

Action brought on 6 November 2013 — FK v Commission**(Case T-248/13)**

(2014/C 9/39)

*Language of the case: English***Parties***Applicant:* FK (Damascus, Syria) (represented by: E. Grieves, Barrister, and J. Carey, Solicitor)*Defendant:* European Commission**Form of order sought**

The applicant claims that the Court should:

— Annul Commission Regulation (EC) No 14/2007 of 10 January 2007 amending for the 74th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 (OJ L 6, p.6) insofar as it applies to the applicant, and Commission's decision of 6 March 2013 to maintain the listing;

— Order the Commission to pay the costs.

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 contested decision was not taken promptly or within a reasonable time period.
2. Second plea in law, alleging that the Commission has failed to meaningfully evaluate for itself whether the applicant satisfied the relevant criteria. In particular, the applicant states that the Commission: (a) failed to seek and/or obtain the underlying evidence for the allegations; (b) failed to ensure the statement of reasons was coterminous with the reason relied upon by the United Nations Sanctions Committee and failed to seek and/or obtain sufficient detail of the allegations such as to permit the applicant to answer such effectively; (c) failed to assess whether any of the allegations are based upon material tainted by torture; and (d) failed to seek and/or obtain any relevant exculpatory material.
3. Third plea in law, alleging that the Commission has failed to apply the correct burden and standard of proof.
4. Fourth plea in law, alleging that the statement of reasons relied upon by the Commission is legally defective in that: (a) none of the allegations are supported by evidence thereby failing to demonstrate the allegations are well

founded; (b) some allegations are insufficiently precise such as to enable to the applicant to effectively challenge the allegations; (c) some allegations are so historic and/or vague such as to fail to rationally connect to the relevant criteria; and (d) some allegations are inconsistent with exculpatory material.

5. Fifth plea in law, alleging that the Commission failed to perform a proportionality exercise, balancing the fundamental rights of the applicant with the actual current risk he is said to pose.

Action brought on 4 October 2013 — Panrico v OHIM — HDN Development (Krispy Kreme DOUGHNUTS)**(Case T-534/13)**

(2014/C 9/40)

*Language in which the application was lodged: Spanish***Parties***Applicant:* Panrico, SA (Barcelona, Spain) (represented by: D. Pellisé Urquiza, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal:* HDN Development Corp. (Frankfort, United States of America)**Form of order sought**

The applicant claims that the General Court should:

- declare the present action admissible;
- set aside the decision of 25 July 2013 of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market in Case R 623/2011-4, notified to the applicant on 29 July 2013; and
- declare invalid Community trade mark No 1 298 785 'KRISPY KREME DOUGHNUTS'.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: Figurative mark 'Krispy Kreme DOUGHNUTS' for products and services in Classes 25, 30 and 42 — Registered Community trade mark No 1 298 785

Proprietor of the Community trade mark: HDN Development Corp.*Applicant for the declaration of invalidity of the Community trade mark:* Applicant

Grounds for the application for a declaration of invalidity: Infringement of Article 8(1)(b) of Regulation No 207/2009 in conjunction with Article 53(1)(a) of that regulation

Decision of the Cancellation Division: Dismissal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009 in conjunction with Article 53(1)(a) of that regulation

Action brought on 24 October 2013 — Germany v Commission

(Case T-557/13)

(2014/C 9/41)

Language of the case: German

Parties

Applicant: Federal Republic of Germany (represented by: T. Henze and J. Möller)

Defendant: European Commission

Form of order sought

— Annul Article 1 and the Annex to Commission Implementing Decision 2013/433/EU of 13 August 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), in so far as financing by the European Union is therein excluded in respect of payments of a total of EUR 6 192 951,34 made by the competent paying agencies of the Federal Republic of Germany in the framework of the implementation of the aid rules for the potato starch sector for the years 2003 to 2005;

— Order the defendant to bear the costs.

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 failure to observe the conditions for the grant of the premium and the aid — payment of the minimum price

The applicant alleges infringement of Article 7(4) of Regulation (EC) No 1258/1999⁽¹⁾ and Article 31 of Regulation

(EC) No 1290/2005,⁽²⁾ read in conjunction with Article 5 of Regulation (EC) No 1868/94,⁽³⁾ Article 11 of Regulation (EC) No 97/95,⁽⁴⁾ Article 10 of Regulation (EC) No 2236/2003⁽⁵⁾ and Article 26 of Regulation (EC) No 2237/2003⁽⁶⁾ as a result of the exclusion of expenditure from financing, although the conditions for the grant of the premium and the aid were fulfilled, the minimum price for the amount applied for having been paid.

2. Second plea in law, alleging deficient reasoning

By this plea in law the applicant claims that Article 296(2) TFEU has been infringed because the Commission failed to provide adequate and non-contradictory reasoning explaining why on the basis of Article 11 of Regulation No 97/95, Article 10 of Regulation No 2236/2003 and Article 26 of Regulation No 2237/2003, taking all language versions into account, it should be a condition of payment of the premium or aid that the starch undertaking must already have paid the minimum price for the all the potato deliveries in the financial year.

3. Third plea in law, alleging breach of the obligation to notify complaints within 24 months

The applicant alleges infringement of subparagraph 1 of Article 7(4), read in conjunction with point (a) of subparagraph 5 of Article 7(4) of Regulation No 1258/1999, and Article 8(1) of Regulation (EC) No 1663/95⁽⁷⁾ and subparagraph 1 of Article 31(3), read in conjunction with Article 31(4)(a), of Regulation No 1290/2005, and Article 11(1) of Regulation (EC) No 885/2006,⁽⁸⁾ because the Commission failed effectively to communicate the complaint (absence of 'key controls'), on which it based the exclusion of the expenditure, to the Federal Republic of Germany, in writing, within 24 months following the date when the expenditure was incurred.

4. Fourth plea in law, alleging excessive length of proceedings

In this context, the applicant alleges infringement of Article 7(4) of Regulation No 1258/1999, Article 8 of Regulation No 1663/95, Article 31 of Regulation No 1290/2005 and Article 11 of Regulation No 885/2006, in conjunction with the general legal principle that administrative proceedings should be conducted within a reasonable time, and infringement of the rights of the defence, since the proceedings before the Commission lasted too long.

5. Fifth plea in law: infringement of subparagraph 4 of Article 7(4) of Regulation No 1258/1999, Article 31(2) of Regulation No 1290/2005 and of the principle of proportionality

The applicant alleges in this context that, by imposing a flat-rate correction of 10 %, the Commission failed to take appropriate account of the nature and the clearly limited