

*Defendant:* European Commission

### Form of order sought

The applicant claims that the General Court should:

- annul Article 1(4) of European Commission Implementing Decision C(2013) 4487 final of 19 July 2013 authorising the grant in Lithuania of transitional national aid for 2013 ('the contested decision');
- order the European Commission to pay the costs.

### Pleas in law and main arguments

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

1. First plea in law, relating to infringement of Article 39 TFEU, read in conjunction with the first subparagraph of Article 40(2) TFEU, and of the principle of non-discrimination

In adopting Article 1(4) of the contested decision the Commission committed an infringement of Article 39 TFEU, read in conjunction with the first subparagraph of Article 40(2) TFEU, because it did not keep to the objectives of the common agricultural policy that are specified in the FEU Treaty (in particular Article 39(1)(b) TFEU) and to the criteria of the common agricultural policy, and it also infringed the principle of non-discrimination.

2. Second plea in law, relating to infringement of Regulation No 73/2009

The Commission, in adopting Article 1(4) of the contested decision without a legal basis, infringed Regulation No 73/2009, <sup>(1)</sup> having applied Article 10a(4) of that regulation incorrectly.

3. Third plea in law, relating to an error of assessment by the Commission

In adopting Article 1(4) of the contested decision the Commission committed an error of assessment, because it assessed the levels of the direct payments of the old and the new Member States erroneously in 2012 and it based the calculation of the transitional national aid granted on an erroneous assessment of that kind.

4. Fourth plea in law, relating to infringement of the principle of good administration

In adopting Article 1(4) of the contested decision the Commission infringed the principle of good administration, because it did not comply with the duty to take as a basis the new information provided by the Republic of Lithuania concerning the levels of direct payments in the Member States and did not assess the actual importance of direct payments for Lithuanian farms.

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<sup>(1)</sup> Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009 L 30, p. 16, corrigendum at OJ 2010 L 43, p. 7).

## Action brought on 8 October 2013 — Al Matri v Council

(Case T-545/13)

(2013/C 359/35)

*Language of the case:* English

### Parties

*Applicant:* Fahed Mohamed Sakher Al Matri (Doha, Qatar) (represented by: M. Lester, Barrister, and G. Martin, Solicitor)

*Defendant:* Council of the European Union

### Form of order sought

The applicant claims that the Court should:

- Annul Council Implementing Decision 2013/409/CFSP <sup>(1)</sup> and Council Implementing Regulation (EU) No 735/2013 <sup>(2)</sup>, insofar as they apply to the applicant; and
- Order the defendant to pay the costs.

### 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 that the defendant has manifestly erred in its assessment that the criteria for listing in the contested measures were fulfilled as regards the applicant.

2. Second plea in law, alleging infringement of the applicant's rights of defence and to effective judicial protection.
3. Third plea in law, alleging failure to give adequate reasons.
4. Fourth plea in law, alleging an unjustified and disproportionate restriction of the applicant's right to property and to conduct his business.

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- (<sup>1</sup>) Council Implementing Decision 2013/409/CFSP of 30 July 2013 implementing Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2013 L 204, p. 52)
- (<sup>2</sup>) Council Implementing Regulation (EU) No 735/2013 of 30 July 2013 implementing Regulation (EU) No 101/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia (OJ 2013 L 204, p. 23)

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## Action brought on 15 October 2013 — Oil Turbo Compressor v Council

(Case T-552/13)

(2013/C 359/36)

*Language of the case: German*

### Parties

*Applicant:* Oil Turbo Compressor Co. (Private Joint Stock) (Tehran, Iran) (represented by: K. Kleinschmidt, lawyer)

*Defendant:* Council of the European Union

### Forms of order sought

The applicant claims that the Court should:

- annul point 48 of Table B of the Annex to Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation (EU) No 961/2010 on restrictive measures against the Islamic Republic of Iran, in so far as those measures concern the applicant;
- annul point 103 of Table B of Annex VIII to Council Implementing Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against the Islamic Republic of Iran and repealing Regulation (EU) No 961/2010, in so far as those measures concern the applicant;
- order the defendant to pay the costs.

### Pleas in law and main arguments

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

1. Manifest error of appraisal of the facts on which the Council decision is based

In the context of this plea, the applicant argues *inter alia* that the contested legal acts were obviously decided on the basis of incorrect assumptions and are contrary to the judgments of the General Court in Case T-63/12 *Oil Turbo Compressor v Council* [2012] ECR II-0000 and Case T-404/11 *TCMFG v Council* [2013] ECR II-0000. The applicant submits that there are no facts which could sufficiently substantiate and justify the defendant's decision and the consequent infringement of the applicant's fundamental rights.

2. Infringement of the rule-of-law principle of proportionality

According to the applicant, there is an infringement of the principle of proportionality because its inclusion in the contested legal acts bears no apparent relation to the objective of those legal acts, which is to prevent proliferation-sensitive nuclear activities, the trade in and/or development of nuclear weapon delivery systems or other weapons systems by the Islamic Republic of Iran. The defendant also fails to show that the applicant's exclusion from trade with the European Union is reasonable, in particular the least intrusive measure, in order to obtain the intended objective. The applicant further complains that the major interference with its fundamental rights was obviously not measured against the objective supposedly pursued by the defendant.

3. Infringement of rule-of-law principles

In this regard it is claimed that the defendant failed to provide sufficient reasons for including the applicant in the contested legal acts. The defendant does not refer to the facts or evidence allegedly in its possession. The applicant also submits that, as it is not aware of any facts or evidence which could justify the contested legal acts, and as the defendant is withholding any information, the applicant is being denied a fair hearing in accordance with rule-of-law principles. The applicant's application for access to the case-file has so far not been granted. The applicant further complains that the defendant adheres to the contested legal acts despite the judgments cited above.