

Form of order sought

- Annul Council Decision 2011/783/CFSP ⁽¹⁾ and Council Implementing Regulation (EU) No 1245/2011 ⁽²⁾ in so far as they apply to the applicant; and
- Declare Articles 19(1)(b) and 20(1)(b) of Council Decision 2010/413/CFSP ⁽³⁾ and Article 16(2) of Council Regulation (EU) No 961/2010 ⁽⁴⁾ inapplicable to the applicant;
- Order that Article 60(2) of the Statute of the Court of Justice of the European Union has no application to the annulment of the applicant's designation; and
- Order the defendant to pay the costs of the 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 substantive criteria for designation under Council Decision 2010/413/CFSP and Council Regulation (EU) No 961/2010 are not met in respect of the applicant and/or the defendant committed a manifest error of assessment in determining whether or not those criteria were met when reviewing the applicant's designation.
2. Second plea in law, alleging that the continued designation of the applicant is in violation of its property rights and the principle of proportionality.
3. Third plea in law, alleging that in continuing the applicant's designation, the defendant has breached the procedural requirement: (i) to give adequate reasons; and (ii) to respect the right of defence and the right to effective judicial protection.
4. Fourth plea in law, alleging that in so far as the applicant's application in case T-496/10 *Bank Mellat v Council* is successful, this application must also succeed.

⁽¹⁾ Council Decision 2011/783/CFSP of 1 December 2011 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2011 L 319, p. 71)

⁽²⁾ Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation (EU) No 961/2010 on restrictive measures against Iran (OJ 2011 L 319, p. 11)

⁽³⁾ Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39)

⁽⁴⁾ 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)

Action brought on 17 February 2012 — Einhell Germany and Others v Commission

(Case T-73/12)

(2012/C 109/59)

Language of the case: English

Parties

Applicants: Einhell Germany AG (Landau an der Isar, Germany), Hans Einhell Nederlands BV (Breda, Netherlands), Einhell France SAS (Villepinte, France) and Hans Einhell Oesterreich GmbH (Vienna, Austria) (represented by: R. MacLean, Solicitor)

Defendant: European Commission

Form of order sought

- Declare the application admissible;
- Partially annul Article 1 of Commission Decision K(2011) 8831, Article 1 of Commission Decision C(2011) 8825, Article 1 of Commission Decision C(2011) 8828 and Article 1 of Commission Decision K(2011) 8810, all four decisions being dated 6 December 2011, insofar as they only grant partial refunds of the anti-dumping duties paid by the applicants on imports of Chinese-made compressors applied under Council Regulation (EC) No 261/2008 imposing a definitive anti-dumping duty on certain compressors originating in the People's Republic of China (OJ 2008 L 81, p. 1);
- Order maintenance in force of the contested decisions until the European Commission has adopted measures necessary to comply with any judgment of the Court; and
- Order the defendant to pay the legal costs and expenses of the procedure.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. First plea in law, alleging that the defendant committed a manifest error of assessment in applying an appropriate and reasonable unrelated EU importer profit margin for the purposes of establishing the revised dumping margin applicable to the imports in question, thereby failing to establish a reliable export price for the unrelated supplier when calculating the correct anti-dumping refund amounts leading to infringements of Articles 2(9) and 18(3) of Council Regulation (EC) No 1225/2009. ⁽¹⁾

2. Second plea in law, alleging that the defendant committed a manifest error of assessment by deducting anti-dumping duties as a cost in the calculation of the unrelated supplier's export price thereby failing to establish a reliable dumping margin for the purpose of calculating the revised dumping margin and the correct anti-dumping refund amounts and in doing so violated Articles 2(9), 2(11) and 11(10) of Council Regulation (EC) No 1225/2009.

(¹) Council Regulation (EC) 1225/2009 on Protection Against Dumped Imports From Countries not Members of the European Community, OJ 2009 L 343, p. 51.

Action brought on 16 February 2012 — Wahl v OHIM — Tenacta Group (bellissima)

(Case T-77/12)

(2012/C 109/60)

Language in which the application was lodged: German

Parties

Applicant: Wahl GmbH (Unterkirnach, Germany) (represented by: T. Kieser, lawyer)

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

Other party to the proceedings before the Board of Appeal: Tenacta Group SpA (Azzano S. Paolo, Italy)

Form of order sought

— Alter the decision of the Second Board of Appeal of 21 November 2011 so as to reject Opposition No B1560781 of 2 November 2009 to Community trade mark No 004534889;

— in the alternative, alter the decision of the Second Board of Appeal of 21 November 2011 so as to reject Opposition No B1560781 of 2 November 2009 to Community trade mark No 004534889 in relation to registration of the trade mark applied for in respect of goods in Class 7;

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

Pleas in law and main arguments

Applicant for a Community trade mark: Wahl GmbH.

Community trade mark concerned: Figurative mark 'bellissima' for goods in Classes 7 and 8 (application No 8406704).

Proprietor of the mark or sign cited in the opposition proceedings: Tenacta Group SpA.

Mark or sign cited in opposition: Figurative mark 'bellissima IMETEC' for goods in Classes 9 and 11 (Community trade mark No 4534889).

Decision of the Opposition Division: Opposition allowed.

Decision of the Board of Appeal: Appeal dismissed.

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

Action brought on 17 February 2012 — GRE v OHIM — Villiger Söhne (LIBERTE brunes)

(Case T-78/12)

(2012/C 109/61)

Language in which the application was lodged: German

Parties

Applicant: GRE Grand River Enterprises Deutschland GmbH (Kloster Lehnin, Germany) (represented by: I. Memmler, lawyer)

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

Other party to the proceedings before the Board of Appeal: Villiger Söhne GmbH (Waldshut-Tiengen, Germany)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 December 2011 in Case No R 2109/2010-1;

— order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the figurative mark 'LIBERTE brunes' for goods in Classes 25, 30 and 34 (application No 6 462 171)

Proprietor of the mark or sign cited in the opposition proceedings: Villiger Söhne GmbH