Form of order sought

— The applicant claims that the General Court should:

— Annul Council Decision 2011/69/CFSP of 31 January 2011 amending Council Decision 2010/639/CFSP concerning restrictive measures against certain officials of Belarus, in so far as concerns the applicant;

— Annul Council Regulation No 84/2011 of 31 January 2011 amending Regulation No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus, in so far as concerns the applicant;

— Annul Council Implementing Decision 2011/174/CFSP of 21 March 2011 implementing Decision 2010/639/CFSP concerning restrictive measures against certain officials of Belarus, in so far as concerns the applicant;

— Annul Council Implementing Regulation No 271/2011 of 21 March 2011 implementing Article 8a(1) of Regulation No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus, in so far as concerns the applicant;

— Order the Council to pay the costs.

Pleas in law and main arguments

The applicant relies on three pleas in law in support of its action.

1. The first plea, alleging an insufficient statement of reasons and breach of the rights of the defence, since the reasons given for the contested measures do not enable the applicant to contest the validity of the measures before the General Court or the latter to review the lawfulness of the measures.

2. The second plea, alleging error of assessment, since there is no factual justification for the contested measures.

3. The third plea, alleging failure to have regard to the principle of proportionality, in particular with regard to the restriction on entry into and transit within the territory of the European Union.

Action brought on 5 March 2012 — Bial — Portela v OHIM — Probiotical (PROBIAL)

(Case T-113/12)

(2012/C 165/35)

Language in which the application was lodged: English

Parties

Applicant: Bial — Portela & Ca, SA (São Mamede do Coronado, Portugal) (represented by: B. Braga da Cruz and J. Pimenta, lawyers)

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

Other party to the proceedings before the Board of Appeal: Probiotical SpA (Novara, Italy)

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 20 December 2011 in case R 1925/2010-4;

— Order the defendant to refuse the grant of the registration of Community trade mark No 2408128 'PROBIAL'; and

— Order the other party to the proceedings before the Board of Appeal to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark in dark blue and light blue 'PROBIAL', for goods in classes 1, 5 and 31 — Community trade mark application No 2408128

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Portuguese trade mark registration No 155284 of the word mark 'Bial', for goods in class 5; the trade mark 'Bial' being well known in Portugal; Community trade mark registration No 1400183 of the figurative mark in black and white 'Bial', for goods and services in classes 3, 5 and 42; Spanish trade mark registration No 2026481 of the figurative mark in black and white 'Bial', for services in class 35; international registration No 490635 for the mark in standard characters 'Bial', for goods in class 5; emblem of establishment No 868 of the figurative sign 'Bial'; Name of establishment No 35157 for the word 'Bial'; logotype No 951 of the figurative sign 'Bial'

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal wrongly assessed that the trademarks in question were not confusingly similar.