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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court (Sixth Chamber) of 11 June 2015 (request for a preliminary ruling from the Juzgado de Primera Instancia — Spain) — Banco Bilbao Vizcaya Argentaria, SA v Fernando Quintano Ujeta, María Isabel Sánchez García

(Case C-602/13) ([1])

(Reference for a preliminary ruling — Directive 93/13/EEC — Contractual relationship between a seller or a supplier and a consumer — Mortgage contract — Default interest clause — Early repayment clause — Mortgage enforcement proceedings — Moderation of the amount of interest — Powers of the national court)

(2015/C 320/02)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia

Parties to the main proceedings

Applicant: Banco Bilbao Vizcaya Argentaria, SA

Defendant: Fernando Quintano Ujeta, María Isabel Sánchez García

Operative part of the order

1) *Articles 6(1) and 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as meaning that they do not preclude national provisions for moderating default interest under a mortgage contract, provided that those national provisions:*

— *do not prejudice to the assessment by the national court hearing mortgage enforcement proceedings relating to that contract on the 'unfairness' of the default interest clause, and*

— *do not prevent that court setting aside that clause should it conclude that the latter clause is 'unfair' within the meaning of Article 3(1) of Directive 93/13.*

2) *Directive 93/13 must be interpreted as meaning that, where the national court has established the 'unfairness' within the meaning of Article 3(1) of Directive 93/13 of a clause in a contract between a consumer and a seller or a supplier, the fact that that clause has not been executed cannot, in itself, prevent the national court drawing the appropriate conclusions from the 'unfair' nature of that clause.*

(1) OJ C 31, 1.2.2014.

Order of the Court (Fourth Chamber) of 29 April 2015 — Sven A. von Storch v European Central Bank (ECB)

(Case C-64/14 P) (1)

(Appeal — Action for annulment — Admissibility — Person directly concerned — Decisions adopted by the European Central Bank — Guideline 2012/641/EU of the European Central Bank — Article 181 of the Rules of Procedure of the Court)

(2015/C 320/03)

Language of the case: German

Parties

Appellant: Sven A. von Storch (represented by: M. Kerber, Rechtsanwalt)

Other party to the proceedings: European Central Bank (ECB) (represented by: C. Kroppenstedt and G. Gruber, acting as Agents, and by H.-G. Kamann, Rechtsanwalt)

Operative part of the order

1. *The appeal is dismissed.*

2. *Mr Sven A. von Storch and the 5 216 other appellants, whose names are listed in the annex to this order, shall pay the costs.*

(1) OJ C 151, 19.5.2014.

Order of the Court of Justice (Sixth Chamber) of 15 July 2015 (request for a preliminary ruling from the Corte suprema di cassazione — Italy) — Agenzia delle Entrate v Nuova Invincibile

(Case C-82/14) (1)

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Sixth Directive 77/388/EEC)

(2015/C 320/04)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Applicant: Agenzia delle Entrate

Defendant: Nuova Invincibile

Operative part of the order

Articles 2 and 22 of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, must be interpreted as precluding a national provision such as that of Article 9(17) of the Law No 289 of 27 December 2002 on provisions for the preparation of the annual and multiannual State budget (2003 Finance Law), which, having regard to an earthquake that struck the provinces of Catania, Ragusa and Syracuse, provides for a reduction, for the benefit of those persons affected, of 90 % of the value added tax which would otherwise be payable for the years of 1990 to 1992, inter alia by conferring an entitlement to reimbursement, in that proportion, of the sums already paid in respect of value added tax, in so far as that provision does not comply with the requirements of the principle of fiscal neutrality, and does not allow for the collection in full of value added tax payable in the territory of Italy.

([1]) OJ C 142, 12.5.2014.

Order of the Court (Tenth Chamber) of 14 July 2015 — Forgital Italy SpA v Council of the European Union, European Commission

(Case C-84/14 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court of Justice — Action for annulment — Fourth subparagraph of Article 263 TFEU — Right to bring proceedings — Locus standi — Natural or legal persons — Regulatory act entailing implementing measures — Customs rules amending the conditions of tariff suspension — Possible to bring proceedings before the national courts)

(2015/C 320/05)

Language of the case: Italian

Parties

Appellant: Forgital Italy SpA (represented by: V. Turinetti di Priero and R. Mastroianni, avvocati)

Other parties to the proceedings: Council of the European Union (represented by: F. Florindo Gijón and K. Pellinghelli, acting as Agents), European Commission (represented by: A. Caeiros and D. Recchia, acting as Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *Forgital Italy SpA shall pay the costs.*

([1]) OJ C 129, 28.4.2014.

Order of the Court (Sixth Chamber) of 8 July 2015 (request for a preliminary ruling from the Juzgado de Primera Instancia e Instrucción No 1 de Miranda de Ebro — Spain) — Banco Grupo Cajatres SA v María Mercedes Manjón Pinilla, Comunidad Hereditaria formada al fallecimiento de D. M. A. Viana Gordejuela

(Case C-90/14) ([1])

(Reference for a preliminary ruling — Directive 93/13/EEC — Contract entered into between a seller or a supplier and a consumer — Mortgage contract — Default interest clause — Early repayment clause — Mortgage enforcement proceedings — Moderation of the amount of interest — Powers of the national court)

(2015/C 320/06)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia e Instrucción No 1 de Miranda de Ebro

Parties to the main proceedings

Applicant: Banco Grupo Cajatres SA

Defendants: María Mercedes Manjón Pinilla, Comunidad Hereditaria formada al fallecimiento de D. M. A. Viana Gordejuela

Operative part of the order

1) *Articles 3(1), 4(1), 6(1) and 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as meaning that the assessment by the national court of the unfairness of contractual clauses coming under that Directive requires it to take into account the nature of the goods and services which form the subject of the contract concerned by referring, in relation to the date of the conclusion of the contract, to all the circumstances surrounding it.*

2) *Articles 6(1) and 7(1) of Directive 93/13 must be interpreted as meaning that they do not preclude national provisions for moderating default interest under a mortgage contract, provided that those national provisions:*

— *do not prejudice to the assessment by the national court hearing mortgage enforcement proceedings relating to that contract on the 'unfairness' of the default interest clause, and*

— *do not prevent that court setting aside that clause should it conclude that the latter clause is 'unfair' within the meaning of Article 3(1) of Directive 93/13.*

([1]) OJ C 151, 19.5.2014.

Order of the Court (Tenth Chamber) of 15 July 2015 (request for a preliminary ruling from the Administrativen sad — Varna — Bulgaria) — 'Itales' OOD v Direktor na Direktsia 'Obzhalvane i danacho-osiguritelna praktika' Varna pri Tsentralno Upravlenie na Natsionalnata Agentsia za Prihodite

(Case C-123/14) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court — Taxation — VAT — Directive 2006/112/EC — Principle of tax neutrality — Deduction of input VAT — Meaning of 'supply of goods' — Conditions for establishing a supply of goods — No proof that the direct supplier was actually in possession of the goods)

(2015/C 320/07)

Language of the case: Bulgarian

Referring court

Administrativen sad — Varna

Parties to the main proceedings

Applicant: 'Itales' OOD

Defendant: Direktor na Direktsia 'Obzhalvane i danacho-osiguritelna praktika' Varna pri Tsentralno Upravlenie na Natsionalnata Agentsia za Prihodite

Operative part of the order

The provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, concerning the right to deduct value added tax, must be interpreted as precluding a tax authority of a Member State from considering that a supply of goods has not taken place, with the consequence that the purchaser is prevented from deducting the value added tax incurred at the time of the purchase, on the ground that the purchaser has not proved either the origin of the goods concerned or that his supplier was in possession of those goods, where that authority has not established that the purchaser was involved in value added tax evasion and knew or ought to have known that the transaction at issue was connected with such evasion.

([1]) OJ C 151, 19.5.2014.

Order of the Court (Ninth Chamber) of 3 June 2015 — The Sunrider Corporation v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Nannerl GmbH & Co. KG

(Case C-142/14 P) ([1])

(Appeal — Community trade mark — Opposition proceedings — Application for registration of word mark SUN FRESH — Opposition by the proprietor of the earlier Community word mark SUNNY FRESH — Likelihood of confusion — Similarity of the goods covered by the marks at issue — Right to be heard — Regulation (EC) No 207/2009 — Articles 8(1)(b), 75 and 76)

(2015/C 320/08)

Language of the case: English

Parties

Appellant: The Sunrider Corporation (represented by: N. Dontas and E. Markakis, dikigoroi)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Bullock, acting as Agent), Nannerl GmbH & Co. KG (represented by: A. Thünken, Rechtsanwalt)

Operative part of the order

1. *The appeal is dismissed.*

2. *The Sunrider Corporation shall pay the costs.*

(1) OJ C 212, 7.7.2014.

Order of the Court (Tenth Chamber) of 15 July 2015 (request for a preliminary ruling from the Administrativen sad — Varna (Bulgaria)) — 'Koela-N' EOOD v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

(Case C-159/14) (1)

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Taxation — VAT — Directive 2006/112/EC — Principle of fiscal neutrality — Deduction of input VAT — 'Supply of goods' — Condition for the existence of a supply of goods — Direct transfer of goods from a supplier to a third party by a carrier — No evidence of actual possession of the goods by the direct supplier — Lack of cooperation between the suppliers and the tax authorities — No transhipment of goods — Evidence justifying suspicions of tax fraud)

(2015/C 320/09)

Language of the case: Bulgarian

Referring court

Administrativen sad — Varna

Parties to the main proceedings

Applicant: 'Koela-N' EOOD

Defendant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

Operative part of the order

1. *Article 14(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding the tax authorities of a Member State from finding that a supply of goods has not taken place, with the result that the value added tax paid at the time of acquiring those goods cannot be deducted by the buyer, on the ground that that person has not received the goods which it has purchased but has sent them directly to a third party to whom it has resold them, or on the ground that the buyer's direct supplier has not received the goods which it has purchased but has sent them directly to that buyer.*

2. *Neither the fact that a taxable person's upstream suppliers in the supply chain have not cooperated with the tax authorities nor the fact that there has been no transhipment of the goods concerned constitutes, in itself, sufficient objective evidence for concluding that that taxable person knew, or ought to have known, that the transaction relied on as its basis for the right to deduct value added tax was connected with tax fraud. Nevertheless, those two facts constitute objective evidence which may be taken into account, in the context of an overall assessment of all the facts and circumstances of the case, in order to determine whether the taxable person knew, or ought to have known, that the transaction relied on as its basis for the right to deduct was connected with tax fraud.*

([1]) OJ C 175, 10.6.2014.

Order of the Court (Seventh Chamber) of 11 June 2015 — Faci SpA v European Commission

(Case C-291/14 P) ([1])

(Appeals — Rules of Procedure of the Court of Justice — Article 181 — Competition — Agreements, decisions and concerted practices — European tin stabilisers and epoxidised soya bean oil and esters markets — Fines — Gravity of the infringement — Principle of effective judicial protection — Appeal manifestly inadmissible or manifestly unfounded)

(2015/C 320/10)

Language of the case: English

Parties

Appellant: Faci SpA (represented by: S. Piccardo, avvocato, and S. Crosby, Solicitor)

Other party to the proceedings: European Commission (represented by: F. Castilla Contreras, J. Norris-Usher and F. Ronkes Agerbeek, acting as Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *Faci SpA shall pay the costs.*

([1]) OJ C 303, 8.9.2014.

Order of the Court (Tenth Chamber) of 21 May 2015 (request for a preliminary ruling from the Nejvyšší správní soud — Czech Republic) — Slovenská autobusová doprava Trnava a.s. v Krajský úřad Olomouckého kraje

(Case C-318/14) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Articles 49 TFEU and 52 TFEU — Freedom of establishment — Regulation (EC) No 1370/2007 — Public transport by rail and by road — Bus transport on urban public transport lines — Carrier established in another Member State and operating through a branch — Requirement to obtain special authorisation — Discretionary power of the competent authority — Public service contract)

(2015/C 320/11)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: Slovenská autobusová doprava Trnava a.s.

Defendant: Krajský úřad Olomouckého kraje

Operative part of the order

Article 49 TFEU must be interpreted as precluding legislation of a Member State requiring only foreign carriers which have a branch office in that Member State to obtain special authorisation issued on a discretionary basis by the competent authorities in order to operate an urban public transport service by road in the territory of that Member State alone.

(1) OJ C 351, 6.10.2014.

Order of the Court (Third Chamber) of 7 May 2015 — Adler Modemärkte AG v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Blufin SpA

(Case C-343/14 P) (1)

(Appeal — Article 181 of the Rules of Procedure of the Court of Justice — Community trade mark — Regulation (EC) No 40/94 — Article 8(1)(b) — Application for registration of the Community word mark MARINE BLEU — Opposition by the proprietor of the word mark BLUMARINE — Relative grounds for refusal — Likelihood of confusion — Conceptual comparison)

(2015/C 320/12)

Language of the case: German

Parties

Appellant: Adler Modemärkte AG (represented by: J.-C. Plate, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Walicka, Agent), Blufin (represented by: F. Caricato and F. Cicogna, avvocati)

Operative part of the order

1. *The appeal is dismissed.*

2. *Adler Modemärkte AG shall pay the costs.*

(1) OJ C 351, 6.10.2014.

Order of the Court (Sixth Chamber) of 16 July 2015 — Basic AG Lebensmittelhandel v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Repsol YPF, SA

(Case C-400/14 P) ([1])

(Appeals — Article 181 of the Rules of Procedure of the Court — Application for registration of a Community figurative mark — Word element 'basic' — Earlier Community figurative mark — Word element 'BASIC' — Opposition by the proprietor of that mark — Partial refusal of registration — Concepts of 'distribution services' and of 'retail and wholesale services' — Scope)

(2015/C 320/13)

Language of the case: English

Parties

Appellant: Basic AG Lebensmittelhandel (represented by: D. Altenburg and T. Haug, Rechtsanwälte)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent), Repsol YPF, SA (represented by: J.-B. Devaureix, abogado)

Operative part of the order

The Court:

1. *Dismisses the appeal.*

2. *Orders Basic AG Lebensmittelhandel to pay the costs.*

([1]) OJ C 431, 1.12.2014.

Order of the Court (Seventh Chamber) of 11 June 2015 (request for a preliminary ruling from the Nejvyšší správní soud — Czech Republic) — PST CLC a.s. v Generální ředitelství cel

(Case C-405/14) ([1])

(Reference for a preliminary ruling — Tariff classification — Validity of point 2 of the table in the annex to Regulation (EC) No 384/2004 in respect of the period from 22 March 2004 to 22 December 2009 — Applicability of that provision to customs declarations made in 2008 — Classification of products intended for use in computers, consisting of a heat sink and a fan)

(2015/C 320/14)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: PST CLC a.s.

Defendant: Generální ředitelství cel

Operative part of the order

1. *Point 2 of the table in the annex to Commission Regulation (EC) No 384/2004 of 1 March 2004 concerning the classification of certain goods in the Combined Nomenclature was invalid during the time in which it was in force, namely from 22 March 2004 to 22 December 2009.*

2. *In so far the products at issue in the main proceedings consist of a heat sink and a fan and are intended exclusively for use in computers, which is a matter to be ascertained by the national court, they must be classified for tariff purposes on the basis of the general rules for the interpretation of the Combined Nomenclature provided for in 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 1214/2007 of 20 September 2007.*

(1) OJ C 431, 1.12.2014.

Order of the Court (Ninth Chamber) of 7 May 2015 (request for a preliminary ruling from the Tribunalul Sibiu — Romania) — Statul român v Tamara Văraru, Consiliul Național pentru Combaterea Discriminării

(Case C-496/14) (1)

(Reference for a preliminary ruling — Charter of Fundamental Rights of the European Union — Principles of equal treatment and of non-discrimination in the field of social security — Calculation of the amount of dependent child allowance — No implementation of EU law — Manifest lack of jurisdiction of the Court)

(2015/C 320/15)

Language of the case: Romanian

Referring court

Tribunalul Sibiu

Parties to the main proceedings

Applicant: Statul român

Defendants: Tamara Văraru, Consiliul Național pentru Combaterea Discriminării

Operative part of the order

The Court of Justice of the European Union manifestly lacks jurisdiction to answer the question asked by the Tribunalul Sibiu (Romania) by decision of 9 October 2014.

(1) OJ C 46, 9.2.2015.

Order of the Court (Tenth Chamber) of 16 July 2015 (request for a preliminary ruling from the Supremo Tribunal de Justiça — Portugal) — P v M

(Case C-507/14) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court — Absence of reasonable doubt — Jurisdiction in civil matters — Regulation (EC) No 2201/2003 — Article 16(1)(a) — Determination of the time at which a court is seised — Request to stay the proceedings — No effect)

(2015/C 320/16)

Language of the case: Portuguese

Referring court

Supremo Tribunal de Justiça

Parties to the main proceedings

Applicant: P

Defendant: M

Operative part of the order

Article 16(1)(a) of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 must be interpreted as meaning that a court is deemed to be seised at the time when the document instituting the proceedings or an equivalent document is lodged with that court, even where the proceedings have in the meantime been stayed at the initiative of the applicant who brought them, without those proceedings having been notified to the defendant or that defendant having had knowledge of them or having intervened in them in any way, provided that the applicant has not subsequently failed to take the steps he was required to take to have service effected on the respondent.

([1]) OJ C 65, 23.2.2015.

Order of the Court (First Chamber) of 16 July 2015 (request for a preliminary ruling from the Audiencia Provincial de Castellón — Spain) — Juan Carlos Sánchez Morcillo, María del Carmen Abril García v Banco Bilbao Vizcaya Argentaria SA

(Case C-539/14) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Directive 93/13/EEC — Article 7 — Charter of Fundamental Rights of the European Union — Articles 7 and 47 — Consumer contracts — Mortgage loan contract — Unfair terms — Mortgage enforcement proceedings — Right of appeal)

(2015/C 320/17)

Language of the case: Spanish

Referring court

Audiencia Provincial de Castellón

Parties to the main proceedings

Applicants: Juan Carlos Sánchez Morcillo, María del Carmen Abril García

Defendant: Banco Bilbao Vizcaya Argentaria SA

Operative part of the order

Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, read in conjunction with Articles 47, 34(3) and 7 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding a national provision of the kind at issue in the main proceedings, by which the consumer, as a mortgage debtor against whom enforcement proceedings are brought, may bring an appeal against the decision rejecting his objection to the enforcement only when the court of first instance has not upheld an objection based on the unfairness of the contractual term upon which the enforcement is based even though the sellers or suppliers may, by contrast, appeal against any decision terminating proceedings regardless of the ground of objection on which that decision is based.

([1]) OJ C 26, 26.1.2015.

Order of the Court (Ninth Chamber) of 4 June 2015 — Mirelta Ingatlanhasznosító kft v European Commission, European Ombudsman

(Case C-576/14 P) ([1])

(Appeal — Action for annulment — Refusal by the Commission to bring proceedings for failure to fulfil obligations — Inadmissibility and lack of jurisdiction of the General Court — Appeal in part manifestly unfounded and in part manifestly inadmissible)

(2015/C 320/18)

Language of the case: Hungarian

Parties

Appellant: Mirelta Ingatlanhasznosító kft (represented by: K. Pap, ügyvéd)

Other parties to the proceedings: European Commission, European Ombudsman

Operative part of the order

1. *The appeal is dismissed.*

2. *Mirelta Ingatlanhasznosító kft shall bear its own costs.*

([1]) OJ C 73, 2.3.2015.

Order of the Court (Ninth Chamber) of 7 May 2015 (request for a preliminary ruling from the Tribunalul Sibiu — Romania) — Elena Delia Pondiche v Statul român, Consiliul Național pentru Combaterea Discriminării

(Case C-608/14) ([1])

(Reference for a preliminary ruling — Charter of Fundamental Rights of the European Union — Grant of dependent child allowances — Determining the applicable law according to the date of birth of the child and not according to the date of conception — No implementation of EU law — Clear lack of jurisdiction of the Court)

(2015/C 320/19)

Language of the case: Romanian

Referring court

Tribunalul Sibiu

Parties to the main proceedings

Applicant: Elena Delia Pondiche

Defendant: Statul român, Consiliul Național pentru Combaterea Discriminării

Operative part of the order

The Court of Justice of the European Union clearly has no jurisdiction to answer the questions referred by the Tribunalul Sibiu (Romania), by decision of 20 November 2014.

([1]) OJ C 89, 16.3.2015.

Order of the Court (Third Chamber) of 14 July 2015 (request for a preliminary ruling from the Tribunal da Relação de Coimbra — Portugal) — Sociedade Portuguesa de Autores CRL v Ministério Público, Carlos Manuel Prata Pereira Sá Meneses, Sandra Carla Ferreira Cardoso, Douros Bar Lda

(Case C-151/15) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Copyright and related rights in the information society — Directive 2001/29/EC — Article 3(1) — Concept of 'communication to the public' — Broadcasting of works in a café-restaurant by means of a radio apparatus connected to loudspeakers)

(2015/C 320/20)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Coimbra

Parties to the main proceedings

Applicant: Sociedade Portuguesa de Autores CRL

Defendants: Ministério Público, Carlos Manuel Prata Pereira Sá Meneses, Sandra Carla Ferreira Cardoso, Douros Bar Lda

Operative part of the order

The concept of 'communication to the public' within the meaning of Article 3(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 covers the transmission, by operators of a café-restaurant, of musico-literary works broadcast by a radio broadcasting station, by means of a radio apparatus connected to loudspeakers and/or amplifiers, to the customers present in that establishment.

([1]) OJ C 205, 22.6.2015.

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy) lodged on 29 June 2015 — Google Ireland Limited, Google Italy Srl v Autorità per le Garanzie nelle Comunicazioni

(Case C-322/15)

(2015/C 320/21)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicants: Google Ireland Limited, Google Italy Srl

Defendant: Autorità per le Garanzie nelle Comunicazioni

Question referred

Does Article 56 TFEU preclude application of contested Resolution No 397/13/CONS of the Autorità di garanzia delle Telecomunicazioni, and of the related provisions of national law, as interpreted along the lines proposed by that authority, which require the submission of complex 'economic system information' (which must be drawn up in accordance with Italian accounting standards) on the economic activities carried out in relation to Italian consumers, motivated by objectives of protecting competition but necessarily connected to the various and more limited institutional functions of that authority of safeguarding pluralism within the sector concerned, to operators which none the less do not come within the scope of the national legislation governing that sector (the Testo Unico dei Servizi di Media Audiovisivi e Radiofonici), and in particular, in the case under review here, to a national operator carrying out only services for its fellow subsidiary governed by Irish law and also, as regards the latter, to an operator not having its headquarters and not carrying on any business using employees within national territory; alternatively, does this constitute a measure restricting freedom to provide services within the European Union in breach of Article 56 TFEU?

Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 3 July 2015 — ENEA S. A. w Poznaniu v Prezes Urzędu Regulacji Energetyki

(Case C-329/15)

(2015/C 320/22)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Applicant: ENEA S.A. w Poznaniu

Defendant: Prezes Urzędu Regulacji Energetyki

Questions referred

1. Must Article 107 of the Treaty on the Functioning of the European Union be interpreted as meaning that the obligation to purchase electrical energy produced in combination with the production of heat, as laid down in Article 9a(8) of the Law of 10 April 1997 on energy law, in the version in force in 2006, adopted on the basis of Article 1, point 13, of the Law of 4 March 2005 amending the Law on energy law and the Law on environmental protection law (Dz.U. 2005, No 62, item 552), constitutes State aid?

2. In the event of an affirmative answer to Question 1, must Article 107 of the Treaty on the Functioning of the European Union be interpreted as meaning that an energy undertaking treated as an emanation of a Member State which was obliged to fulfil the obligation classified as State aid may rely on infringement of that provision in proceedings before a national court?

3. In the event of an affirmative answer to Questions 1 and 2, must Article 107 of the Treaty on the Functioning of the European Union in conjunction with Article 4(3) of the Treaty on European Union be interpreted as meaning that the conflict of the obligation arising from national law with Article 107 TFEU rules out the possibility of imposing a financial penalty on an undertaking which has failed to fulfil that obligation?

Request for a preliminary ruling from the Tribunale di Treviso (Italy) lodged on 6 July 2015 — Criminal proceedings against Giuseppe Astone

(Case C-332/15)

(2015/C 320/23)

Language of the case: Italian

Referring court

Tribunale di Treviso

Defendant

Giuseppe Astone

Questions referred

(1) Do the provisions of Directive 2006/2012/EC of 28 November 2006 ([1]), as interpreted by the Community case-law recalled in the grounds of this order, preclude Member State rules — such as those set out above and in force in Italy (Article 19 of Presidential Decree 633/1972) — which exclude the possibility, including for the purposes of criminal law, of exercising the right to deduct where there has been a failure to file VAT returns, in particular, the return for the second year after the year in which the right to deduct arose?

(2) Do the provisions of Directive 2006/2012/EC of 28 November 2006, as interpreted by the Community case-law recalled in the grounds of this order, preclude Member State rules — such as those set out above in force in Italy (Articles 25 and 39 of Presidential Decree 633/1972) — which exclude the possibility, including for the purposes of criminal law, of taking account, for the purposes of the deduction of VAT, of purchase invoices which the taxable person has completely failed to register?

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

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 13 July 2015 — Bietergemeinschaft: Technische Gebäudebetreuung GesmbH and Caverion Österreich GmbH

(Case C-355/15)

(2015/C 320/24)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellants: Bietergemeinschaft: Technische Gebäudebetreuung GesmbH and Caverion Österreich GmbH

Other parties: Universität für Bodenkultur Wien, VAMED Management und Service GmbH & Co KG in Vienna

Questions referred

1. In the light of the principles established in the judgment of the Court of Justice of 4 July 2013 in Case C-100/12 (1) *Fastweb SpA*, is Article 1(3) of Directive 89/665/EEC on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (2), in the version amended by Directive 2007/66/EC amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (3) ('Directive 89/665'), to be interpreted as meaning that a tenderer whose bid was definitively excluded by the contracting authority and who is therefore not a tenderer concerned within the meaning of Article 2a of Directive 89/665 may be refused access to a review of the award decision (decision on the conclusion of a framework agreement) and of the conclusion of the contract (including the award of damages required under Article 2(7) of the Directive), even where only two tenderers submitted bids and the bid submitted by the successful tenderer, to whom the contract was awarded, should, in the submission of the tenderer not concerned, also have been excluded?

If the answer to Question 1 is in the negative:

2. In the light of the principles established in the judgment of the Court of Justice of 4 July 2013 in Case C-100/12 *Fastweb SpA*, is Article 1(3) of Directive 89/665 to be interpreted as meaning that the tenderer not concerned (within the meaning of Article 2a of the Directive) must be granted access to a review only:

   (a) where it is apparent from the documents forming part of the review procedure that the successful tenderer's bid is not valid; or

   (b) where the successful tenderer's bid is not valid on identical grounds?

(1) ECLI:EU:C:2013:448.
(2) OJ 1989 L 395, p. 33.
(3) OJ 2007 L 335, p. 31.

Request for a preliminary ruling from the Landgericht Itzehoe (Germany) lodged on 23 July 2015 — Raiffeisen Privatbank Liechtenstein AG v Gerhild Lukath

(Case C-397/15)

(2015/C 320/25)

Language of the case: German

Referring court

Landgericht Itzehoe

Parties to the main proceedings

Applicant: Raiffeisen Privatbank Liechtenstein AG

Defendant: Gerhild Lukath

Other parties to the proceedings: Rüdiger Boy, Boy Finanzberatung GmbH, Christian Maibaum, Vienna-Life Lebensversicherungs AG, Frank Weber

Questions referred

1. Is the agreement between a bank and a consumer for the granting of credit, which is linked to an agreement to take out life assurance and an agreement for advising on and brokering a capital investment, which in turn serves as security for the credit amount, to be regarded as a contract for the supply of services within the meaning of Article 5(2) of the Rome Convention of 19 June 1980 on the law applicable to contractual obligations (1)?

2. Is Article 5(2) of the Rome Convention also applicable to cases in which advertising comes and/or contact is made from a county in which the consumer has his main place of residence, although he signs the agreements at his secondary place of residence, if the other party to the agreements or his agent received the consumer's order in the State of the main place of residence?

(1) OJ 1980 L 266, p. 1.

Request for a preliminary ruling from the Hanseatisches Oberlandesgericht in Bremen (Germany) lodged on 24 July 2015 — Criminal proceedings against Pál Aranyosi

(Case C-404/15)

(2015/C 320/26)

Language of the case: German

Referring court

Hanseatisches Oberlandesgericht in Bremen

Party/parties to the main proceedings

Pál Aranyosi

Other party: Generalstaatsanwaltschaft Bremen

Questions referred

1. Is Article 1(3) of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) ([1]) to be interpreted as meaning that extradition for the purposes of prosecution is impermissible where there are strong indications that detention conditions in the issuing Member State infringe the fundamental rights of the person concerned and the fundamental legal principles as enshrined in Article 6 of the Treaty on European Union, or is it to be interpreted as meaning that, in such circumstances, the executing Member State can or must make the decision on the permissibility of extradition conditional upon an assurance that detention conditions are compliant? To that end, can or must the executing Member State lay down specific minimum requirements applicable to the detention conditions in respect of which an assurance is sought?

2. Are Articles 5 and 6(1) of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) to be interpreted as meaning that the issuing judicial authority is also entitled to give assurances that detention conditions are compliant, or do assurances in this regard remain subject to the domestic rules of competence in the issuing Member State?

([1]) OJ 2002 L 190, p. 1.

Appeal brought on 27 July 2015 by Timab Industries and Cie financière et de participations Roullier (CFPR) against the judgment of the General Court (Eighth Chamber, Extended Composition) delivered on 20 May 2015 in Case T-456/10 Timab Industries and CFPR v Commission

(Case C-411/15 P)

(2015/C 320/27)

Language of the case: French

Parties

Appellants: Timab Industries and Cie financière et de participations Roullier (CFPR) (represented by: N. Lenoir, avocate)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment delivered by the General Court on 20 May 2015 in Case T-456/10;

— refer the case back to the General Court for the purpose of reducing the amount of the fine as appropriate;

— as an incidental point, find that, by virtue of the unreasonable length of the judicial proceedings, the General Court infringed the right to a fair trial;

— order the Commission to pay the costs in their entirety.

Grounds of appeal and main arguments

In support of their appeal, the appellants rely on five grounds of appeal.

In the first place, the General Court disregarded the rules relating to the burden of proof and infringed the rights of the defence by holding that it was for the appellants to prove, during the settlement procedure, that they had not participated in the cartel prior to 1993.

In the second place, the appellants accuse the General Court of having infringed the right not to self-incriminate and the rights of the defence. By not verifying whether the Commission was obliged to provide evidence to support its classifying the appellants' statements as 'admissions', which had a significant effect on the decision regarding the amount of the fine, the General Court misconstrued its unlimited jurisdiction.

In the third place, the General Court misconstrued the scope of its unlimited jurisdiction by regarding as 'new information' the acknowledgement by the Commission, following the appellants' withdrawal from the settlement procedure, that the appellants had not participated in the cartel between 1978 and 1992 in order to justify ordering the payment of a significantly larger fine for an infringement which had taken place over a considerably shorter period.

In the fourth place, the General Court misconstrued its unlimited jurisdiction, vitiated its judgment with contradictory reasoning, erred in law in its application of the settlement procedure and failed to observe the principles of legitimate expectations and equal treatment by endorsing the withdrawal of almost all the reductions for cooperation granted during the settlement procedure, which the appellants could not reasonably have anticipated occurring to such an extent.

In the fifth place, the appellants accuse the General Court of having misconstrued its unlimited jurisdiction and of having failed to observe the principle of equal treatment and the principle that penalties should be tailored to the individual.

As an incidental point, the appellants ask the Court to find that — given the unreasonable length of the proceedings — the General Court disregarded the right to a fair trial, in breach of the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union and Article 6(1) of the European Convention on Human Rights.

Reference for a preliminary ruling from Supreme Court (Ireland) made on 27 July 2015 — Elaine Farrell v Alan Whitty, The Minister for the Environment, Ireland and the Attorney General, Motor Insurers Bureau of Ireland (MIBI)

(Case C-413/15)

(2015/C 320/28)

Language of the case: English

Referring court

Supreme Court

Parties to the main proceedings

Applicant: Elaine Farrell

Defendants: Alan Whitty, The Minister for the Environment, Ireland and the Attorney General, Motor Insurers Bureau of Ireland (MIBI)

Questions referred

1. Is the test in *Foster and Others v British Gas plc (Case C-188/89)* as set out at para. 20 on the question of what is an emanation of a member state to be read on the basis that the elements of the test are to be applied

   (a) conjunctively, or

   (b) disjunctively?

2. To the extent that separate matters referred to in *Foster and Others v British Gas plc (Case C-188/89)* may, alternatively, be considered to be factors which should properly be taken into account in reaching an overall assessment, is there a fundamental principle underlying the separate factors identified in that decision which a court should apply in reasoning an assessment as to whether a specified body is an emanation of the State?

3. Is it sufficient that a broad measure of responsibility has been transferred to a body by a member state for the ostensible purpose of meeting obligations under European law for that body to be an emanation of the member state or is it necessary, in addition, that such a body additionally have (a) special powers or (b) operate under direct control or supervision of the member state?

Request for a preliminary ruling from the Bundesarbeitsgericht (Germany) lodged on 31 July 2015 — Nils-Johannes Kratzer v R+V Allgemeine Versicherung AG

(Case C-423/15)

(2015/C 320/29)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Applicant: Nils-Johannes Kratzer

Defendant: R+V Allgemeine Versicherung AG

Questions referred

1. On a proper interpretation of Article 3(1)(a) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ([1]) and Article 14(1)(a) of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) ([2]), does a person who, as is clear from his application, is seeking not recruitment and employment but merely the status of applicant in order to bring claims for compensation also qualify as seeking 'access to employment, to self-employment or to occupation'?

2. If the answer to the first question is in the affirmative:

Can a situation in which the status of applicant was obtained not with a view to recruitment and employment but for the purpose of claiming compensation be considered as an abuse of rights under EU law?

(1) OJ 2000 L 303, p. 16.
(2) OJ 2006 L 204, p. 23.

Reference for a preliminary ruling from Supreme Court (Ireland) made on 4 August 2015 — Child and Family Agency (CAFA) v J. D.

(Case C-428/15)

(2015/C 320/30)

Language of the case: English

Referring court

Supreme Court

Parties to the main proceedings

Applicant: Child and Family Agency (CAFA)

Defendant: J. D.

Other party: R.P.D

Questions referred

1. Does Article 15 of Regulation 2201/2003 (1) apply to public law care applications by a local authority in a member state, when if the Court of another member state assumes jurisdiction, it will necessitate the commencement of separate proceedings by a different body pursuant to a different legal code and possibly, if not probably, relating to different factual circumstances?

2. If so, to what extent, if any, should a court consider the likely impact of any request under Article 15 if accepted, upon the right of freedom of movement of the individuals affected?

3. If the 'best interests of the child' in Article 15.1 of Regulation 2201/2003 refers only to the decision as to forum, what factors may a court consider under this heading, which have not already been considered in determining whether another court is 'better placed'?

4. May a court for the purposes of Article 15 of Regulation 2201/2003 have regard to the substantive law, procedural provisions, or practice of the courts of the relevant member state?

5. To what extent should a national court, in considering Article 15 of Regulation 2201/2003, have regard to the specific circumstances of the case, including the desire of a mother to move beyond the reach of the social services of her home state, and thereafter give birth to her child in another jurisdiction with a social services system she considers more favourable?

6. Precisely what matters are to be considered by a national court in determining which *court* is best placed to determine the matter?

([1]) Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) no 1347/2000 OJ L 338, p. 1.

Reference for a preliminary ruling from Court of Appeal (Ireland) made on 5 August 2015 — Evelyn Danqua v The Minister for Justice and Equality Ireland and the Attorney General

(Case C-429/15)

(2015/C 320/31)

Language of the case: English

Referring court

Court of Appeal

Parties to the main proceedings

Applicant: Evelyn Danqua

Defendant: The Minister for Justice and Equality Ireland and the Attorney General

Other party: The Refugee Legal Services

Questions referred

1. Can an application for asylum, which is governed by domestic legislation which reflects a Member State's obligations under the Qualification Directive, be regarded as an appropriate comparator in respect of an application for subsidiary protection for the purposes of the principle of equivalence?

2. If the answer to the first question is in the affirmative, is it relevant for this purpose that the time limit imposed in respect of applications for subsidiary protection serves the important interest of ensuring that applications for international protection are dealt within a reasonable time?

Reference for a preliminary ruling from the Supreme Court of the United Kingdom (United Kingdom) made on 5 August 2015 — Secretary of State for Work and Pensions v Tolley (deceased, acting by her personal representative)

(Case C-430/15)

(2015/C 320/32)

Language of the case: English

Referring court

Supreme Court of the United Kingdom

Parties to the main proceedings

Applicant: Secretary of State for Work and Pensions

Defendant: Tolley (deceased, acting by her personal representative)

Questions referred

1. Is the care component of the United Kingdom's Disability Living Allowance properly classified as an invalidity rather than a cash sickness benefit for the purpose of Regulation No 1408/71 ([1])?

2. (i) Does a person who ceases to be entitled to UK Disability Living Allowance as a matter of UK domestic law, because she has moved to live in another member state, and who has ceased all occupational activity before such move, but remains insured against old age under the UK social security system, cease to be subject to the legislation of the UK for the purpose of article 13(2)(f) of Regulation No 1408/71?

   (ii) Does such a person in any event remain subject to the legislation of the UK in the light of Point 19(c) of the United Kingdom's annex VI to the Regulation?

   (iii) If she has ceased to be subject to the legislation of the UK within the meaning of article 13(2)(f), is the UK obliged or merely permitted by virtue of Point 20 of annex VI to apply the provisions of Chapter 1 of Title III to the Regulation to her?

3. (i) Does the broad definition of an employed person in *Dodl* apply for the purposes of articles 19 to 22 of the Regulation, where the person has ceased all occupational activity before moving to another member state, notwithstanding the distinction drawn in Chapter 1 of Title III between, on the one hand, employed and self-employed persons and, on the other hand, unemployed persons?

   (ii) If it does apply, is such a person entitled to export the benefit by virtue of either article 9 or article 22? Does article 22(1)(b) operate to prevent a claimant's entitlement to the care component of DLA being defeated by a residence requirement imposed by national legislation on a transfer of residence to another member state?

([1]) Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community OJ L 149, p. 2

Order of the President of the First Chamber of the Court of 11 June 2015 (request for a preliminary ruling from the Eparkhiako Dikastirio Lefkosias — Cyprus) — Bogdan Chain v Atlanco LTD

(Case C-189/14) ([1])

(2015/C 320/33)

Language of the case: Greek

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

([1]) OJ C 202, 30.6.2014.

Order of the President of the Court of 7 July 2015 — European Commission v Republic of Austria

(Case C-244/14) ([1])

(2015/C 320/34)

Language of the case: German

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

([1]) OJ C 253, 4.8.2014.

Order of the President of the Third Chamber of the Court of 17 June 2015 (request for a preliminary ruling from the Krajský súd v Prešove — Slovakia) — CD Consulting s.r.o. v Anna Pančurová, Róbert Demeter, Kristína Pužová, Katarína Harakľová, Roman Novák, Marcela Grundzová, Milan Pulko, Peter Chomča, Jarmila Lešková, Katarína Malarová, Jana Belajová, Tatiana Kučkovská, Marián Demeter, Helena Chomčová, Marcela Troščáková, Nataša Virágová, Kvetuša Hudáková, Peter Grundza, Dávid Renner, Zdenko Ričalka, Jarmila Kurejová, Mária Maxinová

(Case C-328/14) ([1])

(2015/C 320/35)

Language of the case: Slovak

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

([1]) OJ C 351, 6.10.2014.

Order of the President of the Court of 16 April 2015 — European Commission v Republic of Finland

(Case C-329/14) ([1])

(2015/C 320/36)

Language of the case: Finnish

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

([1]) OJ C 292, 1.9.2014.

Order of the President of the Court of 5 June 2015 (request for a preliminary ruling from the Eparkhiako Dikastirio Larnakas — Cyprus) — Criminal proceedings against Masoud Mehrabipari

(Case C-390/14) ([1])

(2015/C 320/37)

Language of the case: Greek

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

([1]) OJ C 372, 20.10.2014.

Order of the President of the Court of 28 April 2015 (request for a preliminary ruling from the Bundesverwaltungsgericht Germany) — Seusen Sume v Landkreis Stade, in the presence of: Der Vertreter des Bundesinteresses beim Bundesverwaltungsgericht

(Case C-445/14) ([1])

(2015/C 320/38)

Language of the case: German

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

([1]) OJ C 439, 8.12.2014.

Order of the President of the Third Chamber of the Court of 17 July 2015 — Office for Harmonisation in the Internal Market (Trade Marks and Designs) v Unibail Management

(Joined Cases C-512/14 P and C-513/14 P) ([1])

(2015/C 320/39)

Language of the case: French

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

([1]) OJ C 138, 27.4.2015.

Order of the President of the Court of 3 June 2015 — European Commission v Republic of Finland

(Case C-538/14) ([1])

(2015/C 320/40)

Language of the case: Finnish

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

([1]) OJ C 34, 2.2.2015.

Order of the President of the Court of 6 May 2015 (request for a preliminary ruling from the Commissione Tributaria Provinciale di Cagliari — Italy) — Cav. Gicacomo Bolasco di Gianni Bolasco Sas v Comune di Monastir, Equitalia Centro SpA

(Case C-37/15) ([1])

(2015/C 320/41)

Language of the case: Italian

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

([1]) OJ C 138, 27.4.2015.

GENERAL COURT

Order of the General Court of 16 July 2015 — PAN Europe and Stichting Natuur en Milieu v Commission

(Case T-574/12) ([1])

(Environment — Regulation (EC) No 149/2008 — Maximum residue levels for pesticides — Regulation (EC) No 1367/2006 — Request for internal review — No further interest in bringing an action — No need to adjudicate)

(2015/C 320/42)

Language of the case: Dutch

Parties

Applicants: Pesticide Action Network Europe (PAN Europe) (Brussels, Belgium) and Stichting Natuur en Milieu (Utrecht, Netherlands) (represented by: F. Martens, lawyer)

Defendant: European Commission (represented by: initially, B. Burggraaf, P. Ondrůšek and G. von Rintelen, subsequently, B. Burggraaf, G. von Rintelen and P. Oliver, and, lastly, G. von Rintelen, H. Kranenborg and L. Pignataro-Nolin, acting as Agents)

Re:

Action for annulment of the decision of 16 October 2012 whereby the Commission dismissed as unfounded the applicants' requests for internal review of Commission Regulation (EC) No 149/2008 of 29 January 2008 amending Regulation (EC) No 396/2005 of the European Parliament and of the Council by establishing Annexes II, III and IV setting maximum residue levels for products covered by Annex I thereto (OJ 2008 L 58, p. 1).

Operative part of the order

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

2. *Pesticide Action Network Europe (PAN Europe) and Stichting Natuur en Milieu shall bear their own costs and pay those incurred by the European Commission.*

([1]) OJ C 55, 23.2.2013.

Order of the General Court of 14 July 2015 — Pro Asyl v EASO

(Case T-617/14) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Operational Plan for the deployment of an asylum support team in the territory of Bulgaria — Refusal of access — No need to adjudicate — Action for annulment — Electronic document register — Partial manifest inadmissibility)

(2015/C 320/43)

Language of the case: German

Parties

Applicant: Pro Asyl Bundesweite Arbeitsgemeinschaft für Flüchtlinge eV (Frankfurt am Main, Germany) (represented by: S. Hilbrans, lawyer)

Defendant: European Asylum Support Office (EASO) (represented by: L. Cerdán Ortiz-Quintana, acting as Agent, assisted by D. Waelbroeck and A. Duron, lawyers)

Re:

Application for annulment of letter EASO/ED/2014/134 of the EASO of 10 June 2014.

Operative part of the order

1. *There is no longer any need to adjudicate on the action in so far as it seeks the annulment of letter EASO/ED/2014/134 of the European Asylum Support Office (EASO) of 10 June 2014 refusing access to the operational plan to deploy the European Union support team in Bulgaria.*

2. *The remainder of the action is dismissed as manifestly inadmissible.*

3. *Each party shall bear its own costs.*

(1) OJ C 409, 17.11.2014.

Order of the General Court of 22 July 2015 — European Children's Fashion Association and Instituto de Economía Pública v Commission and EACEA

(Case T-724/14) (1)

(Action for annulment — Arbitration clause — Action programme 'Lifelong Learning (2007-2013)' — 'Brand & Merchandising manager for SMEs in the childrens' product sector' project — Pre-information letter — Debit note — Identification of the defendant — Partial inadmissibility)

(2015/C 320/44)

Language of the case: French

Parties

Applicants: European Children's Fashion Association (Valencia, Spain); and Instituto de Economía Pública, SL (Valencia) (represented by: A. Haegeman, lawyer)

Defendants: European Commission (represented by: S. Delaude and S. Lejeune, acting as Agents) and 'Education, Audiovisual and Culture' Executive Agency (EACEA) (represented by: H. Monet and A. Jaume, acting as Agents)

Re

Primarily, application, pursuant to Article 272 TFEU, seeking to have declared as unfounded EACEA's request for recovery of grants paid to the first applicant under the agreement for the execution of the 'Brand & Merchandising Manager for SMEs in the Children's Product Sector' project, or, in the alternative, application for annulment, first, of EACEA's pre-information letter of 1 August 2014 informing the first applicant that it had to reimburse the sum of EUR 82 378,81 following the audit of the that project and, second, of debit note No 3241401420, issued by EACEA on 5 August 2014, seeking the reimbursement of that sum.

Operative part of the order

1) *The action is dismissed as inadmissible in so far as it relates to the European Commission.*

2) *European Children's Fashion Association and Instituto de Economía Pública, SL are ordered to pay the costs of the proceedings.*

(1) OJ C 7, 12.1.2015.

Order of the General Court of 7 July 2015 — CGI Luxembourg and Intrasoft International v Parliament

(Case T-769/14) (1)

(Action for annulment and for damages — Public service contracts — Development and maintenance of production information systems — Ranking of a tenderer in the cascade procedure — Annulment of the contested decisions — No need to adjudicate)

(2015/C 320/45)

Language of the case: English

Parties

Applicants: CGI Luxembourg SA (Bertrange, Luxembourg); and Intrasoft International SA (Luxembourg, Luxembourg) (represented by: N. Korogiannakis, lawyer)

Defendant: European Parliament (represented by: B. Simon and L. Darie, acting as Agents)

Re:

Application for, first, annulment of the Parliament's decisions to rank the applicants' tender second in the cascade for the purposes of awarding the contract in respect of Lot 3, 'Development and maintenance of production information systems', in the open call for tenders PE/ITEC/ITS14, 'External Provision of IT Services', and to award the first cascading contract in that tendering procedure to another consortium and, secondly, the award of damages.

Operative part of the order

1) *There is no further need to adjudicate on the action.*

2) *The parties shall bear their own costs, including those incurred in connection with the interim proceedings.*

(1) OJ C 46, 9.2.2015.

Order of the President of the General Court of 16 July 2015 — National Iranian Tanker Company v Council

(Case T-207/15 R)

(Application for interim measures — Common foreign and security policy — Restrictive measures adopted against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Application for suspension of operation of a measure — Prima facie case — Balancing of interests — No urgency)

(2015/C 320/46)

Language of the case: English

Parties

Applicant: National Iranian Tanker Company (Tehran, Iran) (represented by: T. de la Mare QC, M. Lester, J. Pobjoy, Barristers, R. Chandrasekera, S. Ashley and C. Murphy, Solicitors)

Defendant: Council of the European Union (represented by: N. Rouam and M. Bishop, acting as Agents)

Re:

Application for suspension of operation of Council Decision (CFSP) 2015/236 of 12 February 2015 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2015 L 39, p. 18) and Council Implementing Regulation (EU) 2015/230 of 12 February 2015 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2015 L 39, p. 3), in so far as each applies to the applicant.

Operative part of the order

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

2. *The costs are reserved.*

Order of the General Court of 7 July 2015 — Banimmo v Commission

(Case T-293/15) ([1])

(Public service contracts — Withdrawal of the contested measure — No need to adjudicate on the action)

(2015/C 320/47)

Language of the case: French

Parties

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

Defendant: European Commission (represented by: S. Delaude and J. Estrada de Solà, acting as Agents)

Re:

Application for annulment of the decision of 9 April 2015 by which the Commission rejected the offer which Banimmo had submitted following a property prospecting notice to meet the office space requirements of the Commission in Brussels (OJ 2014/S 130-231896).

Operative part of the order

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

2) *There is no longer any need to rule on Banimmo's application that the present action be adjudicated under an expedited procedure.*

3) *The European Commission shall bear its own costs and pay those incurred by Banimmo, including those incurred in the proceedings for interim measures.*

([1]) OJ C 236, 20.7.2015.

Order of the President of the General Court of 17 July 2015 — GSA and SGI v Parliament

(Case T-321/15 R)

(Application for interim measures — Public service contracts — Tender procedure — Fire security, assistance to persons and external surveillance at the European Parliament's site in Brussels — Rejection of the bid made by a tenderer and award of the contract to another tenderer — Application for suspension of operation of a measure — Lack of urgency)

(2015/C 320/48)

Language of the case: French

Parties

Applicants: Gruppo Servizi Associati SpA (GSA) (Rome, Italy) and Security Guardian's Institute (SGI) (Louvain-la-Neuve, Belgium) (represented by: E. van Nuffel d'Heynsbroeck, avocat)

Defendant: European Parliament (represented by: P. López-Carceller and B. Simon, acting as Agents)

Re:

Application, in essence, for suspension of operation, first, of the decision of 12 June 2015 in which the Parliament declared non-compliant the tender submitted by the applicants in respect of the tendering procedure for service contract EP/DGSAFE/UIB/SER/2014-014 for the provision of fire security, assistance to persons and external surveillance at the European Parliament's site in Brussels, and, secondly, the decision by which that contract was awarded to the company Securitas.

Operative part of the order

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

2. *The order of 25 June 2015 in Case T-321/15 R is cancelled.*

3. *Costs are reserved.*

Action brought on 29 May 2015 — Esso Raffinage v ECHA

(Case T-283/15)

(2015/C 320/49)

Language of the case: English

Parties

Applicant: Esso Raffinage (Courbevoie, France) (represented by: M. Navin-Jones, Solicitor)

Defendant: European Chemicals Agency (ECHA)

Form of order sought

The applicant claims that the Court should:

— declare the application as admissible and well-founded;

— annul the decision of 1 April 2015 adopted by the European Chemicals Agency ('ECHA') with respect to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals ('REACH') establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, p. 1), being a letter entitled "Statement of Non-Compliance following a Dossier Evaluation Decision under Regulation (EC) No 1907/2006 ('SONC') and its attachment (reference number CCH-C-0000005770-74-01/F);

— order that the case be referred back to the ECHA Executive Director with a direction that any new ECHA decision take into account the reasons for annulment stipulated in the General Court Judgment and all relevant, up-to-date information;

— order ECHA to pay the costs incurred by the applicant regarding these proceedings; and

— take other or further measures as justice may require.

Pleas in law and main arguments

In support of the action, the applicant relies on a number of pleas in law, including the following:

1. First plea in law, alleging ultra vires act, breach of institutional balance etc.

— The applicant puts forward that there is no legal authority or legal basis for ECHA to establish, compile, adopt and/or send so-called Statements of Non-Compliance and that by having compiled, adopted and sent a SONC in this case, ECHA has (i) acted outside the limit of its discretionary and/or executive powers (*ultra vires* act); (2) acted in breach of the legal principle and requirement of institutional balance of power; (3) acted in breach of the legal principle and requirement of good administration; (4) acted in breach of the legal principle of good public governance; and/or (5) acted in breach of Article 41 of the Charter of Fundamental Rights of the European Union.

2. Second plea in law, alleging, in the alternative, breach of Article 42 REACH.

— The applicant submits that to the extent ECHA may seek to rely upon Article 42(1) REACH as legal authority and/or the legal basis for the Contested Decision, Article 42(1) REACH does not provide ECHA any legal authority or basis for adopting the contested decision and that by adopting the contested decision ECHA has acted in breach of Article 42(1) REACH. The applicant submits that, in this case, ECHA has not adopted the appropriate decision as required by Article 42(1) REACH. The applicant submits that ECHA has consistently interpreted Article 42(1) REACH as not authorizing the issuance of a Statement of Non-Compliance.

3. Third plea in law, alleging a breach of the right to be heard.

— The applicant puts forward that the contested decision has been adopted in breach of the EU legal principles of the right to be heard, the right to respond and to reply, the right of defence, the right to notice, and the right to good administration. The applicant submits that as a direct consequence of the breach of these procedural and process rights, the contested decision is voidable and void. That is: ECHA had not acted in breach of the applicant's procedural and process rights, the applicant submits that the outcome of the process and the procedure would have materially differed.

4. Fourth plea in law, alleging breach of the principle of proportionality.

— The applicant submits that the contested decision was inconsistent with, and in breach of, the EU legal principle of proportionality. The applicant submits that the contested decision is not appropriate or necessary, did not constitute the least onerous measure and that the disadvantages caused were disproportionate to the aims pursued.

5. Fifth plea in law, alleging an error in interpretation of data requirements under REACH.

— The applicant submits that ECHA has committed an error in interpreting the information requirements regarding Annex X, section 8.7.2. as there is in fact no de facto requirement to conduct a pre-natal developmental toxicity study on a second species. The applicant therefore submits that ECHA has, by adopting the contested decision, acted without legal basis and outside the limits of its discretionary powers.

Action brought on 10 July 2015 — Hernández Zamora v OHIM — Rosen Tantau (Paloma)

(Case T-369/15)

(2015/C 320/50)

Language in which the application was lodged: Spanish

Parties

Applicant: Hernández Zamora, SA (Murcia, Spain) (represented by: J. L. Rivas Zurdo, lawyer)

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

Other party to the proceedings before the Board of Appeal: Rosen Tantau KG (Uetersen, Germany)

Details of the proceedings before OHIM

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

Trade mark at issue: Community word mark 'Paloma' — Application for registration No 11 638 971

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 21 April 2015 in Case R 1697/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the party or parties opposing the application to pay the costs.

Plea in law

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

Action brought on 10 July 2015 — Jordi Nogues/OHIM — Grupo Osborne (BADTORO)
(Case T-386/15)

(2015/C 320/51)

Language in which the application was lodged: Spanish

Parties

Applicant: Jordi Nogues, SL (Barcelona, Spain) (represented by: M. Sanmartín Sanmartín and E. López Parés, lawyers)

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

Other party to the proceedings before the Board of Appeal: Grupo Osborne, SA (El Puerto de Santa María, Spain)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community figurative mark containing the word element 'BADTORO' — Application for registration No 10 975 027

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 17 April 2015 in Case R 2570/2013-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to bear its own costs and to pay the applicant's costs.

Pleas in law

— Infringement of Articles 75, 76 and 83 of Regulation No 207/2009, in conjunction with Articles 65(6), 96, 106(4) and (6) and 135 of Regulation No 2868/95;

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

Action brought on 20 July 2015 — Pinto Eliseu Baptista Lopes Canhoto v OHIM — University College London (CITRUS SATURDAY)

(Case T-400/15)

(2015/C 320/52)

Language in which the application was lodged: English

Parties

Applicant: Ana Isabel Pinto Eliseu Baptista Lopes Canhoto (Algés, Portugal) (represented by: A. Pita Negrão, lawyer)

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

Other party to the proceedings before the Board of Appeal: University College London (London, United Kingdom)

Details of the proceedings before OHIM

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

Trade mark at issue: Community word mark 'CITRUS SATURDAY' — Application for registration No 11 789 195

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 29 April 2015 in Case R 2109/2014-2

Form of order sought

The applicant claims that the Court should:

— consider the appeal admissible;

— declare null and void the contested decision;

— remit the case to the Opposition Division of the Office for further prosecution.

Pleas in law

— Infringement of the Community trade mark regulations;

— Infringement of principles of the EC law.

Action brought on 24 July 2015 — Globo Comunicação e Participações v OHIM ('PLIM PLIM' sounds)

(Case T-408/15)

(2015/C 320/53)

Language of the case: French

Parties

Applicant: Globo Comunicação e Participações S.A. (Rio de Janeiro, Brazil) (represented by: E. Gaspar, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Community sound mark 'PLIM PLIM' — Application for registration No 12 826 368

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 18 May 2015 in Case R 2945/2014-5

Form of order sought

The applicant claims that the Court should:

— declare that Community trade mark No 12 826 368 is valid for the designation of Classes 9, 38 and 41;

— annul the contested decision in part, in so far as it rejected the Community trade mark application;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 27 July 2015 — Monster Energy v OHIM — Mad Catz Interactive (MAD CATZ)

(Case T-429/15)

(2015/C 320/54)

Language in which the application was lodged: English

Parties

Applicant: Monster Energy Company (Corona, United States) (represented by: P. Brownlow, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Mad Catz Interactive, Inc. (San Diego, United States)

Details of the proceedings before OHIM

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

Trade mark at issue: Community figurative mark containing the word elements 'MAD CATZ' — Community trade mark application No 11 390 846

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 21 May 2015 in Case R 2176/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— annul the decision of the Opposition Division of 23 June 2014 in Opposition B 2 182 312;

— reject the opposed mark for all goods in class 25;

— order OHIM to pay its own costs and those of the applicant.

Pleas in law

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

— Infringement of Article 8(5) of Regulation No 207/2009.

Action brought on 30 July 2015 — Flowil International Lighting v OHIM — Lorimod Prod Com (Silvania Food)

(Case T-430/15)

(2015/C 320/55)

Language in which the application was lodged: English

Parties

Applicant: Flowil International Lighting (Holding) BV (Amsterdam, Netherlands) (represented by: J. Güell Serra, lawyer)

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

Other party to the proceedings before the Board of Appeal: SC Lorimod Prod Com, Srl (Simleul Silvaniei, Romania)

Details of the proceedings before OHIM

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

Trade mark at issue: Community figurative mark containing the word elements 'Silvania Food' — Application for registration No 11 042 082

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 8 May 2015 in Case R 616/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

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

— Infringement of Article 8(5) of Regulation No 207/2009.

Action brought on 30 July 2015 — Fruit of the Loom v OHIM — Takko (FRUIT)

(Case T-431/15)

(2015/C 320/56)

Language in which the application was lodged: English

Parties

Applicant: Fruit of the Loom, Inc. (Bowling Green, United States) (represented by: S. Malynicz, Barrister, and V. Marsland, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Takko Holding GmbH (Telgte, Germany)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'FRUIT' — Community trade mark registration No 5 077 508

Procedure before OHIM: Revocation proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 12 May 2015 in Case R 1641/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM and other party to bear their own costs and pay those of the applicant.

Plea in law

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

Action brought on 31 July 2015 — Inditex v OHIM — Ffauf (ZARA)

(Case T-432/15)

(2015/C 320/57)

Language in which the application was lodged: English

Parties

Applicant: Industria de Diseño Textil, SA (Inditex) (Arteixo, Spain) (represented by: G. Macias Bonilla, P. López Ronda, G. Marín Raigal, E. Armero, lawyers)

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

Other party to the proceedings before the Board of Appeal: Ffauf SA (Luxembourg, Luxembourg)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'ZARA' — Community trade mark registration No 732 958

Procedure before OHIM: Revocation proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 2 June 2015 in Case R 867/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, in particular regarding the revocation of the CTM registration No 732958 'ZARA' for the challenged goods in classes 29, 30, 31, 32 and 33;

— order OHIM to pay the costs, including the costs those incurred in the proceedings before the Cancellation Division and the Second Board of Appeal of the OHIM.

Pleas in law

— Infringement of Articles 42(2), 51(1)(a), 52(2) and 85(2) of Regulation No 207/2009;

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

Action brought on 27 July 2015 — Bank Saderat v Conseil

(Case T-433/15)

(2015/C 320/58)

Language of the case: English

Parties

Applicant: Bank Saderat plc (London, United Kingdom) (represented by: S. Jeffrey, S. Ashley and A. Irvine, Solicitors, and M-E. Demetriou and R. Blakeley, Barristers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— condemn the Council to pay the following sums to the applicant:

— € 88 906 191 in respect of material damage up until the date of this claim;

— € 8 713 285 in respect of interest on the sum in sub-paragraph (1) above plus daily interest of € 10 377 until the date of judgment, in the alternative at the European Central Bank main refinancing rate + 2 % per annum until the date of judgment, in the further alternative at such rate and for such period as the Court thinks fit;

— a daily rate of € 54 716 in respect of material damage from the date of this claim until the end of the Claim Period;

— interest on the total sum calculated pursuant to sub-paragraph (3) above at the rate of 4,2601 % per annum until the date of judgment, in the alternative at the European Central Bank main refinancing rate + 2 % per annum until the date of judgment, in the further alternative at such rate and for such period as the Court thinks fit;

— € 32 964 320 in respect of material damage from the date of the end of the Claim Period;

— € 1 000 000 in respect of non-material damage;

— post-judgment interest on the sums in sub-paragraphs (1) to (6) above at the rate of 4,2601 % per annum until the date of payment, in the alternative at the European Central Bank main refinancing rate + 2 % per annum until the date of payment, in the further alternative at such rate and for such period as the Court thinks fit; and

— the Bank's costs of this application;

— condemn the Council to pay the applicant's costs.

Pleas in law and main arguments

The applicant puts forward that the EU Council's imposition of restrictive measures on the applicant was a sufficiently serious breach of obligations intended to confer rights upon the applicant and accordingly the non-contractual liability of the EU is engaged.

According to the applicant, this breach was the direct cause of significant material and non-material harm to the applicant for which it is entitled to compensation.

Action brought on 3 August 2015 — Indecopi/OHIM — Synergy Group (PISCO)

(Case T-446/15)

(2015/C 320/59)

Language in which the application was lodged: Spanish

Parties

Applicant: Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual (Indecopi) (San Borja, Peru) (represented by: M. Pomares Caballero and A. Pomares Caballero, lawyers)

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

Other party to the proceedings before the Board of Appeal: Synergy Group sp. z o.o. (Wrocław, Poland)

Details of the proceedings before OHIM

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

Trade mark at issue: Community figurative mark containing the word element 'PISCO' — Application for registration No 1016 7674

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 3 June 2015 in Case R 1291/2014-4

Form of order sought

The applicant claims that the Court should:

— alter the contested decision, by declaring that the requirements for the application of the relative ground for refusal laid down in Article 8(4) of Regulation No 207/2009 are met in the present case, or, in the alternative, annul that decision; and

— order OHIM to pay its own costs and those of the applicant.

Pleas in law

— Infringement of Article 23 of Regulation No 110/2008;

— Infringement of Article 8(4) of Regulation No 207/2009.

Action brought on 3 August 2015 — Indecopi v OHIM — Synergy Group (PISCO SOUR)

(Case T-447/15)

(2015/C 320/60)

Language in which the application was lodged: Spanish

Parties

Applicant: Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual (Indecopi) (San Borja, Peru) (represented by: M. Pomares Caballero and A. Pomares Caballero, lawyers)

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

Other party to the proceedings before the Board of Appeal: Synergy Group sp. z o.o. (Wrocław, Poland)

Details of the proceedings before OHIM

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

Trade mark at issue: Community figurative mark containing the word element 'PISCO SOUR' — Application for registration No 1016 7682

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 3 June 2015 in Case R 1292/2014-4

Form of order sought

The applicant claims that the Court should:

— alter the contested decision, by declaring that the requirements for the application of the relative ground for refusal laid down in Article 8(4) of Regulation No 207/2009 are met in the present case; and

— order OHIM to pay its own costs and those of the applicant.

Pleas in law

— Infringement of Article 23 of Regulation No 110/2008;

— Infringement of Article 8(4) of Regulation No 207/2009.

Action brought on 30 July 2015 — Satkirit Holdings v OHIM — Advanced Mailing Solutions (luvo)

(Case T-449/15)

(2015/C 320/61)

Language in which the application was lodged: English

Parties

Applicant: Satkirit Holdings Ltd (Douglas, Isle of Man) (represented by: M. Vanhegan, QC)

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

Other party to the proceedings before the Board of Appeal: Advanced Mailing Solutions Ltd (East Kilbride, United Kingdom)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'luvo' — Application for registration No 11 244 324

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 21 May 2015 in Case R 877/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— dismiss the AMS's Opposition;

— order OHIM to pay the costs incurred by the Applicant before the Board of Appeal and the General Court.

Plea in law

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

Action brought on 30 July 2015 — Satkirit Holdings v OHIM — Advanced Mailing Solutions (luvoworld)

(Case T-450/15)

(2015/C 320/62)

Language in which the application was lodged: English

Parties

Applicant: Satkirit Holdings Ltd (Douglas, Isle of Man) (represented by: M. Vanhegan, QC)

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

Other party to the proceedings before the Board of Appeal: Advanced Mailing Solutions Ltd (East Kilbride, United Kingdom)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'luvoworld' — Application for registration No 11 244 332

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 21 May 2015 in Case R 1480/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— dismiss AMS's Opposition;

— order OHIM to pay the costs incurred by the Applicant before the Board of Appeal and the General Court.

Plea in law

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

Action brought on 5 August 2015 — AlzChem v Commission

(Case T-451/15)

(2015/C 320/63)

Language of the case: English

Parties

Applicant: AlzChem AG (Trostberg, Germany) (represented by: A. Borsos, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the application admissible and well founded;

— annul the decision Ares (2015) 2176662 of the European Commission of 26 May 2015, taken pursuant to Article 4 of the Implementing Rules to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, in response to application No GESTDEM 2015/1640; and

— order the Commission to pay the applicant's 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 an error in law and a manifest error of assessment regarding the application of a general presumption in reaction to the exception for the protection of the purpose of EU investigations. The applicant puts forward the following errors:

   — the Commission's error in law regarding the application of the general exceptions;

   — the Commission's error in law regarding the protection of the purpose of investigations;

   — the Commission's error in law and manifest error of assessment regarding the assessment of the overriding public interest of ensuring an effective judicial review (Article 47 of the Charter of Fundamental Rights of the European Union); and

   — the Commission's error in law regarding the application of the fundamental right of access to documents (Article 42 of the Charter of Fundamental Rights of the European Union).

2. Second plea in law, alleging an error in law and a manifest error of assessment regarding the application of the exception for the protection of commercial interests.

3. Third plea in law, alleging a failure to state reasons regarding the refusal of access to a non-confidential version or an on-site access to the documents.

Action brought on 6 August 2015 — Trinity Haircare v OHIM — Advance Magazine Publishers (VOGUE)

(Case T-453/15)

(2015/C 320/64)

Language in which the application was lodged: English

Parties

Applicant: Trinity Haircare AG (Herisau, Switzerland) (represented by: J. Kroher and K. Bach, lawyers)

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

Other party to the proceedings before the Board of Appeal: Advance Magazine Publishers, Inc. (New York, United States)

Details of the proceedings before OHIM

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

Trade mark at issue: Community figurative mark in black and white containing the word element 'VOGUE' — Community trade mark No 9 944 547

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 27 May 2015 in Case R 2426/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and declare the CTM No 009 944 547 VOGUE invalid;

— order OHIM and the other party to the proceeding before the Board of Appeal to pay the costs of the proceeding.

Pleas in law

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

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

— Infringement of Article 52(1)(b) of Regulation No 207/2009.

Action brought on 10 August 2015 — Laboratorios Ern v OHIM — Werner (Dynamic Life)

(Case T-454/15)

(2015/C 320/65)

Language in which the application was lodged: English

Parties

Applicant: Laboratorios Ern, SA (Barcelona, Spain) (represented by: M. Pérez Serres, lawyer)

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

Other party to the proceedings before the Board of Appeal: Matthias Werner (Neufahrn, Germany)

Details of the proceedings before OHIM

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

Trade mark at issue: Community figurative mark in white, red, orange, yellow, green and blue purple containing the word elements 'Dynamic Life' — Application for registration No 11 303 468

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 27 May 2015 in Case R 441/2014-4

Form of order sought

The applicant claims that the Court should:

— revoke the contested decision and reject the CTM No 011303468 DYNAMIC LIFE & design in classes 5 and 32;

— order OHIM and Mr. Matthias Werner, in case he decides to intervene, to pay the costs.

Plea in law

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

Action brought on 10 August 2015 — Vitra Collections v OHIM — Consorzio Origini (Shape of a chair)

(Case T-455/15)

(2015/C 320/66)

Language in which the application was lodged: English

Parties

Applicant: Vitra Collections AG (Muttenz, Switzerland) (represented by: V. von Bomhard, lawyer)

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

Other party to the proceedings before the Board of Appeal: Consorzio Origini (Florence, Italy)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community tridimensional mark (Shape of a chair) — Community trade mark No 182 451

Procedure before OHIM: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 18 March 2015 in Case R 664/2011-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM and the intervener to pay the costs.

Pleas in law

— Infringement of Article 75, second sentence, of Regulation No 207/2009;

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

Action brought on 11 August 2015 — Asia Leader International (Cambodia) v Commission

(Case T-462/15)

(2015/C 320/67)

Language of the case: English

Parties

Applicant: Asia Leader International (Cambodia) Co. Ltd (Tai Seng SEZ, Cambodia) (represented by: R. MacLean, Solicitor, and A. Bochon, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the application admissible;

— annul Articles 1(1) and 1(3) of the Commission Implementing Regulation (EU) 2015/776 of 18 May 2015 extending the definitive anti-dumping duty imposed by Council Regulation (EU) No 502/2013 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not, to the extent that it concerns the applicant (OJ L 122/4);

— order the Commission to pay the applicant's legal costs and expenses incurred, as well as to bear its own costs; and

— order any interveners in these proceedings to pay the applicant's legal costs and expenses incurred for such intervention, as well as to bear their own legal 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 an infringement of Article 13 (1) of Council Regulation (EC) 1225/2009 of 30th November 2009 (Codified Version) on Protection Against Dumped Imports from Countries not Members of the European Community caused by manifest error of assessment in law and fact on the Commission's part in relation to the existence of circumvention and the nature of the facts available.

   — The applicant puts forward that the Commission has no evidence in its hands to support any finding that the frames in question originate in China.

   — The applicant alleges that on the contrary, all evidence submitted by the applicant supports that the bicycle frames in question originate in Vietnam.

   — Finally, according to the applicant, the Commission does not have the power neither on the basis of the Council Regulation (EC) 1225/2009 nor on the basis of the case law of the Court to simply conclude, by default, that the applicant was engaged in the transhipment of the product concerned from China.

2. Second plea in law, alleging an infringement of Article 13(2) of Council Regulation (EC) 1225/2009 of 30th November 2009 (Codified Version) on Protection Against Dumped Imports from Countries not Members of the European Community caused by manifest error of assessment in law and fact on the Commission's part in relation to the existence of assembly operations on the part of the applicant and breach of the duty of care.

— The applicant puts forward that the Commission was required to use the actual information and data provided by the applicant as the basis for assessing its situation. According to the applicant, the use of the third-party benchmarks for this purpose is therefore not permitted where a reasonable and justifiable explanation is provided for actual data.

— The applicant further puts forward that the Commission made a further infringement of the obligation to correctly appraise the production costs of the applicant when it reclassified the parts used to the make the applicant's first sale to the European Union market as originating in China, though they originated in Vietnam. In doing so, the Commission allegedly also breached its duty of care.

— Also, so the applicant claims, the Commission miscalculated the correct energy and rental costs by incorrectly using different factors in allocating these respective costs. The same miscalculation allegedly occurred when the Commission calculated that the company was operating at 13 % of its production capacity during the relevant period.

— Finally, according to the applicant, the Commission declined to accept any depreciation costs for the fixed assets, though the applicant had furnished evidence that the company's shareholder was reimbursed by the applicant.

3. Third plea in law, alleging a failure by the Commission to properly give due weight to information and data submitted by the Applicant in response to final disclosure contrary to Article 18(3) of Council Regulation (EC) 1225/2009 of 30th November 2009 (Codified Version) on Protection Against Dumped Imports from Countries not Members of the European Community.

— The applicant puts forward that the Commission's complete discard of all the additional information provided by the applicant demonstrates that this information was not given the due weight it should have received.

— According to the applicant, the additional information and evidence provided by the applicant to dispute the Commission's finding of transhipment came from several different independent sources.

— Finally, so the applicant claims, although it did not have any evidence or indication that the frames originated in China, the Commission should have concluded that the weight of evidence pointed in the direction of the Vietnamese origin of the frames.

Order of the General Court of 16 July 2015 — Adler Modemärkte v OHIM — Blufin (MARINE BLEU)

(Case T-296/13) ([1])

(2015/C 320/68)

Language of the case: German

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

([1]) OJ C 226, 3.8.2013.

Order of the General Court of 21 July 2015 — Makhlouf v Council

(Joined Cases T-593/14, T-596/14, T-601/14, T-602/14, T-604/14, T-606/14 and T-612/14) ([1])

(2015/C 320/69)

Language of the case: French

The General Court (single judge) has ordered that the joined cases be removed from the register.

([1]) OJ C 361, 13.10.2014.

Order of the General Court of 17 July 2015 — European Dynamics Luxembourg and Evropaïki Dynamiki v Parliament

(Case T-733/14) ([1])

(2015/C 320/70)

Language of the case: Greek

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

([1]) OJ C 16, 19.1.2015.

Order of the General Court of 16 July 2015 — Hippler v Commission

(Case T-72/15) ([1])

(2015/C 320/71)

Language of the case: German

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

([1]) OJ C 138, 27.4.2015.

Order of the General Court of 13 July 2015 — Aguirre and Company v OHIM — Puma (Representation of a sports shoe)

(Case T-205/15) ([1])

(2015/C 320/72)

Language of the case: Spanish

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

([1]) OJ C 205, 22.6.2015.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 20th July 2015 — ZZ and ZZ v CEPOL

(Case F-105/15)

(2015/C 320/73)

Language of the case: English

Parties

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

Defendant: CEPOL (European Police College)

Subject-matter and description of the proceedings

Annulment of the decision of CEPOL by which it accepted the resignation of the two applicants as a consequence of their refusal to work at the new headquarters of the agency, in Budapest (Hungary), and claim for compensation in respect of the material and non-material damage allegedly sustained.

Form of order sought

— Annul the decision of CEPOL of 22 December 2014 by which CEPOL 'accepted' the resignation of two applicants;

— so far as necessary, annul the CEPOL's decisions dated 10 April 2015, rejecting the Applicants' complaints lodged between 13 January and 17 February 2015, against the aforementioned decision;

— compensate the material prejudice suffered by the Applicants;

— compensate the moral prejudice suffered by the Applicants;

— order CEPOL to pay all the costs incurred by the Applicants for the present appeal.

Action brought on 23 July 2015 — ZZ v EESC

(Case F-107/15)

(2015/C 320/74)

Language of the case: French

Parties

Applicant: ZZ (represented by: M.-A. Lucas, lawyer)

Defendant: EESC (European Economic and Social Committee)

Subject-matter and description of the proceedings

Application for annulment of the decision retiring the applicant with effect as of 31 December 2014 and the decision rejecting his request to extend his service.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decision of 7 April 2014 of the Secretary General of the EESC retiring the applicant with effect as of the evening of 31 December 2014;

— annul the decision of 30 September 2014 of the Director of Human Resources and Internal Services refusing, by a power delegated from the appointing authority, to concede to his request, brought on 3 September 2014, for the extension of his occupational activity until 31 May 2015;

— annul so far as necessary the decision of 22 April 2015 of the Secretary General of the EESC rejecting the complaint brought on 22 December 2014 by the applicant against the decisions of 7 April and 30 September 2014;

— order the EESC to pay the costs.

Action brought on 27 July 2015 — ZZ and ZZ v Commission

(Case F-108/15)

(2015/C 320/75)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the Commission's decision to limit to five years the period of retroactive recalculation of the flat-rate allowance for overtime to which the applicants are entitled.

Form of order sought

The applicants claim that the Tribunal should:

— annul the decision of 16 September 2014 of PMO. 1 to limit the payment of the adaptation of the flat-rate allowance for overtime to which the applicants have been entitled since 1 March 2007 and 1 March 2008 respectively, to five years from 1 September 2008, the date on which the PMO discovered the error in the calculation of their remuneration;

— order the Commission to pay the applicants the adaptation of the flat-rate allowance for overtime from 1 March 2007 and 1 March 2008 respectively, subject to the deduction of the sums already paid and together with default interest on the arrears of that allowance calculated from their deadline for payment until their actual payment at the rate fixed by the European Central Bank for its main refinancing operations increased by two points;

— order the Commission to pay the costs.

Action brought on August 3rd 2015 — ZZ v Commission

(Case F-112/15)

(2015/C 320/76)

Language of the case: English

Parties

Applicant: ZZ (represented by: R. Rata, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision of the Commission not to include the applicant on the list of promoted officials under the promotion exercise of 2014.

Form of order sought

— Annul the decision of 14 November 2014 of the Appointing Authority of the European Commission, issued by means of the Administrative Notice No 41-2014, establishing the list of promoted officials under the promotion exercise of 2014 in so far as the name of the Applicant is not included therein;

— order the European Commission to bear its own costs and to pay the costs incurred by the Applicant.

Action brought on August 3rd 2015 — ZZ e.a. v Commission

(Case F-113/15)

(2015/C 320/77)

Language of the case: English

Parties

Applicants: ZZ e.a. (represented by: R. Rata, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decisions of the Commission not to include the applicants on the list of promoted officials under the promotion exercise of 2014.

Form of order sought

— Annul the decision of 14 November 2014 of the Appointing Authority of the European Commission, issued by means of' the Administrative Notice No 41-2014, establishing the list of promoted officials under the promotion exercise of 2014 in so far as the names of the Applicants are not included;

— order the European Commission to bear its own costs and to pay the costs incurred by the Applicants.

Action brought on 14 August 2015 — ZZ v European Commission

(Case F-115/15)

(2015/C 320/78)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the Commission's decision limiting the applicant's pension rights, for a declaration that the conclusions adopted by the Heads of Administration on 16 June 2005 are inapplicable in so far as they limit the additional pension rights to be credited to the applicant's pension and for an order that the defendant is to pay the applicant the retirement pension to which he is entitled.

Form of order sought

The applicant claims that the Tribunal should:

— declare inapplicable to the present case the conclusions of the Heads of Administration, No 240/05 of 16 June 2005, in so far as they limit, on a pro rata basis, to the actual contribution period as opposed to a complete career as an official, the additional pension rights to be credited to the applicant's pension in relation to the management allowance;

— annul the contested decision, in so far as it limits the applicant's pension rights in respect of the management allowance on a pro rata basis to the contribution period, as opposed to the number of years of pensionable service in a complete career as an official;

— order the Commission to pay the applicant the retirement pension to which he is entitled, subject to deduction of the pension actually paid, together with default interest calculated at the rate applied by the ECB for its standard transactions, increased by two points;

— order the Commission to pay the costs.

Action brought on 18 August 2015 — ZZ v Commission

(Case F-118/15)

(2015/C 320/79)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the Commission's decision not to promote the applicant under the 2014 promotion procedure.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decision of 14 November 2014 publishing the list of officials promoted under the 2014 promotion procedure in so far as it does not include the applicant's name;

— order the Commission to pay the costs.

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