Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'ELTEK', for goods in class 9 — Community trade mark application No 4 368 064

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: German trade mark and International registration 'ELTEC', designating the Benelux, Spain, France, Italy, Austria and Portugal, for goods and services in classes 9, 37, 38, 41 and 42

Decision of the Opposition Division: Partially dismissed the opposition

Decision of the Board of Appeal: Allowed the appeal and rejected the Community trade mark applied for with respect to certain goods of class 9

Pleas in law: Infringement of Articles 8(1)(b) Council Regulation No 207/2009.

Action brought on 8 March 2013 — Scheepsbouw Nederland v Commission

(Case T-140/13)

(2013/C 147/39)

Language of the case: English

Parties

Applicant: Scheepsbouw Nederland (Rotterdam, Netherlands) (represented by: K. Struckmann, lawyer, and G. Forwood, Barrister)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the European Commission of 20 November 2012 in case SA.34736 (Early depreciation of certain assets acquired through a financial leasing), published in the Official Journal of the European Union on 13 December 2012 (OJ 2012 C 384, p. 2); and

— Order the defendant to pay the costs of these proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law, alleging that the Commission failed to comply with Article 108(3) TFEU and Article 4(2) and 4(3) of Council Regulation (EC) No 659/1999 ([1]).

In this respect, the applicant argues that, in view of the circumstances of the case, as well as the insufficient and incomplete nature of the substantive examination carried out by the Commission during the preliminary examination procedure, there is sufficient evidence of the existence of serious difficulties as to the assessment of the proposed measure. The Commission was therefore not properly able to conclude, following its preliminary examination, that the measure in question was not State aid within the meaning of Article 107(1) TFEU. The Commission had no choice but to open the formal investigation procedure under Article 108(2) TFEU.

([1]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1)

Action brought on 11 March 2013 — Ziegler Relocation v Commission

(Case T-150/13)

(2013/C 147/40)

Language of the case: French

Parties

Applicant: Ziegler Relocation SA (Brussels, Belgium) (represented by: J.-F. Bellis, M. Favart and A. Bailleux, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— join the present action to Case T-539/12;

— declare the present action admissible and well-founded;

— hold that the European Union has incurred non-contractual liability as regards the applicant;

— order the European Union to pay the applicant the sum of EUR 112 872,50 per year from 11 March 2008, together with interest until payment in full;

— order the European Union to pay the costs.

Pleas in law and main arguments

The damage in respect of which the applicant seeks compensation from the European Union concerns the loss of earnings which it claims to have suffered since the adoption of the Commission's decision of 11 March 2008 in Case COMP/38.543 — *International removal services* as a result of the practice of European Union officials to request cover quotes in the context of removals the costs of which are reimbursed in accordance with the status of European Union officials has not ceased. The applicant's refusal to respond

favourably to such requests has the effect of removing it from the markets concerned, to the extent that it no longer supplies removal services to more than a very limited number of officials of the European institutions. It is a failure on the part of the European Union to fulfil its duty of care which is the cause of the loss thus suffered by the applicant.

Action brought on 14 March 2013 — Petro Suisse Intertrade v Council

(Case T-156/13)

(2013/C 147/41)

Language of the case: English

Parties

Applicant: Petro Suisse Intertrade Co. SA (Pully, Switzerland) (represented by: J. Grayston, Solicitor, P. Gjørtler, G. Pandey, D. Rovetta, N. Pilkington and D. Sellers, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Annul Council Decision 2012/829/CFSP of 21 December 2012 (OJ 22.12.2012, L 356, p.71), amending Decision 2010/413/CFSP concerning restrictive measures against Iran, and Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 (OJ 22.12.2012, L 356, p. 55), implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran, in so far as the contested acts include the applicant; and,

— Order the Council to bear the costs of the present proceedings.

Pleas in law and main arguments

The applicant submits six grounds of challenge concerning infringement of an essential procedural requirement, as well as infringement of the Treaties and of rules of law relating to their application: violation of the right of hearing, violation of the obligation to give proper notice, insufficient statement of grounds, violation of the right of defence, manifest error of assessment, and breach of the fundamental right to property.

The applicant finds that the Council failed to perform a hearing of the applicant, and that no contrary indications would justify this. Furthermore, the Council failed to properly identify the applicant as the subject of the decision and regulation and also to properly identify the applicant in its letter of notification, and in any case these acts contained an insufficient statement of reasons. Requests by the applicant to confirm the identification, to expand on the statement of reasons, and for access to documents were not replied to, apart from a brief letter acknowledging receipt. By these omissions, the Council violated the right of defence of the applicant, who was denied the possibility of effectively arguing against the findings of the Council, as these findings were withheld from the applicant. Contrary to the claim of the Council, the applicant is not a front company controlled by the National Iranian Oil Company (NIOC), and in any case the Council has not substantiated that control of the applicant by NIOC would entail an economic benefit for the Iranian State that would be contrary to the aim of the contested decision and regulation. Finally, by restricting the ability of the applicant to form contracts, the Council has violated the basic right of property by taking measures for which the proportionality cannot be ascertained.

Action brought on 15 March 2013 — Sorinet Commercial Trust Bankers v Council

(Case T-157/13)

(2013/C 147/42)

Language of the case: English

Parties

Applicant: Sorinet Commercial Trust Bankers Ltd (Kish Island, Iran) (represented by: L. Defalque and C. Malherbe, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Annul paragraph I.I.12 (under the heading 'Entities') of the Annex to Council Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran;

— Annul paragraph I.I.12 (under the heading 'Entities') of the Annex to Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran; and,

— Order that the Council pays the Applicant's costs of this application.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the Council has breached the obligation to state reasons. The statement of reasons of the disputed decision and resolution is vague and general and does not indicate the specific and actual reasons why, in the exercise of its broad discretion, the Council considered that the Applicant should be subject to the disputed restrictive measures.