

(iv) any sum that the Court deems appropriate to compensate Senator Georgias for the non-pecuniary damage claimed;

(v) interest at the rate of 8 % per annum on the above sums or any other rate that this Court may award;

— Order an inquiry into the level of damage suffered by the applicants, if and to the extent that the Court finds it necessary;

— Order the Commission and/or the Council to pay the costs incurred by the applicants in the present proceedings.

Pleas in law and main arguments

In support of the present action, by which damages against the EU for non-contractual liability are claimed, the applicants rely on two pleas in law.

1. First plea in law, alleging

— following unlawful actions in the adoption of Commission Regulation (EC) 412/2007 of 16 April 2007 amending Council Regulation (EC) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe (JO L 101, p. 6):

(i) manifest error of assessment of the facts combined with breaches of the rights of the defence and to an effective judicial remedy;

(ii) misuse of power;

(iii) breach of rights of the defence with regard to the renewals of the asset-freezing measures.

2. Second plea in law, alleging

— that the damage incurred includes:

(i) the loss of specific business opportunities through the extra-territorial application of the asset-freezing measures to all persons concerned doing business in the EU;

(ii) personal stress due to the eventual loss of business in the EU;

(iii) losses arising from the application of the said Regulation to Senator Georgias in May 2007 and upon renewal thereof and leading to pecuniary and non-pecuniary damage in consequence of him being excluded from the EU territory and subjected to asset-freezing.

Action brought on 10 April 2012 — CHEMK and KF v Council

(Case T-169/12)

(2012/C 165/56)

Language of the case: English

Parties

Applicants: Chelyabinsk electrometallurgical integrated plant OAO (CHEMK) (Chelyabinsk, Russia); and Kuznekie ferrosplavy OAO (KF) (Novokuznetsk, Russia) (represented by: B. Evtimov, lawyer)

Defendant: Council of the European Union

Form of order sought

— Annul Council Implementing Regulation (EU) No 60/2012 of 16 January 2012 terminating the partial interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 of the anti-dumping measures applicable to imports of ferro-silicon originating, *inter alia*, in Russia (OJ L 22, p. 1), in so far as it affects the applicants; and

— Order the defendant to pay the cost incurred by the present proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging

— that the Institutions breached Article 11(9) in connection with Article 2(12) of 'the basic Regulation' ⁽¹⁾ by failing to establish the amount of the dumping margin of the applicants. In addition, or in the alternative, the Institutions erred in law and exceeded their margin of discretion in their powers of prospective assessment under Article 11(3) by allowing the findings on lasting nature of changed circumstances to subsume the dumping findings, vitiating the findings on the changed dumping margin in the interim review and extending the scope of analysis of continuation of dumping so as to cover/affect the findings on dumping margin. Lastly, the Institutions infringed the applicants' rights of defence with respect to dumping by failing to disclose their final calculation of dumping to the applicants.

2. Second plea in law, alleging

— that the Institutions made a manifest error of assessment in concluding that an adjustment for SG&A costs and profit of RFAI had to be made to the applicants' export price and in the related finding that the applicants and RFAI did not constitute a single economic entity.

3. Third plea in law, alleging

— that the Institutions breached Article 11(3), third subparagraph and/or made manifest errors of assessment in concluding that there was no lasting change of circumstances with respect to the reduced dumping margin of the applicants.

(¹) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ('the basic Regulation') (OJ L 343, p. 51)