Request for a preliminary ruling from the Curtea de Apel Cluj (Romania) lodged on 16 July 2013 — Vasiliki Balazs v Casa Județeană de Pensii Cluj

(Case C-401/13)

(2013/C 298/03)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Applicant at first instance: Vasiliki Balazs

Defendant at first instance: Casa Județeană de Pensii Cluj

Question referred

Is Article 7(2)(c) of Regulation (EEC) No 1408/71 ([1]) to be interpreted as including within its scope a bilateral agreement which two Member States entered into before the date on which that regulation became applicable and by which the two states agreed to the termination of obligations relating to social security benefits owed by one state to nationals of the other state who had been political refugees in the territory of the first state and who have been repatriated to the territory of the second state, in exchange for a payment by the first state of a lump sum for the payment of pensions and to cover periods during which social security contributions were paid in the first 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, English Special Edition 1971 (II), p. 416).

Appeal brought on 19 July 2013 by Franz Wilhelm Langguth Erben GmbH & Co. KG against the judgment delivered on 20 February 2013 in Case T-378/11 Franz Wilhelm Langguth Erben GmbH & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-412/13 P)

(2013/C 298/04)

Language of the case: German

Parties

Appellant: Franz Wilhelm Langguth Erben GmbH & Co. KG (represented by: R. Kunze and G Würtenberger, Rechtsanwälte)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)(OHIM)

Forms of order sought

The Appellant claims that the Court should:

— set aside the judgment of the General Court of 20 February, dismissing an action against the decision of the Fourth Board of Appeal of OHIM of 10 May 2011 (Case R-1598/2010-4) relating to a claim of seniority of earlier marks;

— order OHIM to pay the costs.

Pleas in law and main arguments

The appeal is brought against the judgment of the General Court dismissing the Appellant's claim for annulment of the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 10 May 2011 relating to a claim of seniority of earlier marks in an application for registration of the figurative sign MEDINET as a Community trade mark.

The General Court infringed Article 34 of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark by holding that that provision was to be interpreted narrowly and did not allow the seniority of part of an earlier national mark to be claimed. It further infringed its duty to state reasons under Article 75 of Regulation No 207/2009, in that it came to its decision on the basis of incomplete factual and legal considerations. Finally, the decision of the General Court without an oral procedure constituted a breach of Article 77 of Regulation No 207/2009.

Appeal brought on 22 July 2013 by Reber Holding GmbH & Co. KG against the judgment of the General Court (Fifth Chamber) delivered on 16 May 2013 in Case T-530/10 Reber Holding GmbH & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-414/13 P)

(2013/C 298/05)

Language of the case: German

Parties

Appellant: Reber Holding GmbH & Co. KG (represented by: O. Spuhler, M. Geitz, lawyers)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Anna Klusmeier

Form of order sought

The appellant claims that the Court should:

I. Set aside the judgment of the General Court of 16 May 2013 in Case T-530/10 and annul the decision of the Fourth Board of Appeal of OHIM of 14 September 2010 in Case R 363/2008-4;

II. In the alternative,

set aside the judgment referred to in point I. above and refer the matter back to the General Court;

III. Order the respondent to pay the costs of the proceedings.

Pleas in law and main arguments

By its appeal the appellant puts forward a complaint of infringement of substantive Community law and an incomplete review and assessment of the factual basis. It claims that the General Court incompletely assessed the factual basis in this case which constitutes an error in law (judgment of the Court of Justice in Case C-51/09 P *Becker* v *Harman International Industries* ([1])). This may be invoked before the Court of Justice in the context of an appeal (see Case C-317/10 P *Union Investment Privatfonds* v *UniCredito Italiano* ([2])).

In the judgment under appeal the General Court assumes that the presented declaration in lieu of an oath makes no reference to the further evidence submitted. This assertion is inaccurate. It is clear from the declaration that reference is made to the further evidence attached. Therefore, the General Court did not fully review and assess the declaration. This therefore concerns an error in law in the judgment under appeal, which may be raised at the appeal stage.

If the General Court had fully reviewed and assessed the evidence before it, then it would have found genuine use of both of the marks cited in opposition pursuant to the first sentence of Article 42(2) and of Article 42(3) of the Community trade mark Regulation ([3]) (Regulation No 40/94). Consequently the judgment under appeal also infringes the first sentence of Article 42(2) and of Article 42(3) of Regulation No 40/94.

In addition, the judgment under appeal also infringes Article 15(1) and (2)(a) of Regulation No 40/94. The General Court erred in law by stating that mark No 115 1 678 cited in opposition, 'W. Amadeus Mozart' is not used as a mark.

([1]) [2010] ECR I-5805.
([2]) [2011] ECR I-5471.
([3]) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, OJ 1994 L 11, p. 1.

Request for a preliminary ruling from the Curtea de Apel Cluj (Romania) lodged on 31 July 2013 — Casa Județeană de Pensii Cluj v Attila Balazs

(Case C-432/13)

(2013/C 298/06)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Appellant: Casa Județeană de Pensii Cluj

Respondent: Attila Balazs

Question referred

Is Article 7(2)(c) of Regulation (EEC) No 1408/71 ([1]) to be interpreted as including within its scope a bilateral agreement which two Member States entered into before the date on which that regulation became applicable and by which the two states agreed to the termination of obligations relating to social security benefits owed by one state to nationals of the other state who had been political refugees in the territory of the first state and who have been repatriated to the territory of the second state, in exchange for a payment by the first state of a lump sum for the payment of pensions and to cover periods during which social security contributions were paid in the first 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, English Special Edition 1971 (II), p. 416).