impact of potential deficiencies in the management or monitoring systems, so as not to opt for a disproportionate response. In that regard, it is incomprehensible why it was regarded necessary to cancel all of the aid granted, since corrections at a rate of 100 % apply only when the deficiencies in the management and monitoring systems are so significant, or the irregularity found is so serious, as to constitute a complete disregard of European Union law rendering all of the payments improper. When that is not the case, those authorities propose corrections limited to 5 %, 2 % or even 0 %.

Difficulties in interpreting the rule at issue are a decisive attenuating circumstance which should always be taken into account by the Commission. In the light of the circumstances described, less restrictive means exist — such as the application of a reduced rate or even no correction at all — to achieve the desired objective. Accordingly, even if the Commission decides to apply a correction to the assistance granted — which is not the case — that correction should in no case exceed 5 % and should in fact be less or even zero.

6. **Sixth plea in law: the limitation period has expired**

In any event, the limitation period in relation to requiring the recovery of expenditure predating 3 June 2003 has already expired, given that the last invoice was dated 28 February 2008, namely three months and two days before the date at issue. In accordance with Regulation (EC) No 2988/95 ([4]) of 18 December 1995, the limitation period for proceedings is four years as from the time when the irregularity was committed.

([1]) Commission Regulation (EC) No 16/2003 of 6 January 2003 laying down special detailed rules for implementing Council Regulation (EC) No 1164/94 as regards eligibility of expenditure in the context of measures part-financed by the Cohesion Fund (OJ 2003 L 2, p. 7).
([2]) Council Regulation (EC) No 1164/94 of 16 May 1994 establishing a Cohesion Fund (OJ 1994 L 130, p. 1).
([3]) OJ 2000 L 308, p. 26.
([4]) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ 1995 L 312, p. 1).

Action brought on 2 August 2013 — Companhia Previdente and Socitrel v Commission

(Case T-409/13)

(2013/C 367/53)

Language of the case: Portuguese

Parties

Applicants: COMPANHIA PREVIDENTE — Sociedade de Controle de Participações Financeiras, SA (Lisbon, Portugal) and SOCITREL — Sociedade Industrial de Trefilaria, SA (Trofa, Portugal) (represented by: D. Proença de Carvalho, J. Caimoto Duarte, F. Proença de Carvalho and T. Luísa Faria, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare the action admissible and well founded;

— annul Decision D/2013/048425 of the European Commission's Directorate-General for Competition of 24 May 2013, relating to the refusal to reduce, on grounds of inability to pay, the fine imposed on SOCITREL in a proceeding for infringement of Article 101 TFEU and Article 53 of the EEA Agreement, which also declared COMPANHIA PREVIDENTE jointly and severally liable for payment of that fine;

— impose a reduced fine on the applicants as a result of their inability to pay the fine;

Pleas in law and main arguments

The applicants rely on two pleas in law which, in essence, consist of the following:

1. First plea in law: infringement by the Commission of the obligation to state reasons under Article 296 TFEU, in that it disregarded the evidence submitted by the COMPANHIA PREVIDENTE group relating to its lack of finances.

   — The applicants claim that Article 296 TFEU was infringed, because the refusal to reduce the fine on the ground of inability to pay did not contain a substantiated statement of reasons, since there was no specific analysis of the requirements which, in accordance with the European Union's decision-making practice (in particular under paragraph 35 of the Guidelines for setting fines pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003, ([1]) 'the Guidelines'), and in accordance with the case-law of the European Union relating to inability to pay, must be verified for the purposes of granting a reduction of the fine in this context; nor were the arguments duly addressed, which had been adduced by COMPANHIA PREVIDENTE during the relevant proceeding before the European Commission, relating to the COMPANHIA PREVIDENTE group's fulfilment of those requirements.

2. Second plea in law: error as to the facts, manifest error of assessment and breach of the principle of proportionality, in that the fine was not reduced in the light of the COMPANHIA PREVIDENTE group's inability to pay.

— The applicants claim that an error as to the facts, a manifest error of assessment and a breach of the principle of proportionality were committed because not all the relevant facts were given due consideration, nor was the evidence provided by COMPANHIA PREVIDENTE adequately examined during the procedure to revise the fine on the ground of inability to pay, pursuant to paragraph 35 of the Guidelines, and the fine, which is beyond the current financial resources of the COMPANHIA PREVIDENTE group, was maintained.

In addition, pursuant to Article 261 TFEU, the applicants request a reduction, on the ground of inability to pay, of the fine imposed on SOCITREL, for which COMPANHIA PREVIDENTE is jointly and severally liable.

([1]) OJ 2006, C 210, p. 2.

Action brought on 20 August 2013 — Fard and Sarkandi v Council

(Case T-439/13)

(2013/C 367/54)

Language of the case: English

Parties

Applicants: Mohammad Moghaddami Fard (Tehran, Iran); and Ahmad Sarkandi (United Arab Emirates) (represented by: M. Taher, Solicitor, M. Lester, Barrister, and S. Kentridge, QC)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— Annul Council Decision 2013/270/CFSP of 6 June 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ L 156, p.10) and Council Implementing Regulation (EU) No 522/2013 of 6 June 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ L 156, p.3);

— Order that the Council pays the applicants' costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council erred manifestly in its assessment that any of the listing criteria has been fulfilled as regards either of the applicants, and that there is no valid legal basis for the applicants' designation.

2. Second plea in law, alleging that the Council has purported to impose a travel ban on the applicants without a proper legal basis.

3. Third plea in law, alleging that the Council has failed to give adequate or sufficient reasons for including the applicants in the contested measures.

4. Fourth plea in law, alleging that the Council has failed to safeguard the applicants' rights of defence and to effective judicial review,

5. Fifth plea in law, alleging that the Council's decision to designate the applicants has infringed, without justification or proportion, the applicants' fundamental rights, including their right to protection of their property, family life, business, and reputation.

Appeal brought on 20 September 2013 by AN against the judgment of the Civil Service Tribunal of 11 July 2013 in Case F-111/10 AN v Commission

(Case T-512/13 P)

(2013/C 367/55)

Language of the case: French

Parties

Appellant: AN (Brussels, Belgium) (represented by: É. Boigelot and R. Murru, avocats)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of the Civil Service Tribunal (Second Chamber) of 11 July 2013 in Case F-111/10 *AN* v *Commission*;

— refer the case back to the Civil Service Tribunal;

— order the defendant to pay all of the costs at first instance and at appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on two pleas in law.

1. First plea in law, alleging infringement of the obligation to state reasons when the Civil Service Tribunal examined the plea submitted at first instance relating to the unlawfulness of the inquiry directed against the appellant, since the statement of reasons put forward by the Civil Service Tribunal in paragraphs 95 and 96 of the judgment under appeal is erroneous or at the very least inadequate and incomplete.