

Action brought on 25 July 2011 — Turbo v Council**(Case T-404/11)**

(2011/C 290/15)

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

Applicant: Turbo Compressor Manufacturer (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 Council Decision 2011/299/CFSP of 23 May 2011 amending Decision 2010/413/CFSP concerning restrictive measures against Iran, in so far as it concerns the applicant;
- adopt a measure of organisation of procedure under Article 64 of the Rules of Procedure of the General Court, requiring the defendant to submit all documents in connection with the contested decision, in so far as they concern the applicant;
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of rights guaranteed by the Charter of Fundamental Rights of the European Union

The applicant's rights guaranteed by the Charter of Fundamental Rights of the European Union ('the Charter') have been infringed. Article 16 of the Charter guarantees the freedom to conduct a business in the European Union and Article 17 guarantees the right to use and, in particular, to dispose of lawfully acquired possessions in the European Union. Articles 20 and 21 of the Charter guarantee the applicant the right to equal treatment and the right not to be discriminated against.

The applicant is excluded from participation in trade in the European Union by the contested decision. The economic survival of the applicant is thereby threatened. The applicant is dependent on deliveries from the economic territory of the European Union.

There is no public interest in the restriction of the applicant's freedom to conduct a business, its property

rights, its right to equal treatment and its right not to be discriminated against. In particular, there is no evidence to justify the defendant's decision and the related interference with the applicant's fundamental rights. The applicant is, in particular, not engaged in proliferation-sensitive nuclear activities and/or the development of nuclear weapon delivery systems.

There is a misunderstanding. The company named in the contested decision SATAK is not identical to the applicant. It is a third party which is external to the applicant. The applicant can only explain the fact that in the contested decision it was included in the list in Annex II to Decision 2010/413/CFSP concerning restrictive measures against Iran, by that fact that there was confusion with another company which controls 'SATAK' or a similarly named company.

2. Second plea in law, alleging manifestly incorrect appraisal of the facts on which the contested decision was based

The applicant is not engaged in proliferation-sensitive nuclear activities, trade and/or the development of nuclear weapon delivery systems or other weapon system.

3. Third plea in law, alleging breach of the principle of proportionality

The defendant did not respect the principle of proportionality in its decision. The applicant can only assume on the basis of searches made on the Internet for the keywords 'SATAK' and 'Iran's nuclear programme', that the delivery identified in Point 31 of Annex IB to Decision 2011/299/CFSP involves 6 Soviet-type KH-55(SM) airborne cruise missiles, which Iran allegedly acquired from the Ukraine in 2001 or 2002.

The applicant has no business dealings with the Ukrainian public enterprise UkrSpetzExport, nor does it import Soviet-type KH-55(SM) airborne cruise missiles or other weapons or weapon delivery systems.

The applicant is not the company named 'SATAK' in Point 31 of Annex 1B to the contested decision.

4. Fourth plea in law, alleging infringement of the rights of the defence

The statement of reasons set out in Point 31 of Annex 1B to the contested decision is incomprehensible to the applicant and verifiable reasons were not communicated to the applicant by the defendant, with the result that the applicant's rights of defence and right to a genuine redress have been infringed.