

3. Third plea in law, alleging infringement of equal treatment and misuse of power, as:

- The illegal procedure was only applied in the case of the consortium the applicant was part of, in breach of the principle of non-discrimination. It also appears that the sole purpose of the illegal procedure was to eliminate the applicant's consortium from the first place in the evaluation list.

Action brought on 8 June 2012 — Hammar Nordic Plugg v Commission

(Case T-253/12)

(2012/C 258/42)

Language of the case: Swedish

Parties

Applicant: Hammar Nordic Plugg AB (Trollhättan, Sweden) (represented by: I. Otken Eriksson and U. Öberg, lawyers)

Defendant: European Commission

Form of order sought

- Annul, entirely or in part, the European Commission's decision of 8 February 2012 on State aid SA.28809 (C 29/2010, ex NN 42/2010 and ex CP 194/2009) which Sweden granted in favour of Hammar Nordic Plugg;

- Order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 107(1) TFEU

The applicant claims that the municipality of Vänersborg did not grant unlawful aid to the applicant within the meaning of Article 107(1) TFEU by selling and letting publicly owned property below the property's market value. In the applicant's submission, the Commission made a series of incorrect assessments as regards the legal classification of the alleged State aid measures in that:

- the Commission did not have regard to the fact that the purchase of the installation at an earlier stage for SEK 17 million could constitute State aid;

- the Commission failed to take into account that the actual sale price of SEK 8 million was in accordance with the installation's market value;

- the Commission disregarded the principle of a private investor in a market economy, by fixing the value at a later stage at different value time points as the basis of its decision before the actual sale to a private investor;

- the so-called 'third estimate in the PwC report' at the value time point of March 2008 did not constitute a reliable indicator of the true market value of the installation, and

- the Commission did not have regard to the fact that the installation was quite simply sold at a later stage for SEK 8 million in May 2011 after an open bidding procedure as part of the new owners' insolvency.

2. Second plea in law, alleging infringement of Article 107(1) TFEU in that the alleged State aid did not distort competition and did not affect trade between Member States within the meaning of Article 107(1) TFEU.

3. Third plea in law, alleging infringement of the Commission's obligation to carry out investigations and duty to state reasons and the applicant's rights of the defence.

Action brought on 8 June 2012 — Vakili v Council

(Case T-255/12)

(2012/C 258/43)

Language of the case: French

Parties

Applicant: Bahman Vakili (Tehran, Iran) (represented by: J.-M. Thouvenin, lawyer)

Defendant: Council of the European Union

Form of order sought

- Annul the Council's decision to include the applicant in the list of persons subject to sanctions which follows from Decision 2011/783/CFSP, Council Implementing Regulation (EU) No 1245/2001 of 1 December 2011 and the Council's letter of 23 March 2012;

- Annul Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010, in so far as it includes the applicant in the list of persons subject to sanctions;

- Order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a failure to state reasons, since the statement of reasons for the penalty affecting the applicant does not contain any specific and concrete reason to justify that sanction.
2. Second plea in law, alleging infringement of the rights of the defence and of the right to effective judicial protection, since the applicant was not heard in the proceedings which led to a penalty being imposed on him, as the Council did not send him the evidence against him and as the applicant was not in a position effectively to make known his view in that regard.
3. Third plea in law, alleging an error of law, since the Council was not empowered to penalise a person on the sole basis that he is president of the board of directors and chief executive of an entity also subject to sanctions.
4. Fourth plea in law, alleging an error of fact, since the applicant cannot be held liable for what was allegedly done by the Export Development Bank of Iran before the applicant took up his duties with that company. In addition, the applicant disputes the existence of the alleged actions of the company which he directs.
5. Fifth plea in law, alleging infringement of the principle of proportionality, since the penalty imposed is not such as to achieve the objectives which it is intended to pursue.
6. Sixth plea in law, alleging infringement of the right to respect for property, since the applicant has not been in a position effectively to defend his rights and was penalised on the basis of non-existent legal bases.

Action brought on 18 June 2012 — Manufacturing Support and Procurement Kala Naft v Council

(Case T-263/12)

(2012/C 258/44)

Language of the case: French

Parties

Applicant: Manufacturing Support and Procurement Kala Naft Co., Tehran (Tehran, Iran) (represented by: F. Esclatine and S. Perrotet, lawyers)

Defendant: Council of the European Union

Form of order sought

— Annul Council Regulation (EU) No 267/2012 of 23 March 2012;

— Order the Council to pay all the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on seven pleas in law, six of which are in essence similar to the first six pleas in law raised in Case T-509/10 *Manufacturing Support and Procurement Kala Naft v Council*.⁽¹⁾

The applicant raises an additional plea in law alleging that the contested regulation is unlawful by reason of the unlawfulness of the preceding measures which were annulled by the judgment of the General Court in Case T-509/10 *Manufacturing Support and Procurement Kala Naft v Council* [2012] ECR II-0000.

⁽¹⁾ OJ 2010 C 346, p. 57.

Action brought on 28 June 2012 — Flying Holding and Others v Commission

(Case T-280/12)

(2012/C 258/45)

Language of the case: French

Parties

Applicants: Flying Holding NV (Antwerp-Wilrijk, Belgium); Flying Group Lux SA (Luxembourg, Luxembourg) and Flying Service NV (Antwerp-Deurne, Belgium) (represented by: C. Doutrelepon and V. Chapoulaud, lawyers)

Defendant: European Commission

Form of order sought

— Order the joinder of the present case with Case T-91/12;

— Declare the present action admissible and well founded;

— Annul the decision of the European Commission awarding contract No PMO2/PR/2011/103 to ABELAG AVIATION NV, as set out in contract award notice No 2012/S 83-135396 published on 28 April 2012 in the Supplement to the *Official Journal of the European Union* (OJ/S — S83);