Defendant: European Commission

Form of order sought

— annul Decision No FK/fa/D(2012) 1707818 of the European Commission of 10 December 2012 in so far as the debit note No 3241213460 attached to that decision relates to projects in respect of which the implementing parties have been placed in receivership, and order the Commission to return the amount of EUR 3 148 549,66;

— annul Decision No FK/fa/D(2012) 1707818 of the European Commission of 10 December 2012 in so far as the debit note No 3241213460 attached to it relates to Project No P27010010, and order the Commission to return the amount of EUR 1 060 560,56;

— order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law, each relating to a breach of European Union law:

1. The European Commission, in adopting the contested decision and not having shared the losses on the administration of the SAPARD funds with the Republic of Lithuania, or in any event by not having considered that matter and by not having provided any reasons for the refusal to share the losses, breached Article 8(2) of Regulation No 1258/1999, ([1]) read in conjunction with Article 73(2) of Regulation No 1605/2002, ([2]) Article 87 of Regulation No 2342/2002 ([3]) and the principle of sincere cooperation set out in Article 4(3) TEU.

2. The European Commission, having failed to provide, in sufficient time, information as to the possibility of cancelling the debt and striking the corresponding company off the list of debtors, breached the provision on mutual consultation contained in point 7.7.4 of Part F of the multiannual financing agreement concerning the special aid programme for agriculture and rural development (SAPARD) ([4]) signed in 2001 by the Republic of Lithuania and the European Commission, read in conjunction with the principle of sincere cooperation set out in Article 4(3) TEU.

([1]) Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy (OJ 1999 L 160 of 26.6.1999, p. 103).

([2]) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 248 of 16.9.2002, p. 1; *corrigendum* at OJ 2007 L 99 of 14.4.2007, p. 18).

([3]) Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 357 of 31.12.2002, p. 1; *corrigendum* at OJ 2005 L 345 of 28.12.2005, p. 35).

([4]) *Valstybės žinios*, 29.8.2001, No 74-2589.

Action brought on 28 February 2013 — Oil Pension Fund Investment Company v Council

(Case T-121/13)

(2013/C 129/48)

Language of the case: German

Parties

Applicant: Oil Pension Fund Investment Company (Tehran, Iran) (represented by: K. Kleinschmidt, lawyer)

Defendant: Council of the European Union

Form of order sought

— Annul, with immediate effect, Council Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran, and also Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 as regards inclusion in Regulation No 267/2012, in so far as those legal acts concern the applicant;

— adopt a measure of organisation of procedure pursuant to Article 64 of the Rules of Procedure of the General Court, requiring the defendant to produce all documents relating to the contested decision, in so far as they concern the applicant;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of the obligation to state reasons, of the rights of the defence and of the right to effective legal protection

In this context it is claimed, inter alia, that the statement of reasons in the contested acts is incomprehensible to the applicant, and comprehensible reasons were not communicated separately to the applicant by the defendant. As a result the applicant's rights of defence and its right to effective legal protection have been breached. There has also been a breach of the principle of the right to be heard. The applicant claims that the contested acts were not served on it by the defendant and that there was no hearing of the applicant. Further, it is submitted that the defendant did not correctly assess the circumstances relating to the applicant. The applicant takes the view that it was deprived of a fair trial based on the rule of law, having been unable, in the absence of adequate knowledge, to comment specifically on the relevant allegations and alleged evidence of the Council, or to put forward any contrary evidence in the proceedings.

2. Second plea in law, alleging manifest errors of assessment and breach of the principle of proportionality

In the applicant's view the Council made a manifest error of assessment when it adopted the contested acts. The Council failed adequately and/or correctly to investigate the facts underlying the contested acts. In that context, it is submitted, inter alia, that, so far as concerns the applicant, the grounds for adoption of the restrictive measures that are stated in the contested acts are inapplicable. The contested acts also breach the principle of proportionality.

3. Third plea in law, alleging infringement of the rights guaranteed under the Charter of Fundamental Rights of the European Union

Here, the applicant claims that its fundamental rights as guaranteed by the Charter of Fundamental Rights of the European Union (OJ 2010 C 83, p. 389) ('the Charter') have been infringed by the contested acts. It invokes, in that regard, breach of the freedom to conduct a business in the European Union (Article 16 of the Charter) and of the right to use its lawfully acquired possessions in the European Union and, in particular, to dispose of them freely (Article 17 of the Charter). Furthermore, the applicant claims breach of the principle of equal treatment (Article 20 of the Charter) and of the principle of non-discrimination (Article 21 of the Charter).

Action brought on 4 March 2013 — El Corte Inglés v OHIM — Baumarkt Praktiker Deutschland (PRO OUTDOOR)

(Case T-127/13)

(2013/C 129/49)

Language in which the application was lodged: Spanish

Parties

Applicant: El Corte Inglés, SA (Madrid, Spain) (represented by: E. Seijo Veiguela and J. Rivas Zurdo, lawyers)

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

Other party to the proceedings before the Board of Appeal: Baumarkt Praktiker Deutschland GmbH (Hamburg, Germany)

Form of order sought

The applicant claims that the General Court should:

— annul the decision of the Second Board of Appeal of the OHIM of 11 December 2012 in Case R 1900/2011-2, in so far as, by dismissing the action brought by the applicant, it confirmed the decision of the Opposition Division to grant in part the Community word mark No 4 782 215 'PRO OUTDOOR';

— order the party or parties opposing this action to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Applicant

Community trade mark concerned: Word mark 'PRO OUTDOOR' for goods and services in Classes 9, 12, 14, 18, 22, 24, 25, 28 and 35

Proprietor of the mark or sign cited in the opposition proceedings: Baumarkt Praktiker Deutschland GmbH.

Mark or sign cited in opposition: Figurative mark with word elements 'OUTDOOR GARDEN BARBECUE CAMPING' for goods and services in Classes 12, 18, 22, 24, 25 and 28

Decision of the Opposition Division: Opposition upheld in part

Decision of the Board of Appeal: Appeal dismissed