

**Action brought on 30 May 2019 — Mubarak v Council****(Case T-327/19)**

(2019/C 255/59)

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

*Applicant:* Mohamed Hosni Elsayed Mubarak (Cairo, Egypt) (represented by: B. Kennelly QC, J. Pobjoy, Barrister, G. Martin, C. Enderby Smith and F. Holmeyer, Solicitors)

*Defendant:* Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

- annul Council Decision (CFSP) 2019/468 of 21 March 2019 <sup>(1)</sup> and Council Implementing Regulation (EU) 2019/459 of 21 March 2019 <sup>(2)</sup>, insofar as they apply to the applicant; and
- order the defendant to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the defendant had failed to verify that the Egyptian authorities would have respected the applicant's fundamental European Union rights, including Articles 47 and 48 of the Charter of Fundamental Rights of the European Union, in the context of the proceedings and investigations relied upon by the defendant.
2. Second plea in law, alleging that the defendant made errors of assessment in considering that the criterion for listing the applicant in Article 1 of Council Decision 2011/172/CFSP <sup>(3)</sup> and Article 2 of Council Regulation (EU) No 270/2011 of 21 March 2011 <sup>(4)</sup> would have been satisfied.

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<sup>(1)</sup> Council Decision (CFSP) 2019/468 of 21 March 2019 amending Decision 2011/172/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ L 80, 22.3.2019, p. 40).

<sup>(2)</sup> Council Implementing Regulation (EU) 2019/459 of 21 March 2019 implementing Regulation (EU) No 270/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ L 80, 22.3.2019, p. 1).

<sup>(3)</sup> 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 L 76, 22.3.2011, p. 63).

<sup>(4)</sup> 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 L 76, 22.3.2011, p. 4).

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**Action brought on 4 June 2019 — Google and Alphabet v Commission****(Case T-334/19)**

(2019/C 255/60)

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

*Applicants:* Google LLC (Mountain View, California, United States), Alphabet, Inc. (Mountain View) (represented by: C. Jeffs, lawyer, J. Staples, Solicitor, D. Beard QC and J. Williams, Barrister)

*Defendant:* European Commission

### **Form of order sought**

The applicants claim that the Court should:

- to annul (in whole or in part) the Commission's decision of 20 March 2019 in Case COMP/AT.40411 — Google Search (AdSense);
- consequently, or in the alternative, to annul or reduce the fine imposed on the applicants in exercise of the Court's unlimited jurisdiction; and
- in any event, order the Commission to bear the applicants' costs and expenses in connection with these proceedings.

### **Pleas in law and main arguments**

The present action seeks the annulment of the Commission's decision of 20 March 2019 relating to a proceeding under Article 102 TFEU and Article 54 of the EEA Agreement (AT.40411 — Google Search (AdSense)). The applicants seek annulment of each of the three findings of infringement, the finding that they amounted to a single continuous infringement and the imposition of a fine.

In support of the action, they rely on five pleas in law.

1. First plea in law, alleging that the contested decision errs in its assessments of market definition and thus dominance. In particular, the contested decision errs in finding that:
  - search ads and non-search ads do not compete;
  - directly sold ads and intermediated ads do not compete.
2. Second plea in law, alleging that the contested decision errs in finding that Google's so-called exclusivity clause ('Site-Exclusivity Clause') was abusive. The contested decision:
  - mischaracterizes the Site-Exclusivity Clause as an exclusive supply obligation;
  - errs in finding that the decision was not required to analyze if the Site-Exclusivity Clause was likely to have anti-competitive effects;
  - fails to demonstrate that the Site-Exclusivity clause, however characterized, was likely to restrict competition.
3. Third plea in law, alleging that the contested decision errs in finding that Google's premium placement and minimum Google ads clause ('Placement Clause') was abusive. The contested decision:
  - mischaracterizes the Placement Clause;
  - fails to demonstrate that the Placement Clause was likely to restrict competition.

4. Fourth plea in law, alleging that the contested decision errs in finding that Google's authorising equivalent ads clause ('Modification Clause') was abusive. The contested decision:
    - does not demonstrate that the Modification Clause was likely to restrict competition;
    - alternatively wrongly ignores that the Modification Clause was objectively justified because it protected website users, publishers, advertisers and Google and/or that any foreclosure effect was outweighed by the advantages of the clause.
  5. Fifth plea in law, alleging that the contested decision errs in imposing a fine and in calculating that fine. The contested decision:
    - fails to consider Google's lack of intent or negligence and that the Commission selected the case for commitments;
    - alternatively errs in calculating the fine;
    - further or alternatively does not respect the principle of proportionality.
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**Action brought on 31 May 2019 — BZ v Commission**

**(Case T-336/19)**

(2019/C 255/61)

*Language of the case: French*

**Parties**

*Applicant:* BZ (represented by: C. Mourato, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- Annul the European Commission's decision of 25 July 2018 to dismiss the applicant in response to a report on the probationary period before the end of that period;
- Order the Commission to pay the applicant the following separate sums by way of damages:
  - EUR 5 000 in respect of non-material harm caused by the dismissal decision;
  - EUR 5 000 in respect of damage to reputation caused by the dismissal decision;
  - EUR 10 000 in respect of material harm caused by the adverse effects on the applicant's state of health following her dismissal;
  - EUR 58 900 in respect of material harm linked to the loss of income as a result of her unlawful dismissal;