

Defendant: Council of the European Union

Form of order sought

The applicant claims that the General Court should:

- annul Council Regulation (EU) 961/2010 in so far as it concerns the applicant;
- declare Decision 2010/413/CFSP inapplicable to the applicant;
- annul Article 16(2)(a) and (b) of Council Regulation (EU) 961/2010 in so far as it concerns the applicant;
- annul the decision taken by the Council to include the applicant on the list in Annex VIII to Council Regulation (EU) 961/2010;
- order the Council to pay the costs.

Pleas in law and main arguments

The applicant puts forward seven pleas in support of its action.

1. First plea, alleging that there is no legal basis for Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 ⁽¹⁾ and/or Article 16(2)(a) and (b) thereof
 - Under the first part of that plea, the applicant submits that Article 215 TFEU cannot serve as a legal basis for Regulation No 961/2010 since Decision 2010/413/CFSP does not make such provision;
 - Under the second part, the applicant claims that Article 215 TFEU cannot serve as a legal basis for Regulation No 961/2010 since Decision 2010/413/CFSP was not adopted in accordance with Chapter 2 of Title V of the TEU. That decision should therefore be disregarded as inapplicable to the present case.
2. Second plea, alleging infringement of international law by Article 16(2)(a) and (b) of Regulation No 961/2010, inasmuch as those provisions do not constitute implementation of a decision by the Security Council and infringe the principle of non-interference enshrined in international law.
3. Third plea, alleging infringement of Article 215 TFEU, since the procedure for inclusion on the list of Annex VIII contradicts the procedure laid down in Article 215 TFEU.

4. Fourth plea, alleging infringement of the rights of the defence, the right to sound administration and the right to effective legal protection, in so far as the Council did not respect the applicant's right to be heard, failed to provide a sufficient statement of reasons for its decisions and failed to give the applicant access to the documents in the case.
5. Fifth plea, alleging breach of the principle of proportionality
 - The applicant submits first that the contested decisions are inappropriate, since the freezing of the funds and other funds managed by the applicant amounts to freezing funds and resources which are not at its free disposal and which belong to its clients.
 - The applicant submits next that the sanction imposed on it is disproportionate in the light of the facts alleged against it and that the sanction is based on old and unsubstantiated facts.
6. Sixth plea, alleging breach of the right to respect for property, since the restriction of its right to property is disproportionate in so far as its rights of defence were not respected during the procedure.
7. Seventh plea, alleging breach of the principle of non-discrimination in so far as the applicant was punished even though it has not been established that the applicant participated knowingly and deliberately in activities having as their object or effect the circumvention of the restrictive measures.

⁽¹⁾ OJ 2010 L 281, p. 1.

Action brought on 7 January 2011 — Export Development Bank of Iran v Council

(Case T-5/11)

(2011/C 72/39)

Language of the case: French

Parties

Applicant: Export Development Bank of Iran (represented by: J.-M. Thouvenin, avocat)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the General Court should:

- annul Decision 2010/644/CFSP of 25 October 2010 in so far as it concerns the applicant;
- annul the decision contained in the Council's letter to the applicant of 28 October 2010;
- declare Decision 2010/413/CFSP inapplicable to the applicant;
- order the Council to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments put forward by the applicant are essentially identical or similar to those advanced in Case T-4/11 *Export Development Bank of Iran v Council*.

Appeal brought on 5 January 2011 by the European Commission against the judgment of the Civil Service Tribunal delivered on 28 October 2010 in Case F-9/09 Vicente Carbajosa and Others v Commission

(Case T-6/11 P)

(2011/C 72/40)

Language of the case: French

Parties

Appellant: European Commission (represented by: J. Currall and B. Eggers, Agents)

Other parties to the proceedings: Isabel Vicente Carbajosa (Brussels, Belgium), Niina Lehtinen (Brussels) and Myriam Menchen (Brussels)

Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the judgment of the Civil Service Tribunal of 28 October 2010 in Case F-9/09 *Vicente Carbajosa and Others v Commission*;
- refer the case back to the Civil Service Tribunal so that it may examine the grounds raised by the appellant seeking to have the judgment set aside;
- reserve the costs.

Pleas in law and main arguments

The appellant puts forward two grounds in support of the appeal.

1. First ground of appeal, alleging infringement of the obligation to state reasons, the rights of the defence and the principle of legal certainty inasmuch as the Civil Service Tribunal upheld a plea which was not raised in the case at issue, or of the Tribunal's own motion, but in another case.
2. Second ground of appeal, alleging in the alternative infringement of Articles 1, 5 and 7 of Annex III to the Staff Regulations of officials of the European Union and of decisions creating the European Personnel Selection Office (EPSO), as well as infringement of the obligation to state reasons inasmuch as the Civil Service Tribunal wrongly held that EPSO did not have the power to admit the persons concerned onto the list of candidates invited to submit a full application after the pre-selection phase.

Action brought on 7 January 2011 — Bank Kargoshaei and Others v Council

(Case T-8/11)

(2011/C 72/41)

Language of the case: English

Parties

Applicants: Bank Kargoshaei, Bank Melli Iran Investment Company, Bank Melli Iran Printing and Publishing Company, Cement Investment & Development Co., Mazandaran Cement Company, Melli Agrochemical Company, Shomal Cement Co., (Tehran, Iran) (represented by: L. Defalque and S. Woog, lawyers)

Defendant: Council of the European Union

Form of order sought

- annul paragraph 5, section B, of the annex to Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413/CFSP concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP⁽¹⁾ and paragraph 5, section B, of the annex to VIII of Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007⁽²⁾ and annul the decision contained in the letter of the Council of 28 October 2010;
- declare Article 20(1)(b) of Council Decision of 26 July 2010⁽³⁾ and Article 16(2)(a) of Council Regulation (EC) (EU) No 961/2010 illegal and inapplicable to the applicants;
- order that the Council pay the applicants' costs of this application.