

Judgment of the General Court of 29 January 2013 — Bank Mellat v Council

(Case T-496/10) ⁽¹⁾

(Common foreign and security policy — Restrictive measures against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Obligation to state reasons — Rights of the defence — Right to effective judicial protection — Manifest error of assessment)

(2013/C 71/23)

Language of the case: English

Parties

Applicant: Bank Mellat (Teheran, Iran) (represented initially by: S. Gadhia and S. Ashley, Solicitors, D. Anderson QC and R. Blakeley, Barrister, and subsequently by R. Blakeley, S. Zaiwalla, Solicitor, and M. Brindle QC)

Defendant: Council of the European Union (represented by: M. Bishop and A. Vitro, acting as Agents)

Intervener in support of the defendant: European Commission (represented by: S. Boelaert and M. Konstantinidis, acting as Agents)

Re:

Application for annulment of 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), 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), Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413 (OJ 2010 L 281, p. 81), Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1), Council Decision 2011/783/CFSP of 1 December 2011 amending Decision 2010/413 (OJ 2011 L 319, p. 71), Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation No 961/2010 (OJ 2011 L 319, p. 11), and Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation No 961/2010 (OJ 2012 L 88, p. 1) in so far as those measures concern the applicant.

Operative part of the judgment

The Court:

1. Annuls the following measures in so far as they concern Bank Mellat:

- point 4 of Table B of Annex II to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP;

— point 2 of Table B to the Annex to 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;

— point 4 of Table I.B in the Annex to Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413;

— point 4 of Table B of Annex VIII to Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation No 423/2007;

— Council Decision 2011/783/CFSP of 1 December 2011 amending Decision 2010/413;

— Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation No 961/2010;

— point 4 of Table I.B of Annex IX to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation No 961/2010;

2. Orders the Council of the European Union to bear its own costs and to pay the costs of Bank Mellat;

3. Orders the European Commission to bear its own costs.

⁽¹⁾ OJ C 328, 4.12.2010.

Judgment of the General Court of 29 January 2013 — Germans Boada v OHIM (Manual tile-cutting machine)

(Case T-25/11) ⁽¹⁾

(Community trade mark — Application for a Community three-dimensional mark — Manual tile-cutting machine — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009 — Lack of distinctive character acquired through use — Article 7(3) of Regulation No 207/2009 — Obligation to state reasons — Articles 75 and 76 of Regulation No 207/2009 — Equal treatment)

(2013/C 71/24)

Language of the case: Spanish

Parties

Applicant: Germans Boada, SA (Rubí, Spain) (represented by: J. Carbonell Callicó, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 28 October 2010 (Case R 771/2010-1), relating to an application for registration of the three-dimensional sign representing a manual tile-cutting machine as a Community trade mark

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Germans Boada, SA to pay the costs.

(⁽¹⁾) OJ C 80, 12.3.2011.

Judgment of the General Court of 24 January 2013 — Yordanov v OHIM — Distribuidora comercial del frio (DISCO DESIGNER)

(Case T-189/11) (⁽¹⁾)

(Community trade mark — Opposition proceedings — Application for Community word mark DISCO DESIGNER — Earlier figurative Community mark DISCO — Relative ground for refusal — Likelihood of confusion — Identity of the goods — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2013/C 71/25)

Language of the case: German

Parties

Applicant: Peter Yordanov (Rousse, Bulgaria) (represented by: T. Walter, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: K. Klüpfel and A. Pohlmann, Agents)

Other party to the proceedings before the Board of Appeal of OHIM: Distribuidora comercial del frio, SA (Madrid, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 14 January 2011 (Case R 803/2010-2), relating to opposition proceedings between Distribuidora comercial del frio, SA and Mr Peter Yordanov.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Mr Peter Yordanov to pay the costs.

(⁽¹⁾) OJ C 152, 21.5.2011.

Judgment of the General Court of 29 January 2013 — Fon Wireless v OHIM — nfon (nfon)

(Case T-283/11) (⁽¹⁾)

(Community trade mark — Opposition proceedings — Application for Community word mark nfon — Earlier Community trade mark fon and earlier national word mark FON — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 — Application for alteration)

(2013/C 71/26)

Language of the case: German

Parties

Applicant: Fon Wireless Ltd (London, United Kingdom) (represented initially by F. Brandolini Kujman, and then by L. Montoya Terán, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: nfon AG (Munich, Germany) (represented by: S. Schweyer, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 18 March 2011 (Case R 1017/2009-4), relating to opposition proceedings between Fon Wireless Ltd and nfon AG.

Operative part of the judgment

The Court:

1. alters the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 18 March 2011 (Case R 1017/2009-4) to the effect that the action brought by nfon AG before the Board of Appeal is dismissed;
2. orders OHIM to bear its own costs and those incurred by Fon Wireless Ltd;
3. orders nfon to bear its own costs.

(⁽¹⁾) OJ C 32, 4.2.2012.