

**Form of order sought**

The applicant claims that the Court should:

— Annul Council Decision 2012/635/CFSP of 15 October 2012, amending Decision 2010/413/CFSP concerning restrictive measures against Iran <sup>(1)</sup>, and Council Implementing Regulation (EU) No 945/2012 of 15 October 2012, implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran <sup>(2)</sup>, in so far as the contested acts include the Applicant in the list of persons and entities made subject to the restrictive measures; and

— Order the Council to bear the costs of the present proceedings.

**Pleas in law and main arguments**

The applicant submits five grounds of challenge concerning infringement of an essential procedural requirement, as well as infringement of the Treaties and of rules of law relating to their application: violation of the right of hearing, insufficient statement of grounds, violation of the right of defence, manifest error of assessment, and breach of the fundamental right to property.

The applicant finds that the Council failed to perform a hearing of the applicant, and that no contrary indications would justify this, especially in relation to the imposition on current contractual engagements. Furthermore, the applicant claims that the Council failed to supply a sufficient statement of reasons, which has been confirmed by the Council to the applicant, while requests for access to documents were not replied to. The applicant states that by these omissions, the Council violated the right of defence of the applicant, who was denied the possibility of effectively arguing against the findings of the Council, as these findings were withheld from the applicant. Contrary to the claim of the Council, the applicant claims that it is not a subsidiary of NICO Ltd, as this company no longer exists in Jersey, and in any case the Council has not substantiated that even it were a subsidiary, this would entail an economic benefit for the Iranian State that would be contrary to the aim of the contested decision and regulation. Finally, the applicant finds that by imposing on the property rights and current contractual engagements managed by the applicant, the Council has violated the basic right of property by taking measures for which the proportionality cannot be ascertained.

<sup>(1)</sup> OJ 16.10.2012, L 282, p. 58

<sup>(2)</sup> OJ 16.10.2012, L 282, p. 16

**Action brought on 4 January 2013 — ClientEarth e.a. v Commission**

(Case T-8/13)

(2013/C 71/39)

*Language of the case: English*

**Parties**

*Applicants:* ClientEarth (London, United Kingdom), Générations futures (Ons-en-Bray, France); and Pesticide Action Network Europe (PAN Europe) (Brussels, Belgium) (represented by: A. van den Biesen, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

— Annul the contested decision of the Commission of the European Union of 26 October 2012 (Ares(2012)1271350);

— Order the Commission to pay to the applicants an amount to be fixed by the General Court in reparation of the material and non-material damages they have incurred; and

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

**Pleas in law and main arguments**

The applicants wished to make use of the rights provided to them by the Aarhus Regulation (Regulation (EC) No 1367/2006 of the European Parliament and the Council of 6 September 2006) <sup>(1)</sup>. Pursuant to that Regulation they submitted a request for Internal Review of Commission Implementing Regulation (EU) No 582/2012 of 2 July 2012 <sup>(2)</sup> approving the active substance 'bifenthrin', in accordance with Regulation (EC) No 1107/2009 <sup>(3)</sup>. In their request the applicants referred to the case law of the General Court, through which an important question with respect to the Regulation was settled (Judgments of the General Court of 14 June 2012, Cases T-338/08 and T-396/09). However, the Commission decided, through its in this case contested decision of 26 October 2012, to declare the request for internal review not-admissible in spite of the fact that the earlier decisions of the Commission leading to the two judgments of 14 June 2012, which earlier decisions were entirely similar to the one taken in the current case, were annulled by the General Court given the Court's finding that the Aarhus Regulation was partly unlawful, because it violated the terms of the Aarhus Convention <sup>(4)</sup>. The European Union is a party to that Convention as are all the Member States of the EU.

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

First, the applicants contend that the Commission wrongfully failed to respect the General Court's judgments of 14 June 2012 in cases T-338/08, *Stichting Natuur en Milieu and Pesticide Action Network Europe v Commission* and, T-396/09, *Vereiniging Milieudefensie and Stichting Stop Luchtverontreiniging Utrecht v Commission*, T-396/09.

Second, the applicants contend that the restriction of the Aarhus Regulation to 'administrative acts of individual scope' establishes a violation of the European Union's obligation to follow from the Aarhus Convention, in so far as Article 10(1) of Regulation No 1367/2006 limits the concept of 'acts', as used in Article 9(3) of the Aarhus Convention, to 'administrative act(s)' defined in Article 2(1)(g) of Regulation No 1367/2006 as 'measure(s) of individual scope'.

- 
- (<sup>1</sup>) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies
- (<sup>2</sup>) Commission Implementing Regulation (EU) No 582/2012 of 2 July 2012 approving the active substance bifenthrin, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 Text with EEA relevance
- (<sup>3</sup>) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC
- (<sup>4</sup>) Convention on access to information, public participation in decision-making and access to justice in environmental matters — Declarations (OJ 2005 L 124, p. 4).

---

**Appeal brought on 17 January 2013 by Luigi Marcuccio against the judgment of the Civil Service Tribunal of 6 November 2012 in Case F-41/06 RENV Marcuccio v Commission**

(Case T-20/13 P)

(2013/C 71/40)

*Language of the case: Italian*

**Parties**

*Appellant:* Luigi Marcuccio (Tricase, Italy) (represented by G. Cipressa, lawyer)

*Other party to the proceedings:* European Commission

**Form of order sought by the appellant**

The appellant requests the Court: (1a) to declare that there is no legal basis for the judgment delivered on 6 November 2012 by the Civil Service Tribunal of the European Union in Case F-41/06 RENV *Marcuccio v Commission* or (1b), in the alternative, to set aside the judgment in its entirety; and (2a), given that the state of the proceedings so permits: (2aa) grant all claims made by the appellant in the proceedings at first instance, including the claim that the EC (sic) be ordered to reimburse the appellant in respect of the costs incurred by him in the appeal proceedings; or (2b), in the alternative, refer the case back to the court at first instance for a fresh decision on each of the claims made by the appellant in the proceedings at first instance.

**Pleas in law and main arguments**

The present appeal is brought against the judgment referred to above, which dismissed the action which had been referred back to the Civil Service Tribunal by judgment of the General Court of 8 June 2011 in Case T-20/09 *Commission v Marcuccio*, setting aside in part the judgment in Case F-41/06 ruling on the appellant's action seeking annulment of the Commission's decision of 30 May 2005 by which he was retired on grounds of invalidity and of a series of measures connected to that decision, and on a claim that the Commission pay damages.

The appellant relies on 7 grounds of appeal.

1. *Errores in procedendo*, affecting the appellant's interests, inherent in the serious, patent, flagrant, spectacular, manifest, irremediable and vital *errores in iudicando*.
2. Total failure to state reasons in the judgment under appeal.
3. The contested decision is unlawful on the grounds, inter alia, of lack of competence on the part of the author of the decision, defects in the decision-making procedure, entailing breach of essential procedural requirements and misuse of powers in the form of abuse of process.
4. Distortion and misapplication of the facts.
5. Incorrect, false and unreasonable (application and) breach of the rules on evidence and a number of legal principles and rules of law.