

3. Third plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant because no decision by a competent authority, as required by Article 1(4) of Council Common Position 2001/931/CFSP, has been taken.
4. Fourth plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant since the Council did not conduct any review as required by Article 1(6) of Council Common Position 2001/931/CFSP. The applicant contends that, as it no longer uses military means to achieve its goals and is no longer directly active in Sri Lanka, such a review would have led to the conclusion that it must be removed from the list.
5. Fifth plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant as it does not comply with the obligation to state reasons in violation of Article 296 TFUE.
6. Sixth plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant because it infringes upon the applicant's right of defence, the applicant's right to effective judicial protection.

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- (¹) Council Implementing Regulation (EU) No 83/2011 of 31 January 2011 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) No 610/2010. (OJ 2011, L 28, p. 14).
- (²) Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism. (OJ 2001, L 344, p. 70).
- (³) Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism. (OJ 2001, L 344, p. 93).

Action brought on 11 April 2011 — Timab Industries and CFPR v Commission

(Case T-211/11)

(2011/C 179/31)

Language of the case: French

Parties

Applicants: Timab Industries (Dinard, France) and Cie financière et de participations Roullier (CFPR) (Saint-Malo, France) (represented by: N. Lenoir, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the decision;
- order the Commission to pay the costs in their entirety.

Pleas in law and main arguments

The applicants seek the annulment of the Commission's decision of 1 February 2011 refusing access to certain Commission documents relating to a procedure pursuant to Article 101 TFEU and Article 13 of the Agreement on the European Economic Area, concerning a cartel on the European market in animal feed phosphates (Case COMP/38866).

In support of the action, the applicants rely on three pleas in law:

1. First plea in law, alleging error of law and a manifest error of assessment in relation to the second subparagraph of Article 4(3) of Regulation No 1049/2001,⁽¹⁾ in so far as the documents applied for are not opinions but decisions in respect of which it has not been established that disclosure might seriously undermine the decision-making process.
2. Second plea in law, alleging error of law and a manifest error of assessment in relation to the first indent of Article 4(2) of Regulation No 1049/2001, in so far as the documents applied for do not contain any sensitive commercial information precluding, even partly, their disclosure.
3. Third plea in law, alleging error of law and a manifest error of assessment in relation to the third indent of Article 4(2) of Regulation No 1049/2001, in so far as the Commission contended that the purpose of inspections, investigations and audits would be undermined.

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- (¹) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 11 April 2011 — ClientEarth and PAN Europe v EFSA

(Case T-214/11)

(2011/C 179/32)

Language of the case: English

Parties

Applicants: ClientEarth (London, United Kingdom) and Pesticides Action Network Europe (PAN Europe) (Brussels, Belgium) (represented by: P. Kirch, lawyer)

Defendant: European Food Safety Authority (EFSA)

Form of order sought

- Declare the defendant in violation of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters;
- declare the defendant in violation of Regulation (EC) No 1367/2006 ⁽¹⁾;
- declare the defendant in violation of Regulation (EC) No 1049/2001 ⁽²⁾;
- Annul the negative reply by which the defendant withheld the requested documents; and
- Order the defendant to pay the applicants' costs, including the costs of any intervening party.

Pleas in law and main arguments

By means of their application, the applicants seek, pursuant to Article 263 TFEU, the annulment of the negative reply of European Food Safety Authority to their request for access to document, thereby withholding intermediate drafts and the scientific advice from EFSA's Pesticides Steering Committee (PSC) and Plant protection products and their residues (PPR) Panel relating to the Guidance on the submission of scientific peer-reviewed open literature for the approval of pesticide active substances under Regulation (EC) No 1107/2009 ⁽³⁾.

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

1. First plea in law, alleging that the contested decision violates Articles 8(2) of Regulation (EC) No 1049/2001 for not replying within the prescribed time limits to the applicants' confirmatory application and not providing detailed reasons for doing so.
2. Second plea in law, alleging that the contested decision violates Article 4(1)(2)(3) and (4) of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters for failure to provide the applicants access to the requested drafts and the scientific advice on EFSA's Guidance. The contested decision also violates Article 6(1) of Regulation (EC) No 1367/2006 for failure to interpret the exceptions provided under Article 4 of Regulation (EC) No 1049/2001 in a restrictive way.
3. Third plea in law, alleging that the contested decision violates Article 4(3) second subparagraph of Regulation (EC) No 1049/2001 for failure to demonstrate that the disclosure of the requested documents would seriously undermine EFSA's internal decision-making, particularly after the decision has been taken.

4. Fourth plea in law, alleging that the contested decision violates Article 4(3) second subparagraph of Regulation (EC) No 1049/2001 for failure to assess whether there is an overriding public interest in disclosure and to provide a detailed statement of reasons for such a refusal.

⁽¹⁾ 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 (OJ 2006 L 264, p. 13)

⁽²⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43)

⁽³⁾ 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 (OJ 2009 L 309, p. 1)

Action brought on 21 April 2011 — Dagher v Council

(Case T-218/11)

(2011/C 179/33)

Language of the case: French

Parties

Applicant: Habib Roland Dagher (Abidjan, Côte d'Ivoire) (represented by: J.-Y. Dupeux and F. Dressen, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul Council Implementing Regulation (EU) No 85/2011 of 31 January 2011, in so far as that act relates to him;
- annul Council Decision 2011/71/CFSP of 31 January 2011, in so far as that act relates to him;
- order the Council to pay the applicant EUR 40 000 as damages to make good the non-material loss and other damage suffered by the applicant;
- order the Council to pay the entirety of the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea divided into three parts and alleging infringement of essential procedural requirements.