

*Pleas in law:* The applicant submits that OHIM and the Board erred as a matter of law in concluding that the marks are legally similar and in concluding ipso facto that there is a likelihood of confusion on the part of the relevant public.

#### Action brought on 5 June 2012 — Uralita v Commission

(Case T-250/12)

(2012/C 243/46)

*Language of the case: English*

#### Parties

*Applicant:* Uralita, SA (Madrid, Spain) (represented by: K. Struckmann, lawyer and G. Forwood, Barrister)

*Defendant:* European Commission

#### Form of order sought

- Annul Article 1(2) of the Decision of the European Commission C(2012) 1965 of 27 March 2012 amending Decision C(2008)2626 of 11 June 2008 relating to a proceeding under Article 81 of the EC Treaty (now Article 101 of the Treaty on the Functioning of the European Union) and Article 53 of the EEA Agreement (Case COMP/38.695 — SODIUM CHLORATE), in so far as it imposes a fine of EUR 4 231 000 on the applicant;
- Article 2 of the Commission's decision C(2012) 1965 of 27 March 2012 — Case COMP/38.695 — Sodium Chlorate; and
- Order the defendant to pay the costs of the proceedings.

#### Pleas in law and main arguments

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

1. First plea in law, alleging that the decision to impose a fine after the expiry of the limitation period contained in Article 25(1) of Council Regulation (EC) No 1/2003<sup>(1)</sup>, and to retain the interest accrued on this sum, was unlawful.
2. Second plea in law, alleging, in the alternative, that it was unlawful for the Commission to withhold the amount of the fine imposed by Decision C(2012) 1965 of 27 March 2012, including interest, before the fine became due.

<sup>(1)</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1)

#### Action brought on 13 June 2012 — Diadikasia Symvouloi Epicheiriseon v Commission

(Case T-261/12)

(2012/C 243/47)

*Language of the case: English*

#### Parties

*Applicant:* Diadikasia Symvouloi Epicheiriseon AE (Chalandri, Greece) (represented by: A. Krystallidis, lawyer)

*Defendant:* European Commission

#### Form of order sought

- Repair the damages caused to the applicant by the unlawful decision of the EU Delegation to Serbia of 23 March 2012 to cancel the award of the contract 'Strengthening the institutional capacity of the Commission for protection of Competition (CPC) in the Republic of Serbia' (OJ 2011 S 147) which was awarded to the applicant, as leader of the consortium for the project above;
- Order that the costs of and occasioned by these proceedings be borne by the defendant.

#### Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant acted unlawfully by accusing the applicant of having an unfair advantage in relation to the other tenderers, since this conflict of interest that the applicant is being accused of concerns a totally independent third company, i.e. European profiles SA and not the applicant.
2. Second plea in law, alleging that the defendant violated its obligation to provide a clear and grounded decision of cancellation of the award, in violation of Article 18 of the European Code of Good Administrative Behaviour, in that it failed to justify the reason for which the applicant was given an unfair advantage in relation to the other tenderers.
3. Third plea in law, alleging that the defendant violated its right to be heard by failing to invite the applicant to express its opinion on what may be the matter constituting conflict of interest, in violation of article 16 of the European Code of Good Administrative Behaviour.
4. Fourth plea in law, alleging that the defendant violated its obligation to give the applicant the access to the documents which would prove the alleged illegal link and the unfair advantage to DIADIKASIA Consortium, according to Article 42 of EU Charter of Fundamental Rights.

5. Fifth plea in law, alleging that those actions by the defendant constitute a serious violation of the principle of legal certainty and an error in law as well as of the Article 4 of the European Code of Good Administrative Behaviour, when it unexpectedly cancelled its decision to award the subject project to the applicant's consortium on alleged grounds of 'conflict of interest'.

**Action brought on 12 June 2012 — Central Bank of Iran v Council**

(Case T-262/12)

(2012/C 243/48)

*Language of the case: English*

**Parties**

*Applicant:* Central Bank of Iran (Tehran, Iran) (represented by: M. Lester, Barrister)

*Defendant:* Council of the European Union

**Form of order sought**

— Annul Council Decision 2012/35/CFSP of 23 January 2012 <sup>(1)</sup> and Council Regulation (EU) No 267/2012 of 23 March 2012 <sup>(2)</sup>, in so far as the measures adopted through such legal acts apply to the applicant;

— Order the defendant to pay the costs.

**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 defendant manifestly erred in considering that any of the criteria for listing in Council Decision 2012/35/CFSP and Council Regulation (EU) No 267/2012 were fulfilled.
2. Second plea in law, alleging that the defendant failed to give adequate or sufficient reasons for including the applicant in the list of persons and entities to which the restrictive measures apply.
3. Third plea in law, alleging that the defendant failed to safeguard the applicant's rights of defence and to effective judicial review.

4. Fourth plea in law, alleging that the defendant infringed, without justification or proportion, the applicant's fundamental rights, including its rights to protection of its property and reputation.

<sup>(1)</sup> Council Decision 2012/35/CFSP of 23 January 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 19, p. 22)

<sup>(2)</sup> Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1)

**Action brought on 12 June 2012 — Schenker v Commission**

(Case T-265/12)

(2012/C 243/49)

*Language of the case: English*

**Parties**

*Applicant:* Schenker Ltd (Feltham, United Kingdom) (represented by: F. Montag and B. Kacholdt, lawyers, D. Colgan and T. Morgan, Solicitors)

*Defendant:* European Commission

**Form of order sought**

— Annul Article 1(1)(a) of the Decision of the European Commission of 28 March 2012 relating to proceedings under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case COMP/39.462-Freight Forwarding);

— Annul in total or, in the alternative, reduce the fine set out in Article 2(1)(a) of the contested decision; and

— Order the Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the Commission infringed the applicant's rights of defence, the principles of a fair trial and sound administration by not terminating its investigation upon receipt of notice that evidence submitted by Cleary Gottlieb Steen & Hamilton LLP on behalf of Deutsche Post AG was tainted by a series of breaches of law.
2. Second plea in law, alleging that the Commission exceeded its competence by adopting the contested decision although it was barred from doing so under Council Regulation No 141/1962 <sup>(1)</sup>.