

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

Pleas in law: infringement of Article 7(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾, as the mark applied for has the requisite minimum level of distinctiveness.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

Action brought on 15 August 2008 — Melli Bank v Council

(Case T-332/08)

(2008/C 247/45)

Language of the case: English

Parties

Applicant: Melli Bank plc (London, United Kingdom) (represented by: R. Gordon QC, M. Hoskins, Barrister, and T. Din, Solicitor)

Defendant: Council of the European Union

Form of order sought

- Paragraph 4, section 8, of the annex to Council Decision 2008/475/EC concerning restrictive measures against Iran is declared void in so far as it relates to Melli Bank plc.
- If the Court finds that Article 7(2)(d) of the regulation is mandatory in effect, Article 7(2)(d) of Council Regulation 423/2007/EC concerning restrictive measures against Iran is declared to be inapplicable.
- The Council should pay the applicant's costs of these proceedings.

Pleas in law and main arguments

In the present case the applicant seeks the partial annulment of Council Decision 2008/475/EC of 23 June 2008 ⁽¹⁾ implementing Article 7(2) of Council Regulation (EC) No 423/2007 concerning restrictive measures against Iran in so far as the applicant is included on the list of natural and legal persons, entities and bodies whose funds and economic resources are frozen in accordance with this provision. The applicant contested the same decision in Case T-246/08, *Melli Bank v Council* ⁽²⁾.

In support of its application in the present case, the applicant submits that the Council has infringed its obligation to state reasons, as it did not give any individual and specific reasons for the listing of the applicant. The applicant alleges that it has been listed, not because it has itself been involved in providing support to Iran's nuclear activities, but solely because it is a subsidiary of a parent company which is believed to have been involved in such activities.

The applicant further submits that, if Article 7(2)(d) of Council Regulation (EC) No 423/2007 ⁽³⁾ is to be interpreted as imposing an obligation on the Council to list every subsidiary owned or controlled by a parent company which has itself been included on the list of natural and legal persons, entities and bodies whose funds and economic resources are frozen, this provision should be declared inapplicable as it contravenes the principle of proportionality.

The applicant considers that a mandatory listing of the subsidiary is unnecessary and inappropriate to achieve the purposes of the regulation, as the listing of the parent company prevents a subsidiary based in the European Union from taking instructions from its parent company which would directly or indirectly circumvent the effect of the listing of the parent company.

Finally, the applicant claims that Article 7(2)(d) of the said Council regulation should be interpreted so as to give the Council a discretionary power to list a subsidiary of a listed parent company and not so as to impose an obligation on the Council in this sense.

⁽¹⁾ OJ 2008 L 163, p. 29.

⁽²⁾ OJ 2008 C 197, p. 34.

⁽³⁾ Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1).

Order of the Court of First Instance of 14 July 2008 — Hotel Cipriani v Commission

(Case T-254/00 R)

(2008/C 247/46)

Language of the case: Italian

The President of the Court of First Instance has ordered that the case be removed from the register.

Order of the Court of First Instance (Seventh Chamber) of 10 July 2008 — Cornwell v Commission

(Case T-102/04) ⁽¹⁾

(2008/C 247/47)

Language of the case: French

The President of the Court of First Instance (Seventh Chamber) has ordered that the case be removed from the register.

⁽¹⁾ OJ C 106, 30.4.2004.