

2. Second plea in law:

- In view, however, of the fact that the petition does not concern matters coming within the field of activity of the European Union, the applicant does not have any legal interest in bringing the action;

3. Third plea in law:

- furthermore, in view of the fact that the periods for effectively bringing an action under both Article 230 EC (Article 263 TFEU) and Article 232 EC (Article 265 TFEU) had already expired at the time when the applicant applied for legal aid, the action is inadmissible.

Action brought on 11 June 2012 — Hellenic Republic v Commission

(Case T-260/12)

(2012/C 250/30)

*Language of the case: Greek***Parties**

Applicant: Hellenic Republic (represented by: K. Samoni and N. Dafniou)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- grant the application for annulment;
- annul the contested decision of the Commission;
- order the Commission to pay the costs;
- join, on account of identity of the factual and legal grounds, the present action for annulment with the similar action brought by the Hellenic Republic against the European Commission in Case T-105/12.

Pleas in law and main arguments

By its action, the Hellenic Republic seeks the annulment (under Article 263 TFEU) of Commission Decision 416117 of 11 April 2012 'relating to continued payment by the Hellenic Republic

of the daily penalty payment of EUR 31 536 for each day of delay in implementing the measures necessary to comply with the judgment of the Court of Justice of the European Union in Case C-65/05', in so far as making of the penalty payment is sought from 22 August 2011 onwards. Under the aforementioned contested decision, given that, according to the Commission, the Hellenic Republic appears not to have undertaken the necessary measures to comply with the judgment of the Court of Justice in Case C-65/05 and subsequently its second judgment in Case C-109/08, the Hellenic Republic is called upon to pay the sum of EUR 3 847 392 as a penalty payment for the period from 1 December 2011 until 31 March 2012.

In support of its action, the applicant puts forward the following pleas for annulment.

1. First, misappraisal on the part of the Commission, in relation to adoption by the Hellenic Republic of the measures necessary to comply with the judgment of the Court of Justice

The Hellenic Republic submits that the defendant appraised and interpreted incorrectly the measures adopted by the Hellenic Republic to comply with the Court of Justice's judgment. The Hellenic Republic maintains that it has taken all the necessary measures to comply with the Court of Justice's judgment in adopting Law 4002/2011 by which the contested articles of Law 3037/2002 are repealed, in pursuance of the judgment of the Court of Justice in Case C-65/05.

2. Second, exceeding by the Commission of its power

The Commission exceeded the limits of its mandate as guardian of the Treaty, since it did not confine itself, as required of it, to establishing whether or not measures for compliance were clearly carried out. Furthermore, it went beyond the limits of the Court of Justice's judgments, given that the Hellenic Republic complied fully with those judgments.

3. Third, deficiency of reasoning on the part of the Commission

In its decision contested by the Hellenic Republic, the Commission did not explain, and did not set out expressly, the reasons for which it sought the continued making of the penalty payment for the period after the adoption of Law 4002/2011, that is to say, from 22 August 2011 until 31 March 2012.

The Hellenic Republic disputes that additional sum since it considers that it complied fully with the judgments of the Court of Justice once that law was promulgated.

4. Fourth, incorrect use of legal basis

The Hellenic Republic submits that, if the Commission considered that Law 4002/2001 was not being applied correctly by the Hellenic Republic, it had to use Article 258 TFEU and initiate a fresh infringement procedure, and not require continued making of the penalty payment.

Action brought on 12 June 2012 — Energetický a průmyslový and EP Investment Advisors v Commission

(Case T-272/12)

(2012/C 250/31)

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

Applicants: Energetický a průmyslový holding a.s. (Brno, Czech Republic) and EP Investment Advisors s.r.o. (Praha, Czech Republic) (represented by: K. Desai, Solicitor, J. Schmidt and M. Peristeraki, lawyers)

Defendant: European Commission

Form of order sought

— Annul the Commission Decision of 28 March 2012, relating to a proceeding under Article 23 of Council Regulation (EC) No. 1/2003 ⁽¹⁾ (refusal to submit to an inspection) in Case COMP/39793 — EPH and Others;

— In the alternative, annul the amount of the fine imposed on the applicants in its entirety or reduce it to an appropriate amount;

— Order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision was adopted in violation of essential procedural requirements. In particular, the applicants submit that the contested decision was adopted in violation of their rights of defence, due to irregularities in the conduct of the inspection, notably because the Commission did not ensure that the relevant individuals had been properly informed of their duties in the course of the inspection nor of the consequences of non compliance.
2. Second plea in law, alleging that the Commission's finding that the applicants refused to submit to the inspection is unfounded and disproportionate. The applicants argue that the evidence put forward by the Commission for the unblocking of an email account or the diversion of emails

to the applicants' server in the case at hand was not sufficient to substantiate an infringement of Article 23(1) of Council Regulation (EC) No 1/2003. The applicants also argue that the inspection was not obstructed with intention or negligence by the applicants.

3. Third plea in law, alleging that the contested decision is adopted in violation of the 'presumption of innocence' principle insofar as the Commission approached the case with insufficient care and transparency, whilst there were indications that the Commission was negatively predisposed against the applicants, as a result of unrelated events that could not be attributed to the applicants.

4. Fourth (alternative) plea in law, put forward in support of the second form of order sought, in case the General Court decides not to annul the contested decision in its entirety, alleging that the Commission committed an error in law and infringed the principles of proportionality and due motivation when determining the fine.

⁽¹⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L1, p. 1)

Action brought on 15 June 2012 — FC Dynamo-Minsk v Council

(Case T-275/12)

(2012/C 250/32)

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

Applicant: Football Club 'Dynamo-Minsk' ZAO (Minsk, Belarus) (represented by: D. O'Keeffe, Solicitor and B. Evtimov, lawyer)

Defendant: Council of the European Union

Form of order sought

— Annul Council Implementing Regulation (EU) No 265/2012 of 23 March 2012, implementing Article 8a(1) of the Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2012 L 87, p. 37), to the extent that it concerns the applicant;

— Annul Council Implementing Decision 2012/171/CFSP of 23 March 2012 implementing Decision 2010/639/CFSP concerning restrictive measures against Belarus (OJ 2012 L 87, p. 95), to the extent that it concerns the applicant; and

— Order the defendant to pay the costs of the proceedings.