

Action brought on 20 August 2013 — Petropars Iran and Others v Council

(Case T-433/13)

(2013/C 313/58)

Language of the case: English

Parties

Applicants: Petropars Iran Co. (Kish Island, Iran); Petropars Oilfields Services Co. (Kish Island); Petropars Aria Kish Operation and Management Co. (Tehran, Iran); and Petropars Resources Engineering Kish Co. (Tehran) (represented by: S. Zaiwalla, Solicitor, P. Reddy, Solicitor, R. Blakeley, Barrister, and Z. Burbeza, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

- Annul entries 1-4 of Annex II.I.B. to Decision 2013/270 ⁽¹⁾ and entries 1-4 of Annex II.I.B. to Regulation 522/2013 ⁽²⁾; and/or
- Declare Article 20(1)(c) of Decision 2010/413 ⁽³⁾ and Article 23(2)(d) of Regulation 267/2012 ⁽⁴⁾ inapplicable to the applicants; and
- Order the defendant to pay the applicants' costs of this application.

Pleas in law and main arguments

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

1. First plea in law, alleging that there is no legal basis for the applicants' designation by way of Council Decision 2013/270/CFSP and Council Implementing Regulation (EU) No 522/2013 as the reason given for the designation of each of the applicants ('Subsidiary of [a] designated entity') is not one of the criteria for listing in Council Regulation 267/2012 or Council Decision 2010/413/CFSP.
2. Second plea in law, alleging that in so far as the Council purported to act under Article 23(2)(d) of Regulation 267/2012 or Article 20(1)(c) of Decision 2010/413, the designation of the applicants is unlawful: because (1) the substantive criteria for designation thereunder are not met in the case of any of the applicants and/or the Council committed a manifest error of assessment in determining whether or not the criteria were met; and (2) the Council designated the applicants on the basis of insufficient evidence to establish that the criteria were met and thereby committed a (further) manifest error of assessment.

3. Third plea in law, alleging that In so far as Article 23(2)(d) of Regulation 267/2012 and/or Article 20(1)(c) of Decision 2010/413 permits the designation of the applicants solely on the basis that they are subsidiaries of designated entities (which entities are in turn subsidiaries of designated entities not accused of any wrongdoing), the same are unlawful as being contrary to the principle of proportionality and should be declared inapplicable to the applicants.
4. Fourth plea in law, alleging that the designation of the applicants is in any event in violation of their fundamental rights and freedoms under the Charter of Fundamental Rights or as otherwise part of Union law, including their right to trade and carry out their businesses and to peaceful enjoyment of their possessions and/or is in violation of the principle of proportionality. The designation further represents a breach of the precautionary principle and of the principles of environmental protection and the protection of human health and safety, as it is likely to cause significant damage to the health and safety or ordinary Iranian workers and the environment.
5. Fifth plea in law, alleging that the Council has, in passing Council Decision 2013/270/CFSP and Council Implementing Regulation (EU) No 522/2013 in so far as they apply to the applicants, breached the procedural requirements (i) to give the (Third and Fourth) applicants individual notification of their designation; (ii) to give (all the applicants) adequate and sufficient reasons; and (iii) to respect the applicants' rights of defence and the right to effective judicial protection.

⁽¹⁾ Council Decision 2013/270/CFSP of 6 June 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013 L 156, p. 10)

⁽²⁾ Council Implementing Regulation (EU) No 522/2013 of 6 June 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013 L 156, p. 3)

⁽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 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 26 August 2013 — Klaes v OHIM — Klaes Kunststoffe (Klaes)

(Case T-453/13)

(2013/C 313/59)

Language in which the application was lodged: German

Parties

Applicant: Horst Klaes GmbH & Co. KG (Bad Neuenahr-Ahrweiler, Germany) (represented by: B. Dix, lawyer)

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

Other party to the proceedings before the Board of Appeal: Klaes Kunststoffe GmbH (Neuenrade, 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 of 6 June 2013 (Case R 1206/2012-1) and reject the opposition against the applicant's Community trade mark application (No 9545096).

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the word mark 'Klaes' for goods in Class 42 — Community trade mark application No 9 545 096

Proprietor of the mark or sign cited in the opposition proceedings: Klaes Kunststoffe GmbH

Mark or sign cited in opposition: the figurative mark in blue 'Klaes' for services in Class 42

Decision of the Opposition Division: the opposition was upheld

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Article 8(1) of Regulation (EC) No 207/2009

Action brought on 23 August 2013 — Larrañaga Otaño v OHIM (GRAPHENE)

(Case T-458/13)

(2013/C 313/60)

Language of the case: Spanish

Parties

Applicants: Joseba Larrañaga Otaño (San Sebastian, Spain) and Mikel Larrañaga Otaño (San Sebastian) (represented by F. Bueno Salamero, lawyer)

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

Forms of order sought

The applicant claims that the General Court should:

— Annul the contested decision;

— Order OHIM to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark applied for: Word mark 'GRAPHENE' for goods and services in Classes 13, 23, 25 and 38 — application for Community trade mark No 10 895 258.

Decision of the Examiner: Rejection of the application for registration.

Decision of the Board of Appeal: Dismissal of the appeal.

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009.

Action brought on 23 August 2013 — Larrañaga Otaño v OHIM (GRAPHENE)

(Case T-459/13)

(2013/C 313/61)

Language of the case: Spanish

Parties

Applicants: Joseba Larrañaga Otaño (San Sebastian, Spain) and Mikel Larrañaga Otaño (San Sebastian) (represented by F. Bueno Salamero, lawyer)

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

Forms of order sought

The applicant claims that the General Court should:

— Annul the contested decision;

— Order OHIM to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark applied for: Word mark 'GRAPHENE' for goods and services in Classes 2, 6, 10 and 22 — application for Community trade mark No 10 892 446.

Decision of the Examiner: Rejection of the application for registration.

Decision of the Board of Appeal: Dismissal of the appeal.

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009.

Action brought on 28 August 2013 — Arrow Group and Arrow Generics v Commission

(Case T-467/13)

(2013/C 313/62)

Language of the case: English

Parties

Applicants: Arrow Group ApS (Roskilde, Denmark); and Arrow Generics Ltd (London, United Kingdom) (represented by: S. Kon, C. Firth, and C. Humpe, Solicitor)