

4. Fourth, incorrect use of legal basis

The Hellenic Republic submits that, if the Commission considered that Law 4002/2001 was not being applied correctly by the Hellenic Republic, it had to use Article 258 TFEU and initiate a fresh infringement procedure, and not require continued making of the penalty payment.

Action brought on 12 June 2012 — Energetický a průmyslový and EP Investment Advisors v Commission

(Case T-272/12)

(2012/C 250/31)

*Language of the case: English***Parties**

Applicants: Energetický a průmyslový holding a.s. (Brno, Czech Republic) and EP Investment Advisors s.r.o. (Praha, Czech Republic) (represented by: K. Desai, Solicitor, J. Schmidt and M. Peristeraki, lawyers)

Defendant: European Commission

Form of order sought

— Annul the Commission Decision of 28 March 2012, relating to a proceeding under Article 23 of Council Regulation (EC) No. 1/2003 ⁽¹⁾ (refusal to submit to an inspection) in Case COMP/39793 — EPH and Others;

— In the alternative, annul the amount of the fine imposed on the applicants in its entirety or reduce it to an appropriate amount;

— Order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on four pleas in law.

1. First plea in law, alleging that the contested decision was adopted in violation of essential procedural requirements. In particular, the applicants submit that the contested decision was adopted in violation of their rights of defence, due to irregularities in the conduct of the inspection, notably because the Commission did not ensure that the relevant individuals had been properly informed of their duties in the course of the inspection nor of the consequences of non compliance.
2. Second plea in law, alleging that the Commission's finding that the applicants refused to submit to the inspection is unfounded and disproportionate. The applicants argue that the evidence put forward by the Commission for the unblocking of an email account or the diversion of emails

to the applicants' server in the case at hand was not sufficient to substantiate an infringement of Article 23(1) of Council Regulation (EC) No 1/2003. The applicants also argue that the inspection was not obstructed with intention or negligence by the applicants.

3. Third plea in law, alleging that the contested decision is adopted in violation of the 'presumption of innocence' principle insofar as the Commission approached the case with insufficient care and transparency, whilst there were indications that the Commission was negatively predisposed against the applicants, as a result of unrelated events that could not be attributed to the applicants.

4. Fourth (alternative) plea in law, put forward in support of the second form of order sought, in case the General Court decides not to annul the contested decision in its entirety, alleging that the Commission committed an error in law and infringed the principles of proportionality and due motivation when determining the fine.

⁽¹⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L1, p. 1)

Action brought on 15 June 2012 — FC Dynamo-Minsk v Council

(Case T-275/12)

(2012/C 250/32)

*Language of the case: English***Parties**

Applicant: Football Club 'Dynamo-Minsk' ZAO (Minsk, Belarus) (represented by: D. O'Keeffe, Solicitor and B. Evtimov, lawyer)

Defendant: Council of the European Union

Form of order sought

— Annul Council Implementing Regulation (EU) No 265/2012 of 23 March 2012, implementing Article 8a(1) of the Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2012 L 87, p. 37), to the extent that it concerns the applicant;

— Annul Council Implementing Decision 2012/171/CFSP of 23 March 2012 implementing Decision 2010/639/CFSP concerning restrictive measures against Belarus (OJ 2012 L 87, p. 95), to the extent that it concerns the applicant; and

— Order the defendant to pay the costs of the proceedings.