decision: Decision of the First Board of Appeal of OHIM of 2 March 2015 in Case R 1602/2014-1

Forms of order sought

The applicant claims that the Court should:

— annul the contested decision because it is unlawful and infringes the legal provisions in force concerning the Community trade mark; deliver a judgment in accordance with the claims set out in the application on the basis of the sufficient intrinsic distinctiveness of the three-dimensional mark applied for; order the registration of the application for a three-dimensional Community trade mark No 12 551 867, for goods in classes 5, 29 and 30 of the International Classification in its entirety;

— order the party opposing that claim to pay the costs or expenses of the proceedings and to reimburse the appeal fees paid to OHIM and the corresponding expenses.

Plea in law

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

Action brought on 18 May 2015 — ACDA and Others v Commission

(Case T-242/15)

(2015/C 236/61)

Language of the case: French

Parties

Applicants: Automobile Club des Avocats — ACDA (Paris, France); Organisation des Transporteurs Routiers Européens — OTRE (Bordeaux, France); Fédération française des motards en colère — FFMC (Paris); Fédération française de motocyclisme (Paris); and Union nationale des automobile clubs (Paris) (represented by: M. Lesage, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare their action admissible;

— annul Commission Notice SA.38271 of 28 October 2014 on State Aid SA.2014/N 38271, linked to the Plan for Investment in Motorways in France, published on 20 February 2015 in the Official Journal of the European Union (OJEU).

Pleas in law and main arguments

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

1. First plea in law, alleging that the French motorway investment plan ('MIP') would have the effect of granting a benefit specifically to concession-holding companies operating motorways, with the assistance of public funds.

2. Second plea in law, alleging that the MIP would affect competition.

3. Third plea in law, alleging overcompensation for the expenditure incurred by concession-holding companies operating motorways, which is inconsistent with the task of general economic interest with which they are entrusted.

4. Fourth plea in law, alleging a barrier to trade between the Member States.

5. Fifth plea in law, alleging that the amendments made to the MIP without a new notification having been made to the Commission since Notice SA.38271 are unlawful.

Action brought on 15 May 2015 — Ivanyushchenko/Council

(Case T-246/15)

(2015/C 236/62)

Language of the case: English

Parties

Applicant: Yuriy Volodymyrovych Ivanyushchenko (Yenakievo, Ukraine) (represented by: B. Kennelly and J. Pobjoy, Barristers, and R. Gherson, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

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

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

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

Pleas in law and main arguments

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

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

2. Second plea in law, alleging that the Council has made manifest errors of assessment in considering that the criterion for listing the applicant in Article 1(1) of Council Decision 2014/119/CFSP of 5 March 2014 (as amended) and Article 3(1) of Council Regulation (EU) No 208/2014 of 5 March 2014 (as amended) was satisfied. The applicant is not subject to criminal proceedings 'for the misappropriation of public funds or assets'.

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

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

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

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

Action brought on 26 May 2015 — Close and Cegelec v Parliament

(Case T-259/15)

(2015/C 236/63)

Language of the case: French

Parties

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

Defendant: European Parliament

Form of order sought

— Annul the decision taken on an unknown date by the European Parliament to award the public works contract concerning the 'extension and upgrading project for the Konrad Adenauer Building in Luxembourg' Lot 73 (energy centre), reference INLO-D-UPIL-T-14-A04, to the Association Momentanée ENERGIE-KAD (composed of the companies Mersch et Schmitz Production Sàrl and Energolux S.A.) and, accordingly, not to award the contract to the applicants.

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 an infringement of the duty to state reasons and of the principle of transparency, in so far as a reading of the grounds for the rejection of the applicants' bid and the extracts from the decision awarding the contract to the Association Momentanée ENERGIE-KAD does not enable it to be ascertained whether those tenderers satisfied the requirements of qualitative selection laid down in the contract documents.

2. Second plea in law, alleging a manifest error of assessment and infringement of the principles of equal treatment and non-discrimination.

The applicants submit that the European Parliament committed a manifest error of assessment in awarding the contract in question to the Association Momentanée ENERGIE-KAD and that the selection criteria were not applied in accordance with the tender specifications and in compliance with the principles of transparency, proportionality, equal treatment and non-discrimination required under Article 102 of Regulation (EU, Euratom) No 966/2012 ([1]).

([1]) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).

Action brought on 26 May 2015 — Edison v OHIM — Eolus Vind (e)

(Case T-276/15)

(2015/C 236/64)

Language in which the application was lodged: English

Parties

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

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

Other party to the proceedings before the Board of Appeal: Eolus Vind AB (publ) (Hässleholm, Sweden)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Figurative mark containing the letter 'e' — Application for registration No 10 420 941

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 24 February 2015 in Case R 2358/2013-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 5 June 2015 — Banimmo v Commission

(Case T-293/15)

(2015/C 236/65)

Language of the case: French

Parties

Applicant: Banimmo SA (Brussels, Belgium) (represented by: V. Ost and M. Vanderstraeten, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the obligation to state reasons and the rights of the applicant to sound administration and effective legal protection, in so far as, despite repeated requests from the applicant, the Commission has not provided it with the reasons for refusing its offer.

2. Second plea in law, alleging a modification during the procedure of some essential factors of the property prospecting notice concerned, in infringement of the principles of transparency and equal treatment of tenderers.

3. Third plea in law, alleging infringement of the principle of transparency, since the Commission led negotiations with the various tenderers in an unforeseen manner with a lack of transparency, by, in particular, not formally announcing the stages of the procedure and the periods to submit tenders.

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