

*Decision of the Opposition Division:* Upheld the opposition partially

*Decision of the Board of Appeal:* Dismissed the appeal

*Pleas in law:* The applicant considers that the contested decision infringes Articles 65(2) and 8(1)(b) of Council Regulation (EC) No 207/2009, as the Board of Appeal misused its power by the ruling of the contested decision as it lacks objectivity and legal basis, and erroneously applied the criteria to establish a likelihood of confusion between the earlier trademark and the contested trademark.

## **Action brought on 24 September 2010 — Fulmen v Council**

(Case T-439/10)

(2010/C 328/58)

*Language of the case:* French

### **Parties**

*Applicant:* Fulmen (Tehran, Iran) (represented by: A. Kronshagen, lawyer)

*Defendant:* Council of the European Union

### **Form of order sought**

— Annul point 11 of Section I B of the annex to Council Regulation (EU) No 668/2010 concerning restrictive measures against Iran, and the Council's decision of 26 July 2010 in so far as it concerns the applicant;

— order the Council of the European Union to pay the costs.

### **Pleas in law and main arguments**

The applicant seeks annulment of Council implementing Regulation (EU) No 668/2010 implementing Article 7(2) of Regulation (EC) No 423/2007,<sup>(1)</sup> and Council Decision 2010/413/CFSP,<sup>(2)</sup> concerning restrictive measures against Iran with the aim of preventing nuclear proliferation, in so far as the applicant's name has been placed on the list of persons, entities and bodies whose funds and economic resources are frozen pursuant to that provision.

In support of its action the applicant submits that the contested Council decision should be annulled since there is no relevant

decision of a competent authority justifying, at the time of its adoption, the inclusion of the applicant on the list of organisations involved in Iran's nuclear or ballistic missiles activities.

The applicant also alleges an infringement of procedural guarantees in that its rights of defence and its right to a fair hearing have been infringed in so far as:

- the Council did not sufficiently reason its decision to include the applicant's name on the contested list;
- the factors held against the applicant were not communicated prior to the Council's decision; and
- the applicant was not provided with the opportunity to effectively express its point of view on those factors.

- <sup>(1)</sup> Council implementing Regulation (EU) No 668/2010 of 26 July 2010 implementing Article 7(2) of Regulation (EC) No 423/2007 concerning restrictive measures against Iran (OJ 2010 L 195, p. 25).
- <sup>(2)</sup> Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39).

## **Action brought on 24 September 2010 — Mahmoudian v Council**

(Case T-440/10)

(2010/C 328/59)

*Language of the case:* French

### **Parties**

*Applicant:* Fereydoun Mahmoudian (Tehran, Iran) (represented by: A. Kronshagen, lawyer)

*Defendant:* Council of the European Union

### **Form of order sought**

- Annul point 2 of Section I A of the annex to Council Regulation (EU) No 668/2010 concerning restrictive measures against Iran, and the Council's decision of 26 July 2010 in so far as it concerns the applicant;

— order the Council of the European Union to pay the costs.