

— Order the defendant to bear the costs occasioned by the applicant in the course of the present proceedings.

### 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 Commission committed several manifest errors in establishing and assessing the underlying facts of the case that materially affected the Commission's application and interpretation of the condition of the existence of an economic advantage to Ellinikos Xryssos, pursuant to Article 107(1) TFEU.
2. Second plea in law, alleging that the Commission committed manifest errors in law in its application and interpretation of the State aid definition element relating to the existence of an economic advantage, pursuant to Article 107(1) TFEU, as the Commission erroneously applied, or misapplied, the relevant market economy investor principle.
3. Third plea in law, alleging that the Commission committed several manifest errors in law in its application and interpretation of the condition of the existence of an economic advantage, pursuant to Article 107(1) TFEU, by establishing such an economic advantage by reference to the Commission's own unfounded, selective and arbitrary arguments regarding the alleged value of the transferred assets.
4. Fourth plea in law, alleging that the Commission committed manifest errors in law in the application and interpretation of the condition of the existence of an economic advantage, pursuant to Article 107 (1) TFEU, as it erroneously found that the alleged waiver of taxes in favour of Ellinikos Xryssos constituted an economic advantage.
5. Fifth plea in law, alleging that the Commission infringed essential procedural requirements and misused its power, resulting in a breach of its obligation to carry out a diligent and impartial examination of the case.

### Action brought on 19 May 2011 — *Elmaghraby v Council*

(Case T-265/11)

(2011/C 219/30)

*Language of the case: English*

### Parties

*Applicant:* Ahmed Alaelain Amin Abdelmaksoud Elmaghraby (Cairo, Egypt) (represented by: D. Pannick, QC (Queen's Counsel), R. Lööf, Barrister, and M. O'Kane, Solicitor)

*Defendant:* Council of the European Union

### Form of order sought

- Annul, in so far as it concerns the applicant, Council Decision 2011/172/CFSP of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2011 L 76, p. 63);
- Annul, in so far as it concerns the applicant, Council Regulation (EU) No 270/2011 of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2011 L 76, p. 4), implementing Council Decision 2011/172/CFSP;
- Order the defendant to pay damages in sum of EUR 5 000; and
- Order the defendant to bear the applicant's 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 Article 29 TEU is an erroneous and/or insufficient legal basis for Council Decision 2011/172/CFSP, as:
  - The aforementioned Decision does not pursue a foreign policy objective;
  - The adoption of such Decision (and of Council Regulation (EU) No 270/2011) constitutes an abuse of power; and
  - The inclusion of the applicant in the Annex to Council Decision 2011/172/CFSP (and the corresponding Regulation) was irrational.
2. Second plea in law, alleging that the inclusion of the applicant within the ambit of Council Decision 2011/172/CFSP and Council Regulation (EU) No 270/2011 violates his right to effective judicial protection.
3. Third plea in law, alleging that the inclusion of the applicant within the ambit of Council Decision 2011/172/CFSP and Council Regulation (EU) No 270/2011 violates the principle of proportionality.
4. Fourth plea in law, alleging that the applicant has suffered damages as a direct result of the adoption of Council Decision 2011/172/CFSP and Council Regulation (EU) No 270/2011, which fall to be made good by the Union.