

2. Second plea in law, alleging infringement of the applicant's rights of defence and to effective judicial protection.
3. Third plea in law, alleging failure to give adequate reasons.
4. Fourth plea in law, alleging an unjustified and disproportionate restriction of the applicant's right to property and to conduct his business.

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- (¹) Council Implementing Decision 2013/409/CFSP of 30 July 2013 implementing Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2013 L 204, p. 52)
- (²) Council Implementing Regulation (EU) No 735/2013 of 30 July 2013 implementing Regulation (EU) No 101/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia (OJ 2013 L 204, p. 23)

Action brought on 15 October 2013 — Oil Turbo Compressor v Council

(Case T-552/13)

(2013/C 359/36)

Language of the case: German

Parties

Applicant: Oil Turbo Compressor Co. (Private Joint Stock) (Tehran, Iran) (represented by: K. Kleinschmidt, lawyer)

Defendant: Council of the European Union

Forms of order sought

The applicant claims that the Court should:

- annul point 48 of Table B of the Annex to Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation (EU) No 961/2010 on restrictive measures against the Islamic Republic of Iran, in so far as those measures concern the applicant;
- annul point 103 of Table B of Annex VIII to Council Implementing Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against the Islamic Republic of Iran and repealing Regulation (EU) No 961/2010, in so far as those measures concern the applicant;
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. Manifest error of appraisal of the facts on which the Council decision is based

In the context of this plea, the applicant argues *inter alia* that the contested legal acts were obviously decided on the basis of incorrect assumptions and are contrary to the judgments of the General Court in Case T-63/12 *Oil Turbo Compressor v Council* [2012] ECR II-0000 and Case T-404/11 *TCMFG v Council* [2013] ECR II-0000. The applicant submits that there are no facts which could sufficiently substantiate and justify the defendant's decision and the consequent infringement of the applicant's fundamental rights.

2. Infringement of the rule-of-law principle of proportionality

According to the applicant, there is an infringement of the principle of proportionality because its inclusion in the contested legal acts bears no apparent relation to the objective of those legal acts, which is to prevent proliferation-sensitive nuclear activities, the trade in and/or development of nuclear weapon delivery systems or other weapons systems by the Islamic Republic of Iran. The defendant also fails to show that the applicant's exclusion from trade with the European Union is reasonable, in particular the least intrusive measure, in order to obtain the intended objective. The applicant further complains that the major interference with its fundamental rights was obviously not measured against the objective supposedly pursued by the defendant.

3. Infringement of rule-of-law principles

In this regard it is claimed that the defendant failed to provide sufficient reasons for including the applicant in the contested legal acts. The defendant does not refer to the facts or evidence allegedly in its possession. The applicant also submits that, as it is not aware of any facts or evidence which could justify the contested legal acts, and as the defendant is withholding any information, the applicant is being denied a fair hearing in accordance with rule-of-law principles. The applicant's application for access to the case-file has so far not been granted. The applicant further complains that the defendant adheres to the contested legal acts despite the judgments cited above.