

Pleas in law

- Breach of Article 41(2)(c) of the Charter of Fundamental Rights of the European Union and of Article 75 of Regulation No 207/2009;
- Breach of Article 76(2) of Regulation No 207/2009;
- Misapplication of Article 7(1)(b) and (c) of Regulation No 207/2009.

Action brought on 10 February 2016 — Oil Pension Fund Investment Company v Council**(Case T-56/16)**

(2016/C 111/42)

*Language of the case: German***Parties**

Applicant: Oil Pension Fund Investment Company (Tehran, Iran) (represented by: K. Kleinschmidt, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul, with immediate effect, Council Decision (CFSP) 2015/2216 of 30 November 2015 amending Decision 2010/413/CFSP concerning restrictive measures against Iran and Implementing Regulation (EU) 2015/2204 of 30 November 2015 implementing Regulation (EU) No 267/2012, in so far as these acts concern the applicant;
- adopt a measure of organisation of procedure, under Article 89 of the Rules of Procedure, ordering the defendant to produce all the documents in connection with the contested decision in so far as they concern the applicant;
- provide access to the case file in *Oil Pension Fund Investment Company v Council* (T-121/13, ECLI:EU:T:2015:645);
- order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: Infringement of Article 266 TFEU

The applicant takes the view that, in accordance with Article 266 TFEU, the Council is prohibited from adopting acts which have the same content as the acts of 21 December 2012 annulled by the judgment of the Court in *Oil Pension Fund Investment Company v Council* (T-121/13, ECLI:EU:T:2015:645).

2. Second plea in law: Infringement of the applicant's rights of defence, its right to effective legal protection and the duty to state reasons

In that regard, the applicant complains that due consultation did not take place and that it was not granted access to the file. The reasoning contained in the contested acts is not comprehensible to the applicant. As a result the applicant's rights of defence and its right to effective legal protection have been infringed. There has also been a breach of the principle of the right to be heard. The applicant also submits that the Council did not correctly assess the circumstances relating to the applicant. The applicant takes the view that it was deprived of a fair trial based on the rule of law, having been unable, in the absence of adequate knowledge, to comment specifically on the relevant allegations and alleged evidence of the Council, or to put forward any contrary evidence in the proceedings.

3. Third plea in law: Manifest errors of assessment, lack of or erroneous exercise of discretion and infringement of the principle of proportionality

In the applicant's view, the Council made manifest errors of assessment when it adopted the contested acts. The Council failed adequately and/or correctly to investigate the facts underlying the contested acts. In that context, it is submitted, inter alia, that, so far as concerns the applicant, the grounds for adoption of the restrictive measures that are stated in the contested acts are inapplicable. The contested acts also breach the principle of proportionality.

4. Fourth plea in law: Infringement of the rights guaranteed under the Charter of Fundamental Rights of the European Union

Here, the applicant claims that its fundamental rights as guaranteed by the Charter of Fundamental Rights of the European Union ('the Charter') have been infringed by the contested acts. It invokes, in that regard, breach of the freedom to conduct a business in the European Union (Article 16 of the Charter) and of the right to use its lawfully acquired possessions in the European Union and, in particular, to dispose of them freely (Article 17 of the Charter). Furthermore, the applicant claims breach of the principle of equal treatment (Article 20 of the Charter) and of the principle of non-discrimination (Article 21 of the Charter).

Action brought on 11 February 2016 — Apax Partners v EUIPO — Apax Partners Midmarket (APAX)

(Case T-58/16)

(2016/C 111/43)

Language in which the application was lodged: English

Parties

Applicant: Apax Partners LLP (London, United Kingdom) (represented by: D. Rose, J. Curry and J. Warner, Solicitors)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Apax Partners Midmarket (Paris, France)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'APAX' — Application for registration No 3 538 981

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 26 November 2015 in Case R 1441/2014-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision in its entirety and remit the application for the Contested Mark to EUIPO to allow it to proceed and;
- order EUIPO and any party involved in these proceedings before the Board to bear their own costs and pay the Applicant's costs of these proceedings and those of the Appeal before the Board and the Opposition B 764 029 before the Opposition Division.