Defendant: European Commission (represented by: G. Wilms, O. Beynet and B. Schima, agents)

Intervener in support of the applicant: Czech Republic (represented by: M. Smolek, agent)

Re:

Action for annulment of the decision allegedly contained in the Commission's letter of 12 June 2009 addressed to the Bundesnetzagentur (German Regulatory Authority) on the basis of Article 22(4) of Directive 2003/55/EC pf the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC (OJ 2003 L 176, p. 57).

Operative part of the order

1. *The action is dismissed.*

2. *RWE Transgas a.s. shall bear its own costs and pay those incurred by the European Commission.*

3. *The Czech Republic shall bear its own costs.*

([1]) OJ C 297, 5.12.2009.

Action brought on 8 October 2010 — Islamic Republic of Iran Shipping Lines and Others v Council

(Case T-489/10)

(2011/C 30/73)

Language of the case: English

Parties

Applicants: Islamic Republic of Iran Shipping Lines (Tehran, Iran), Bushehr Shipping Co. Ltd (Valetta, Malta), Cisco Shipping Company Limited (Seoul, South Korea), Hafize Darya Shipping Lines (HDSL) (Tehran, Iran), Irano Misr Shipping Co. (Tehran, Iran), Irinvestship Ltd (London, United Kingdom), IRISL (Malta) Ltd (Sliema, Malta), IRISL Club (Tehran, Iran), IRISL Europe GmbH (Hamburg) (Hamburg, Germany), IRISL Marine Services and Engineering Co. (Tehran, Iran), IRISL Multimodal Transport Company (Tehran, Iran), ISI Maritime Ltd (Malta) (Valletta, Malta), Khazer Shipping Lines (Bandar Anzali) (Gilan, Iran), Leadmarine (Singapore), Marble Shipping Ltd (Malta) (Sliema, Malta), Safiran Payam Darya Shipping Lines (SAPID) (Tehran, Iran), Shipping Computer Services Co. (SCSCOL) (Tehran, Iran), Soroush Saramin Asatir (SSA) (Tehran, Iran), South Way Shipping Agency Co. Ltd (Tehran, Iran), Valfajr 8th Shipping Line Co. (Tehran, Iran) (represented by: F. Randolph, M. Lester, Barristers, and M. Taher, Solicitor)

Defendant: Council of the European Union

Form of order sought

— annul 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 ([1]) and Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP ([2]) in so far as those measures relate to the applicants;

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

Pleas in law and main arguments

In the present case the applicants, shipping companies based in Iran, United Kingdom, Malta, Germany, Singapore and South Korea, seek the partial annulment of Council implementing Regulation No 668/2010 and of Council Decision 2010/413/CFSP in so far as they are included on the list of natural and legal persons, entities and bodies whose funds and economic resources are frozen in accordance with this provision.

The applicants put forward the four pleas in law in support of its claims.

First, the applicants argue that the contested measures were adopted in violation of the applicants' rights of defence and their right to effective judicial protection since they provide no procedure for communicating to the applicant the evidence on which the decision to freeze their assets was based, or for enabling them to comment meaningfully on that evidence. Furthermore, the applicants submit that the reasons contained in the regulation and in the decision contain general, unsupported, vague allegations of conduct relating to only two of the applicants. In respect of the other applicants, no evidence or information is given other that alleged an unspecified connection with the first applicant. In the applicants' view, the Council has not given sufficient information to enable them effectively to make known their views in response, which does not permit a Court to assess whether the Council's decision and assessment was well founded and based on compelling evidence.

Second, the applicants contend that the Council failed to provide sufficient reasons for their inclusion in the contested measures, in violation of its obligation to give a clear statement of actual and specific reasons justifying its decision, including the specific individual reasons that led it to consider that the applicants provided support for nuclear proliferation.

Third, the applicants claim that the contested measures constitute an unjustified and disproportionate restriction on the applicant's right to property and freedom to conduct their business. The assets freezing measures have a marked and long-lasting impact on their fundamental rights. The applicants submit that their inclusion is not rationally connected with the objective of the contested regulation and decision, since the allegations against the applicants do not relate to nuclear proliferation. In any event, the Council has not demonstrated that a total asset freeze is the least onerous mean of ensuring such an objective, nor that the very significant harm to the applicants is justified and proportionate.

Fourth, the applicants argue that the Council committed a manifest error of assessment in determining that the designation criteria in the contested regulation and the contested decision were satisfied in relation to the applicants. None of the allegations against any of the applicants relates to nuclear proliferation or weaponry. A simple assertion that some of the applicants are owned or controlled by or the agents of the first applicant is insufficient to meet criteria. Therefore, in the applicants' opinion the Council has failed to evaluate the factual position.

(1) OJ 2010 L 195, p. 25
(2) OJ 2010 L 195, p. 39

Action brought on 9 November 2010 — Confortel Gestión v OHIM — Homargrup (CONFORTEL AQUA 4)

(Case T-521/10)

(2011/C 30/74)

Language in which the application was lodged: Spanish

Parties

Applicant: Confortel Gestión, SA (Madrid, Spain) (represented by: I. Valdelomar Serrano)

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

Other party to the proceedings before the Board of Appeal of OHIM: Homargrup, SA (Santa Susana, Spain)

Form of order sought

— Annul the decision of the Second Board of Appeal of 5 August 2010 in Case R 1359/2009-2, and consequently register Community trade mark No 5.276.951 'CONFORTEL Aqua 4' for all of the classes sought, and

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

Pleas in law and main arguments

Applicant for a Community trade mark: Confortel Gestión, SA.

Community trade mark concerned: Word mark 'CONFORTEL Aqua 4' for services in Classes 41, 43 and 44.

Proprietor of the mark or sign cited in the opposition proceedings: Homargrup, SA.

Mark or sign cited in opposition: Community word mark 'AQUA' and Community figurative mark 'A AQUA HOTEL' and Spanish word marks 'AQUAMARINA' and 'AQUATEL', and Spanish figurative mark 'AQUAMAR', for services in Class 42.

Decision of the Opposition Division: Opposition upheld.

Decision of the Board of Appeal: Appeal dismissed.

Plea in law: Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009, (1) since there is no likelihood of confusion between the marks at issue.

(1) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

Action brought on 12 November 2010 — Google v OHIM — Giersch Ventures (GMail)

(Case T-527/10)

(2011/C 30/75)

Language in which the application was lodged: English

Parties

Applicant: Google, Inc. (Wilmington, United States) (represented by: M. Kinkeldey and A. Bognár, lawyers)

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

Other party to the proceedings before the Board of Appeal: Giersch Ventures LLC (Los Angeles, United States)

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 8 September 2010 in case R 342/2010-4; and