

GENERAL COURT

Judgment of the General Court of 18 June 2012 — Biofrescos v Commission

(Case T-159/09) ⁽¹⁾

(Customs union — Frozen shrimps and prawns from Indonesia — Invalid certificates of origin — Post-clearance recovery of import duties — Application for remission of import duties — Article 220(2)(b) and Article 239 of Regulation (EEC) No 2913/92)

(2012/C 227/23)

Language of the case: Portuguese

Parties

Applicant: Biofrescos — Comércio de Produtos Alimentares, L^{da} (Linda-a-Velha, Portugal) (represented by: A. de Magalhães Menezes, lawyer)

Defendant: European Commission (represented by: R. Lyal, P. Guerra e Andrade and L. Bouyon, acting as Agents)

Re:

Application for annulment of Commission Decision C(2009) 72 final of 16 January 2009 finding that there should be post-clearance recovery of import duties and that remission of those duties is not justified in a particular case

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Biofrescos — Comércio de Produtos Alimentares, L^{da} to pay the costs.

⁽¹⁾ OJ C 153, 4.7.2009.

Judgment of the General Court of 21 June 2012 — Kavaklidere-Europe v OHIM — Yakult Honsha (Yakut)

(Case T-276/09) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community word mark Yakut — Earlier Community figurative mark Yakult — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 227/24)

Language of the case: English

Parties

Applicant: Kavaklidere-Europe (Schoten, Belgium) (represented: initially by J. Vercaeye and I. Tytgat, and subsequently by J. Vercaeye and B. De Vuyst, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Botis, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Yakult Honsha Kabushiki Kaisha (Tokyo, Japan) (represented by M. Edenborough QC, P. Harris, Solicitor, and T. Elias, Barrister)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 8 May 2009 (Case R 1396/2008-4) concerning opposition proceedings between Yakult Honsha Kabushiki Kaisha and Kavaklidere-Europe

Operative part of the judgment

The General Court:

1. Dismisses the action;
2. Orders Kavaklidere-Europe to pay the costs.

⁽¹⁾ OJ C 244, 10.10.2009.

Judgment of the General Court of 21 June 2012 — Spain v Commission

(Joined Cases T-178/10, T-263/10 and T-265/10) ⁽¹⁾

(Operational programmes of the Cohesion Fund and of the ERDF managed by Spain — Request for interim payment — Evidence suggesting significant deficiency in functioning of management and control systems — Measures interrupting the period for payment — Action for annulment — Admissibility — Audit strategy — Legal certainty — Legitimate expectations — Proportionality)

(2012/C 227/25)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: N. Díaz Abad, agent)

Defendant: European Commission (represented by: C. Urraca Cavedes and B. Conte and, in Case T-178/10, A. Steiblyté, agents)

Re:

Actions against the Commission decisions of 12 February 2010 (Case T-178/10), 8 April 2010 (Case T-263/10) and 15 April 2010 (Case T-265/10) informing the Spanish authorities of the interruption of the period for the settlement of certain requests for interim payment submitted by the Kingdom of Spain.