

Order of the General Court of 4 June 2012 — Eurofer v Commission

(Case T-381/11) ⁽¹⁾

(Action for annulment — Environment — Directive 2003/87/EC — Free allocation of greenhouse gas emission quotas from 2013 — Commission decision determining the product benchmark to be applied for the calculation of the allocation of emission quotas — Fourth paragraph of Article 263 of the TFEU — Lack of individual concern — Regulatory instrument containing implementation measures — Inadmissibility)

(2012/C 217/50)

Language of the case: German

Parties

Applicant: Europäischer Wirtschaftsverband der Eisen- und Stahlindustrie (Eurofer) ASBL (Luxembourg, Luxembourg) (represented by: S. Altenschmidt and C. Dittrich, lawyers)

Defendant: European Commission (represented by: G. Wilms, K. Herrmann and K. Mifsud-Bonnici, Agents)

Re:

Application for the annulment of Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ 2011 L 130, p. 1).

Operative part of the order

1. *The action is dismissed as inadmissible.*
2. *There is no need to rule on the application for leave to intervene of Euroalliages.*
3. *Europäischer Wirtschaftsverband der Eisen- und Stahlindustrie (Eurofer) ASBL is ordered to pay the costs, including those relating to the proceedings for interim relief.*

⁽¹⁾ OJ C 269, 10.9.2011.

Action brought on 16 May 2012 — Al Assad v Council

(Case T-202/12)

(2012/C 217/51)

Language of the case: French

Parties

Applicant: Bouchra Al Assad (Damascus, Syria) (represented by: G. Karouni, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- Annul Implementing Decision 2012/172/CFSP of 23 March 2012 implementing Decision 2011/782/CFSP concerning restrictive measures against Syria, in so far as it refers to Mrs Bouchra (aka Bushra) Al Assad;
- Order the Council of the European Union to pay the costs, in accordance with Articles 87 and 91 of the Rules of Procedure of the General Court.

Pleas in law and main arguments

In support of the action, the applicant relies on seven pleas in law, which are for all essential purposes identical or similar to those relied on in Case T-383/11 *Makhlouf v Council*. ⁽¹⁾

⁽¹⁾ OJ 2011 C 282, p. 30.

Action brought on 16 May 2012 — Alchaar v Council

(Case T-203/12)

(2012/C 217/52)

Language of the case: French

Parties

Applicant: Mohamad Nedal Alchaar (Aleppo, Syria) (represented by: A. Korkmaz, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the General Court should:

- annul, as far as those acts concern the applicant:
 - Implementing Regulation No 1244/2011 of 1 December 2011;
 - Decision No 2011/782/CFSP as amended and supplemented up to now, in particular by implementing Decision No 2012/37/CFSP, Decision 2012/122/CFSP, Implementing Decision 2012/172/CFSP and Decision 2012/206/CFSP;
 - Council Regulation (EU) No 36/2012 of 18 January 2012 as amended and supplemented up to now, in particular by Implementing Regulation No 55/2012, Regulation No 168/2012 and Implementing Regulation No 266/2012

- All future acts amending or supplementing Decision 2011/782/CFSP and Council Regulation No 36/2012
- annul the Council's decision in its letter of 16 March 2012 addressed to the applicant, in so far as it maintains his inclusion on the contested lists;
- order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging an infringement of fundamental rights and procedural guarantees, in particular rights, the duty to state reasons and the principle of effective judicial protection, in so far as the applicant did not receive formal notification of his inclusion on the list of persons sanctioned and or the grounds for his inclusion in the contested acts and were not sufficient to justify the sanctions.
2. Second plea in law, alleging an infringement of the right to property and economic freedom.

Action brought on 15 May 2012 — Vila Vita Hotel und Touristik v OHIM — Viavita (VIAVITA)

(Case T-204/12)

(2012/C 217/53)

Language in which the application was lodged: English

Parties

Applicant: Vila Vita Hotel und Touristik GmbH (Frankfurt, Germany) (represented by: G. Schoenen and V. Töbelmann, lawyers)

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

Other party to the proceedings before the Board of Appeal: Viavita SASU (Paris, France)

Form of order sought

- Overturn the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 March 2012 in case R 419/2011-1;
- Order OHIM to bear the costs of the applicant; and
- In the event that the other party to the proceedings before the Board of Appeal joins in these proceedings as an intervening party, order it to bear its own costs.

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 word mark 'VIAVITA', for services in classes 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 — Community trade mark application No 52201504

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

Mark or sign cited in opposition: Austrian trade mark registration No 154631 of the word mark 'VILA VITA PARC', for services in classes 39 and 42; German trade mark registration No 2097301 of the figurative mark 'VILA VITA TOURISTIK GMBH', for goods and services in classes 3, 35, 37, 39 et 41

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Annulled the contested decision and rejected the opposition

Pleas in law: Infringement of Article 42(2) and (3) of Council Regulation No 207/2009.

Action brought on 14 May 2012 — Shark v OHIM — Monster Energy (UNLEASH THE BEAST!)

(Case T-217/12)

(2012/C 217/54)

Language in which the application was lodged: English

Parties

Applicant: Shark AG (Innsbruck, Austria) (represented by: D. Campbell, Barrister, and P. Strickland, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Monster Energy Company (Corona, United States)

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 March 2012 in case R 360/2011-1; and
- Order the Office and the other party to the proceedings before the Board of Appeal to bear their own costs and pay those of the applicant.