

2. Second plea in law, alleging exceeding and misuse of powers and infringement of the right to sound administration, of the principle of an adversarial process and of the general principle *patere legem quam ipse fecisti*, the Commission not providing information to make it possible, first, to know whether it examined the observations made by the consortium of which the applicants were a part and, second, to know the grounds on which it had rejected those observations.

Action brought on 28 January 2014 — Bank Refah Kargaran v Council

(Case T-65/14)

(2014/C 135/55)

Language of the case: French

Parties

Applicant: Bank Refah Kargaran (Tehran, Iran) represented by: J.-M. Thouvenin, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the General Court should:

- annul Council Implementing Regulation (EU) No 1154/2013 of 15 November 2013 in so far as it concerns the applicant;
- annul Council Decision 2013/661/CFSP of 15 November 2013 in so far as it concerns the applicant;
- declare Council Regulation (EU) No 267/2012 of 23 March 2012 inapplicable to the applicant;
- declare decision 2010/413 CFSP inapplicable to the applicant;
- in the alternative, annul the implementing regulation and the decision mentioned in the first two indents of the present form of order, as from 20 January 2014;
- order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law alleging failure to state reasons in breach of Article 296 TFEU, in so far as the implementing regulation which includes the applicant on the list of persons and entities covered by the restrictive measures does not specifically indicate the legal basis on which it was taken.
2. Second plea in law alleging an absence of a legal basis, in so far as the legal basis of the implementing regulation in dispute is Regulation No 267/2012, ⁽¹⁾ which ought to be held to be inapplicable to the applicant in that, first, it was taken in breach of the obligation to state reasons set by Article 296 TFEU and in breach of Article 215 TFEU and, second, Article 23(2)(d) of it, which constitutes the legal basis for including the applicant in the list in Annex IX to Regulation No 267/2012, infringes the treaties and the Charter of Fundamental Rights of the European Union.
3. Third, fourth, fifth and six pleas in law alleging, respectively, (i) an error of law; (ii) an error of fact and a manifest error of assessment, (iii) an infringement of the rights of the defence and the right to effective legal protection and (iv) infringement of the principle of proportionality.

4. Seventh plea in law alleging that Article 20(1)(c) of Decision 2010/413 ⁽¹⁾, which constitutes the legal basis of the penalty which is imposed on the applicant must be declared to be inapplicable to it as that provision is contrary to the treaties, to the Charter of Fundamental Rights and to the principle of proportionality. The applicant claims that the decision to include it in the list of persons and entities covered by the restrictive measures must therefore be annulled.
5. Eighth plea in law alleging that the disputed sanction became unlawful as from 20 January 2014 since the Council recognised on that date that Iran no longer pursued nuclear activities which are the cause of the sanction. The applicant claims that the sanction therefore loses its objective.

⁽¹⁾ Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation No 961/2010 (OJ 2012 L 88, p. 1).

⁽²⁾ Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39).

Action brought on 31 January 2014 — France v Commission

(Case T-74/14)

(2014/C 135/56)

Language of the case: French

Parties

Applicant: French Republic (represented by: E. Belliard, G. de Bergues, D. Colas and J. Bousin, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul in its entirety European Commission Decision No C(2013) 7066 final of 20 November 2013 concerning State aid No SA.16237 implemented by France in favour of Société Nationale Corse Méditerranée;
- Order the Commission to pay the costs.

Pleas in law and main arguments

By its application, the applicant seeks the annulment of Commission Decision C(2013) 7066 final of 20 November 2013 by which the Commission found that, first, the balance of the restructuring aid, notified by the French authorities on 18 February 2002, in the amount of EUR 15,81 million and, secondly, the three measures implemented by the French authorities in 2006 in favour of Société nationale maritime Corse Méditerranée ('SNCM'), namely, the disposal of 75% of SNCM at the negative price of EUR 158 million, the capital contribution of EUR 8,75 million subscribed for Compagnie générale maritime et financière ('CGMF') and the current account advance of EUR 38,5 million, constitute State aid which is unlawful and incompatible with the internal market. The Commission consequently ordered recovery of those amounts.

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

1. First plea in law, alleging infringement of the applicant's rights of defence as the Commission refused to reopen the formal investigation procedure following the judgment delivered on 11 September 2012 in Case T-565/08 *Corsica Ferries France v Commission* [2012] ECR.
2. Second plea in law, alleging, in the alternative, should the Court hold that the Commission acted correctly in not reopening the formal investigation procedure following the judgment in Case T-565/08, infringement of the concept of State aid for the purposes of Article 107(1) TFEU as the Commission found that the 2006 measures were to be classified as State aid for the purposes of that provision. This plea is divided into three parts. The applicant takes the view that the Commission infringed Article 107(1) TFEU:
 - inasmuch as it found that the disposal of 75% of SNCM at the negative price of EUR 158 million had to be classified as State aid and that the private investor test was not satisfied in the present case;