

— that the applicant produced solid evidence in support of his positive claim and that he has in fact taken active steps to prevent pro-Government elements from accessing Kadmos Transport's fleet of buses. Whereas the Council failed to produce sufficient evidence to contest these statements.

## 2. Second plea in law, alleging

— that the designation of the applicant is in violation of his human rights and fundamental freedoms, including his right to respect for his private and family life and to peaceful enjoyment of his possessions and/or in violation of the principle of proportionality.

## 3. Third plea in law, alleging

— that the Council has in any event breached the procedural requirements: (a) to inform the applicant of his designation individually; (b) to give adequate and sufficient reasons for his listing; (c) respect his rights of defence and the right to effective judicial protection.

<sup>(1)</sup> OJ L 319, p. 56

<sup>(2)</sup> OJ L 16, p. 1

### Action brought on 26 April 2012 — *Bateni v Council*

(Case T-181/12)

(2012/C 174/46)

*Language of the case: German*

#### Parties

*Applicant:* Naser Bateni (Hamburg, Germany) (represented by: J. Kienzle and M. Schlingmann, lawyers)

*Defendant:* Council of the European Union

#### Form of order sought

The applicant claims that the Court should:

— annul Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 to the extent that it concerns the applicant;

— order the Council to pay the costs, including those of 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 infringement of the applicant's rights of defence

— The Council infringed the applicant's right to effective judicial protection and in particular the obligation to state reasons in so far as it did not provide a sufficient statement of reasons for the inclusion of the applicant in Annex IX to the contested regulation.

— The Council infringed the applicant's right to a hearing by not providing it with the opportunity, conferred by Article 46(3) and (4) of the contested regulation, to present observations on its inclusion in the sanctions lists and thus to cause the Council to carry out a review.

2. Second plea in law, alleging that there was no basis for including the applicant in the sanctions lists

— The reasons given for including the applicant in the sanctions lists did not make it possible to identify the precise legal basis on which the Council acted.

— An activity carried out by the applicant until only March 2008 cannot justify his inclusion in the sanctions lists in December 2011.

— The applicant's activity as manager of the Hanseatic Trade Trust & Shipping (HTTS) GmbH does not justify his inclusion in the sanctions lists, in particular because the General Court of the European Union annulled Regulation (EU) No 961/2010 <sup>(1)</sup> to the extent that it concerned HTTS GmbH.

— The mere fact that the applicant was manager of an English company which has since been dissolved cannot constitute a reason under Article 23(2) of the contested regulation for including the applicant in the sanctions lists.

3. Third plea in law, alleging infringement of the applicant's fundamental right to property

— The applicant's inclusion in the sanctions lists constitutes an unjustified interference with his fundamental right to property, since the applicant — because of the inadequate reasons given by the Council — is unable to understand the reasons why he was included in the list of persons affected by the sanctions.

— The applicant's inclusion in the sanctions lists is obviously inappropriate for the pursuit of the goals of the contested regulation and also constitutes a disproportionate interference with his property rights.

<sup>(1)</sup> 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).