

- The applicants put forward that the Commission breached the principle of legal certainty by imposing fines that go beyond mere nominal fines. This allegedly also constitutes a departure from its decisional practice. In addition, so the applicants claim, the Commission breached its Fining Guidelines by declining to use the value of the applicant's sales as a basis for the fine, by failing to adequately specify its method in calculating the fine and by failing to justify these departures from its previous decisional practice. In addition, it's the applicants' opinion that the Commission breached the principle of equal treatment by treating the applicants differently from another broker accused of facilitation in similar circumstances and within the same infringement as well as by ultimately treating the applicants like the banks who perpetrated the infringement despite the applicants being accused only of facilitation. The applicants claim that as a result of this, the fines imposed are wholly disproportionate and the Commission has thus breached the principle of proportionality.

6. Sixth plea in law, alleging a breach by the Commission of the principle of 'ne bis in idem'.

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**Action brought on 24 April 2015 — National Iranian Tanker Company v Council**

**(Case T-207/15)**

(2015/C 245/38)

*Language of the case: English*

**Parties**

*Applicants:* National Iranian Tanker Company (Tehran, Iran) (represented by: T. de la Mare, QC, M. Lester and J. Pobjoy, Barristers, R. Chandrasekera, S. Ashley and C. Murphy, Solicitors)

*Defendants:* Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

- annul Council Decision (CFSP) 2015/236 of 12 February 2015 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ L 39, 14.2.2015, p. 18) and Council Implementing Regulation (EU) 2015/230 of 12 February 2015 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ L 39, 14.2.2015, p. 3), insofar as each applies to the applicant;
- alternatively, declare that Article 20(1)(c) of Council Decision 2010/413/CFSP of 26 July 2010 (as amended) ('the Decision') and Article 23(2)(d) of Council Regulation (EU) No 267/2012 of 23 March 2012 (as amended) ('the Regulation'), are inapplicable insofar as they apply to the applicant by reason of illegality; and
- order the Council to pay the costs of the proceedings.

**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 has, by redesignating the applicant on the basis of the same factual allegations that were rejected by the General Court in Case T-565/12, *NITC v Council* (3 July 2014) (*'NITC v Council'*), acted in violation of the principles of res judicata, legal certainty, legitimate expectations, and finality, and infringed the applicant's right to an effective remedy under Article 47 of the Charter of Fundamental Rights of the EU.

2. Second plea in law, alleging that the Council has failed to fulfil the relevant criterion for listing, namely that the applicant provides financial or logistical support to the Government of Iran. The financial support allegation was rejected by the General Court in *NITC v Council*. The applicant provides no financial benefit to the Government of Iran, and the Government of Iran derives no financial benefit from the applicant, through its shareholders, or otherwise. As held in *NITC v Council*, indirect financial support is not sufficient to satisfy this criterion. The logistical support allegation is no more than a recharacterisation of allegations already made in *NITC v Council*. In any event, there is not the requisite causal link between the activities of the applicant and nuclear proliferation, and any support provided by the applicant is at most indirect logistical support.
3. Third plea in law, alleging that the Council violated the applicant's right of defence and the right to good administration and effective judicial review. In particular, the Council failed to (a) inform the applicant of the actual grounds for its redesignation or provide the evidence adduced against it; and/or (b) provide the applicant with an opportunity to make known its views on the actual grounds and/or the evidence adduced against it prior to its redesignation.
4. Fourth plea in law, alleging that the Council has infringed, without justification or proportion, the applicant's fundamental rights, including its right to protection of its property, business and reputation. The impact of the Contested Measures on the applicant is far-reaching, both as regards to its business, and to its reputation and goodwill worldwide. The designation of the application will also have potentially devastating effects on the pension fund beneficiaries of the applicants' shareholders, who are all innocent Iranian citizens, many of whom are retired. The Council has failed to demonstrate that the freezing of the applicant's assets and economic resources is related to, or justified by, any legitimate aim, still less that it is proportionate to such an aim.
5. Fifth plea in law, in support of the application for a declaration, alleging that if, contrary to the arguments advanced in the second plea, Article 20(1)(c) of the Decision and Article 23(2)(d) of the Regulation are to be interpreted so as to capture (a) indirect financial support and/or (b) logistical support that has no link with nuclear proliferation, those criteria would be unlawful and disproportionate to the objectives of the Decision and Regulation. The arbitrary width and scope of the criteria that would result from this broader interpretation would exceed the limits of what is appropriate and necessary in order to achieve those objectives. The provision would therefore be unlawful.

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**Action brought on 21 May 2015 — Speciality Drinks v OHIM — William Grant (CLAN)**

**(Case T-250/15)**

(2015/C 245/39)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Speciality Drinks Ltd (London, United Kingdom) (represented by: G. Pritchard, Barrister)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

*Other party to the proceedings before the Board of Appeal:* William Grant & Sons Ltd (Dufftown, United Kingdom)

**Details of the proceedings before OHIM**

*Applicant:* Applicant

*Trade mark at issue:* Community word mark 'CLAN' — Application for registration No 10 025 815