

**Action brought on 15 March 2013 — Zanjani v Council****(Case T-155/13)**

(2013/C 141/43)

*Language of the case: English***Parties**

**Applicant:** Babak Zanjani (Dubai, United Arab Emirates)  
(represented by: L. Defalque and C. Malherbe, lawyers)

**Defendant:** Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

- Annul paragraph I.I.1 (under the heading 'Person') of the Annex to Council Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 356, p. 71);
- Annul paragraph I.I.1 (under the heading 'Person') of the Annex to Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 356, p. 55);
- Declare Council Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran and Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran inapplicable in so far as Article 19(1)(b) and (c) of Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39) is applied to the applicant, and declare that the applicant is not concerned by the restrictive measures it provides; and
- Order the defendant to pay the applicant's costs for this application.

**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 Council adopted the disputed restrictive measures provided for in Article 19(1)(b) and (c) of Council Decision 2010/413/CFSP in absence of any legal provisions/grounds.
2. Second plea in law, alleging that the Council has breached the obligation to state reasons. The statement of reasons of the disputed decision and resolution is vague and general and does not indicate the specific and actual reasons why, in the exercise of its broad discretion, the Council considered that the applicant should be subject to the disputed restrictive measures.

3. Third plea in law, alleging that the Council has violated the applicant's rights of defence, right to a fair hearing and right to effective judicial protection. The applicant has neither been informed nor notified of any possible evidence adduced against him to justify the measure adversely affecting him. The Council neither granted the applicant access to its file nor provided him with the requested documents (including precise and personalised information justifying the disputed restrictive measures) nor disclosed to him the possible evidence adduced against him. The applicant was denied to be heard by the Council as he expressly requested it. The abovementioned violation of the applicant's rights of defence — notably the failure to inform the applicant of the evidence adduced against him — results in a violation of the applicant's right to effective judicial protection.

4. Fourth plea in law, alleging that the Council made a manifest error of assessment when adopting the restrictive measures against the applicant. The reasons relied on by the Council against the applicant do not constitute an adequate statement of reasons. Moreover, the Council has produced neither evidence nor information to establish the reasons it invoked to justify the disputed restrictive measures, which are based on mere allegations.

5. Fifth plea in law, alleging that the disputed restrictive measures are vitiated and tainted with illegality due to the defects in the Council's assessment prior their adoption. The Council did not carry out a genuine assessment of the circumstances of the case, but it has restricted itself to following the UNSC's recommendations and adopting the proposals submitted by the Member States.

**Action brought on 14 March 2013 — First Islamic Investment Bank v Council****(Case T-161/13)**

(2013/C 141/44)

*Language of the case: English***Parties**

**Applicant:** First Islamic Investment Bank Ltd (Labuan, Malaysia)  
(represented by: B. Mettetal and C. Wucher-North, lawyers)

**Defendant:** Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

- Annul paragraph I.I.10 of the Annex to Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 356, p. 71) in so far as the applicant is concerned;

- Annul paragraph I.I.10 of the Annex to Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 356, p. 55) in so far as the applicant is concerned;
- Order the defendant to pay, in addition to its own costs, those incurred by the applicant.

### 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 that the applicant does not assist designated entities to violate the provisions of EU regulation on Iran and does not provide financial support to the government of Iran. It is neither being used to channel Iranian oil-related payment. Accordingly, the substantive criteria for designation under the challenged Annexes of the Decision 2012/829/CFSP of 21 December 2012 and Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 are not met in respect of the applicant and/or the Council committed a manifest error of assessment in determining whether or not those criteria were met. The Council also failed to apply the correct test.
2. Second plea in law, alleging the Council breaches the procedural requirements to give the adequate reasons in the Annexes of Decision 2012/829/CFSP and the Council Implementing Regulation (EU) No 1264/2012 and to respect the rights of defense and the right to effective judicial protection.
3. Third plea in law, alleging that the designation of the applicant violates the principle of proportionality.

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### Action brought on 21 March 2013 — Novomatic v OHIM — Simba Toys (AFRICAN SIMBA)

(Case T-172/13)

(2013/C 141/45)

*Language in which the application was lodged: German*

#### Parties

**Applicant:** Novomatic AG (Gumpoldskirchen, Austria) (represented by: W. Mosing, lawyer)

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

**Other party to the proceedings before the Board of Appeal:** Simba Toys GmbH & Co. KG (Fürth-Stadeln, Germany)

### Form of order sought

The applicant claims that the General Court should:

- annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 January 2013 in Case 157/2012-4 and dismiss the opposition in its entirety as a result of a lack of similarity between the goods and/or signs and grant registration of the Community trade mark 'AFRICAN SIMBA' (application No 7 541 75) in the form applied for;
- order OHIM and — in the case of written intervention — the opponent to bear their own costs and those incurred by the applicant in the proceedings before OHIM and in these proceedings.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* Word mark 'AFRICAN SIMBA' for goods and services in Classes 9, 28 and 41 — Community trade mark application No 7 534 175

*Proprietor of the mark or sign cited in the opposition proceedings:* Simba Toys GmbH & Co. KG

*Mark or sign cited in opposition:* National figurative mark containing the word element 'Simba', and international word mark 'SIMBA' for goods in Class 28

*Decision of the Opposition Division:* Opposition upheld in part

*Decision of the Board of Appeal:* Appeal dismissed

*Pleas in law:* Infringement of Article 42(2) in conjunction with Article 42(3) of Regulation No 207/2009 in conjunction with Rule 22(2) of Regulation No 2868/95 and Article 8(1)(b) of Regulation No 207/2009

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### Action brought on 20 March 2013 — Selo Medical v OHIM — biosyn Arzneimittel (SELOGYN)

(Case T-173/13)

(2013/C 141/46)

*Language in which the application was lodged: German*

#### Parties

**Applicant:** Selo Medical GmbH (Unternberg, Austria) (represented by: T. Schneider, lawyer)

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