

3. Third plea in law, alleging infringement of the principle of legal certainty

- In declaring that its undertaking was small, the applicant acted on the basis of the mistaken belief that that was the correct classification of the company's size, but without culpability. According to the information contained, under 'charges', on the website of the national REACH helpdesk, the size of an undertaking is defined by the national Law on freedom of business activity. Under that law, when determining the size of an undertaking the shareholding structure is not material; instead, account must be taken of the number of workers employed and the net annual turnover, which the applicant did. The obligation to take account of Commission Recommendation 2003/361/EC of 6 May 2003 when determining the size of an undertaking was not correctly communicated to the persons concerned. Nor did ECHA inform undertakings of the amount of the administrative charges which may be imposed for incorrect classification of an undertaking's size, thereby infringing the principle of legal certainty.

4. Fourth plea in law, alleging misuse of powers

- The defendant misused its powers in setting clearly excessive rates of charges in Decision MB/D/29/2010, and also in according itself very broad powers in the form of the ability to use all legal remedies to recover charges and the impossibility of avoiding those charges. Article 13(4) of Regulation No 340/2008 cannot justify those powers. The imposition of the administrative charge pursues in reality an objective other than that stated in recital 2 in the preamble to Regulation No 340/2008 (covering the cost of ECHA services) and the charge does not correspond to ECHA's work burden but constitutes an illegitimate fine imposed on the defendant.

Action brought on 21 December 2012 — Nissan Jidosha/OHIM (CVTC)

(Case T-572/12)

(2013/C 79/34)

Language of the case: English

Parties

Applicant: Nissan Jidosha KK (Yokohama-shi, Japan) (represented by: B. Brandreth, Barrister and D. Cañadas Arcas, lawyer)

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the First Board of appeal's Decision of 6 September 2012, (Case R 2469/2011-1);
- Order that the Respondent pays the Appellant its costs incurred before the Board of Appeal and the General Court.

Pleas in law and main arguments

Community trade mark concerned: The figurative mark 'CVTC' for goods in classes 7, 9 and 12

Decision of the Examiner: Rejected partially the CTM renewal

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Art 50 of Council Regulation No 207/2009.

Action brought on 27 December 2012 — NIOC and Others v Council

(Case T-577/12)

(2013/C 79/35)

Language of the case: French

Parties

Applicants: National Iranian Oil Company PTE Ltd (NIOC) (Singapore, Singapore); National Iranian Oil Company International Affairs Ltd (NIOC International Affairs) (London, United Kingdom); Iran Fuel Conservation Organization (IFCO) (Teheran, Iran); Karoon Oil & Gas Production Co. (Ahwaz, Iran); Petroleum Engineering & Development Co. (PEDEC) (Teheran); Khazar Exploration and Production Co. (KEPCO) (Teheran); National Iranian Drilling Co. (NIDC) (Ahwaz); South Zagros Oil & Gas Production Co. (Shiraz, Iran); Maroun Oil & Gas Co. (Ahwaz); Masjed-Soleyman Oil & Gas Co. (MOGC) (Khouzestan, Iran); Gachsaran Oil & Gas Co. (Ahmad, Iran); Aghajari Oil & Gas Production Co. (AOGPC) (Omidieh, Iran); Arvandan Oil & Gas Co. (AOGC) (Khoramshar, Iran); West Oil & Gas Production Co. (Kermanshah, Iran); East Oil & Gas Production Co. (EOGPC) (Mashhad, Iran); Iranian Oil Terminals Co. (IOTC) (Teheran); Pars Special Economic Energy Zone (PSEEZ) (Boushehr, Iran); et Iran Liquefied Natural Gas Co. (Teheran) (represented by: J.-M. Thouvenin, lawyer)

Defendant: Council of the European Union