

Action brought on 31 July 2011 — Ocean Capital Administration and Others v Council

(Case T-420/11)

(2011/C 290/16)

Language of the case: English

Parties

Applicants: Ocean Capital Administration GmbH (Hamburg, Germany), First Ocean Administration GmbH (Hamburg, Germany), First Ocean GmbH & Co. KG (Hamburg, Germany), Second Ocean Administration GmbH (Hamburg, Germany), Second Ocean GmbH & Co. KG (Hamburg, Germany), Third Ocean Administration GmbH (Hamburg, Germany), Third Ocean GmbH & Co. KG (Hamburg, Germany), Fourth Ocean Administration GmbH (Hamburg, Germany), Fourth Ocean GmbH & Co. KG (Hamburg, Germany), Fifth Ocean Administration GmbH (Hamburg, Germany), Fifth Ocean GmbH & Co. KG (Hamburg, Germany), Sixth Ocean Administration GmbH (Hamburg, Germany), Sixth Ocean GmbH & Co. KG (Hamburg, Germany), Seventh Ocean Administration GmbH (Hamburg, Germany), Seventh Ocean GmbH & Co. KG (Hamburg, Germany), Eighth Ocean Administration GmbH (Hamburg, Germany), Eighth Ocean GmbH & Co. KG (Hamburg, Germany), Ninth Ocean Administration GmbH (Hamburg, Germany), Ninth Ocean GmbH & Co. KG (Hamburg, Germany), Tenth Ocean Administration GmbH (Hamburg, Germany), Tenth Ocean GmbH & Co. KG (Hamburg, Germany), Eleventh Ocean Administration GmbH (Hamburg, Germany), Eleventh Ocean GmbH & Co. KG (Hamburg, Germany), Twelfth Ocean Administration GmbH (Hamburg, Germany), Twelfth Ocean GmbH & Co. KG (Hamburg, Germany), Thirteenth Ocean Administration GmbH (Hamburg, Germany), Fourteenth Ocean Administration GmbH (Hamburg, Germany), Fifteenth Ocean Administration GmbH (Hamburg, Germany), Sixteenth Ocean Administration GmbH (Hamburg, Germany), Kerman Shipping Co. Ltd (Valletta, Republic of Malta), Woking Shipping Investments Ltd (Valletta, Republic of Malta), Shere Shipping Co. Ltd (Valletta, Republic of Malta), Tongham Shipping Co. Ltd (Valletta, Republic of Malta), Uppercourt Shipping Co. Ltd (Valletta, Republic of Malta), Vobster Shipping Co. Ltd (Valletta, Republic of Malta), Lancelin Shipping Co. Ltd (Limassol, Republic of Cyprus) (represented by: F. Randolph, Barrister, M. Lester, Barrister, and M. Taher, Solicitor)

Defendant: Council of the European Union

Form of order sought

— Annul Council Implementing Regulation (EU) No 503/2011 of 23 May 2011 ⁽¹⁾ and Council Decision 2011/299/CFSP of 23 May 2011 ⁽²⁾, in so far as the measures contained therein relate to the applicants;

— Order the Council 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 defendant has manifestly erred in deciding that the applicants meet the criteria for listing, as:
 - The only basis on which the defendant has decided to include the applicants are allegations that they are 'owned' or 'controlled' by the Islamic Republic of Iran Shipping Lines ('IRISL') or that they are a 'subsidiary' or 'holding company' of IRISL; and
 - The defendant has failed to carry out (or has erred if it did so) a case by case evaluation of the facts concerning each applicant, to determine whether it is likely that each one of them may be prompted to circumvent the restrictive measures against IRISL by reason of influence IRISL is said to wield over each applicant.
2. Second plea in law, alleging that the contested measures violate the applicants' right to a fair hearing and to effective judicial protection, as:
 - Such measures provide no procedure for communicating to the applicants the evidence on which the decision to freeze their assets was based, or for enabling them to comment meaningfully on that evidence;
 - The reasons given in the contested measures are only general and unsupported; and
 - The defendant has not given sufficient information to enable the applicants effectively to make known their views in response.
3. Third plea in law, alleging the defendant failed to provide sufficient reasons for their inclusion in the contested measures, in violation of its obligation to give a clear statement of the actual and specific reasons justifying its decision.
4. Fourth plea in law, alleging that the contested measures constitute an unjustified and disproportionate restriction on the applicants' right to property and freedom to conduct their business, as:
 - The asset freezing measures have a marked and long-lasting impact on their fundamental rights;
 - The applicants' inclusion is not rationally connected with the objective of the contested measures, namely to prevent circumvention of the restrictive measures; and
 - The defendant has not demonstrated that a total asset freeze is the least onerous means of ensuring such an objective, nor that the very significant harm to the applicants is justified and proportionate.

⁽¹⁾ Council Implementing Regulation (EU) No 503/2011 of 23 May 2011 implementing Regulation (EU) No 961/2010 on restrictive measures against Iran (OJ 2011 L 136, p. 26)

⁽²⁾ Council Decision 2011/299/CFSP of 23 May 2011 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2011 L 136, p. 65)