

Form of order sought

- Annul Council Implementing Decision 2011/302/CFSP of 23 May 2011 implementing Decision 2011/273/CFSP concerning restrictive measures against Syria, to the extent that it affects the applicant in that it infringes fundamental rights;
- Order the Council of the European Union to pay the costs pursuant to Articles 87 and 91 of the Rules of Procedure of the General Court.

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 infringement of the rights of the defence and of the right to a fair hearing. The applicant submits that his rights of the defence have been infringed since the sanctions at issue have been applied to him, without his having previously been heard, having the opportunity of defending himself or having any knowledge of the basis on which those measures have been taken.
2. Second plea in law, alleging infringement of the duty to state reasons laid down in the second paragraph of Article 296 TFEU. The applicant complains that the Council has taken restrictive measures affecting him, without having informed him of the grounds thereof in order to enable him to defend himself. The applicant argues that the defendant gave information merely in a general and stereotypical manner without giving precise details the factual and legal elements which form the legal justification for its decision or the considerations which led it to adopt that decision.
3. Third plea in law, concerning the merits of the reasoning. The applicant submits that the Council relied on a manifestly incorrect reasoning and that it used a synthesis thereof, such that it could not be regarded as adequate in law.
4. Fourth plea in law, alleging breach of the guarantee in respect of the right to effective legal protection. The applicant submits that not only was he unable effectively to make his views known to the Council, but, in the absence of any indication in the contested decision of specific and concrete grounds justifying that decision, nor was he in a position to avail himself of a right of action before the General Court.
5. Fifth plea in law, alleging infringement of the general principle of proportionality.
6. Sixth plea in law, alleging infringement of the right of property, since the restrictive measures and, more precisely, the measure freezing funds, disproportionately affecting the applicant's fundamental right to use his assets as he sees fit.

7. Seventh plea in law, alleging infringement of the right of privacy, since the measures freezing funds and restricting his freedom from restraint also disproportionately affect the applicant's fundamental right.

Action brought on 22 July 2011 — **Safa Nicu Sepahan v Council**

(Case T-384/11)

(2011/C 282/63)

Language of the case: English

Parties

Applicant: Safa Nicu Sepahan (Isfahan, Iran) (represented by: A. Bahrami, lawyer)

Defendant: Council of the European Union

Form of order sought

- Declare that entry No. 19 of Annex VIII to Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1), as amended by Council Implementing Regulation (EU) No 503/2011 of 23 May 2011 implementing Regulation (EU) No 961/2010 on restrictive measures against Iran (OJ 2011 L 136, p. 26), is null and void;
- Declare that the defendant has violated Article 265 TFEU by failing to examine the applicant's request dated 7 June 2011 for reconsideration of entry No 19;
- Order removal of the name of the applicant from EU list of sanctions;
- Award the applicant compensation, for an amount to be determined in the course of the present proceedings, but not less than EUR 2 000 000,00; and
- Order the defendant to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council committed a manifest error of appreciation as the inclusion of the name of the applicant on the list of persons and entities subject to restrictive measures is erroneous, misleading, unspecific, incomplete and, therefore, plainly illegal.

2. Second plea in law, alleging that the Council has manifestly failed to state the reasons for the inclusion of the name of the applicant on the list of persons and entities subject to restrictive measures.

Action brought on 21 July 2011 — BP Products North America v Council

(Case T-385/11)

(2011/C 282/64)

Language of the case: English

Parties

Applicant: BP Products North America, Inc. (Naperville, United States) (represented by: H.-J. Prieß and B. Sachs, lawyers and C. Farrar, solicitor)

Defendant: Council of the European Union

Form of order sought

- Annul Article 2 of Council Implementing Regulation (EU) No 443/2011 ⁽¹⁾ of 5 May 2011, insofar as it affects the applicant;
- Annul Article 2 of Council Implementing Regulation (EU) No 444/2011 ⁽²⁾ of 5 May 2011, insofar as it affects the applicant; and
- Order the defendant to pay the applicant's costs pursuant to Article 87 of the Rules of Procedure of the General Court.

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 violation of the basic anti-dumping and countervailing duty regulations by extending Council Regulations (EC) No 598/2009 and No 599/2009 on biodiesel imports originating in the United States of America ⁽³⁾ to biodiesel products not originally covered by the anti-dumping and countervailing duty regulations, rather than by carrying out a 'de novo' investigation, even though the blends now subject to Council Implementing Regulation (EU) No 444/2011 were specifically excluded from the scope of Council Regulations (EC) No 598/2009 and No 599/2009.
2. Second plea in law, alleging manifest errors of appraisal as regards the assessment of facts, in particular with regard to the fact that the lower blended biodiesel products (and not subject to any duty) cannot be re-converted to higher blends (that are subject to the duty), so that circumvention is

actually not possible, and as regards an alleged circumvention by the applicant by manifestly erring the economic justifications for the exports by the applicant.

3. Third plea in law, alleging violation of an essential procedural requirement by failing to provide adequate reasoning in Council Implementing Regulation (EU) No 444/2011 for the extension of the definitive duties to biodiesel products of blends of 20 % and lower.
4. Fourth plea in law, alleging violation of the basic European Union law principles of non-discrimination and good administration, by not according to the applicant the duty rate applicable to 'cooperating companies' despite the fact that the applicant did fully cooperate.

⁽¹⁾ Council Implementing Regulation (EU) No 443/2011 of 5 May 2011 extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ 2011 L 122, p. 1)

⁽²⁾ Council Implementing Regulation (EU) No 444/2011 of 5 May 2011 extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ 2011 L 122, p. 12)

⁽³⁾ Council Regulation (EC) No 598/2009 of 7 July 2009 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America (OJ 2009 L 179, p. 1) and Council Regulation (EC) No 599/2009 of 7 July 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America (OJ 2009 L 179, p. 26)

Action brought on 22 July 2011 — Nitrogénművek Vegyipari v Commission

(Case T-387/11)

(2011/C 282/65)

Language of the case: English

Parties

Applicant: Nitrogénművek Vegyipari Zrt. (Pétfürdő, Republic of Hungary) (represented by: Z. Tamás and M. Le Berre, lawyers)

Defendant: European Commission