

- Allow the appellant all other rights and in particular that of being permitted to reply to the European Court of Auditors' written pleading;
- Order the opposing party to bear the costs of the two instances;
- Allow the appellant all other rights, entitlements, pleas and actions.

### Pleas in law and main arguments

In support of the appeal, the appellant relies on nine pleas in law.

1. The first plea alleges a change in the subject-matter of the proceedings by the Civil Service Tribunal by interpreting the submissions of the appellant at the hearing as a withdrawal of his application for annulment of Decision No 81-2007.
2. The second plea alleges a misinterpretation of the facts by the Civil Service Tribunal in paragraphs 40, 58 and 94 of the judgment appealed against.
3. The third plea alleges a misinterpretation of the first plea of the action brought by the appellant in that the Civil Service Tribunal failed to take into account the paragraphs of Articles 22a and 22b of the Staff Regulations of the European Union relied upon.
4. The fourth plea alleges the non-application by the Civil Service Tribunal of the principle of the reversal of the burden of proof.
5. The fifth plea alleges that the Civil Service Tribunal made a bad legal decision with regard to the second plea of the appellant's action and failed to draw conclusions from the conduct of the Secretary-General in connection with Article 11a of the Staff Regulations.
6. The sixth plea alleges failure by the Civil Service Tribunal to take into account the infringement of the principle of equal treatment.
7. The seventh plea alleges bias towards the appellant by the official entrusted with the disciplinary enquiry.
8. The eighth plea alleges the actual non-application of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms as a result of the refusal to review whether the sanction was proportionate in the light of the facts in respect of which it was adopted.
9. The ninth plea alleges that the principle of the reasonable length of proceedings was wrongly applied.

### Action brought on 11 April 2011 — LTTE v Council

(Case T-208/11)

(2011/C 179/30)

*Language of the case: English*

### Parties

*Applicant:* Liberation Tigers of Tamil Eelam (LTTE) (Herning, Denmark) (represented by: V. Koppe, lawyer)

*Defendant:* Council of the European Union

### Form of order sought

- annul Council Implementing Regulation (EU) No 83/2011 <sup>(1)</sup> in as far as it concerns the applicant;
- determine that the Council Regulation (EC) No 2580/2001 <sup>(2)</sup> is not applicable to the applicant;
- award the costs and interests to the applicant.

### Pleas in law and main arguments

In the present case the applicant seeks the partial annulment of Council Implementing Regulation (EU) No 83/2011 in so far as the name of the applicant is maintained on the list of natural and legal persons, entities and bodies whose funds and economic resources are frozen in accordance with this provision.

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

1. First plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant and/or the Council Regulation (EC) No 2580/2001 is inapplicable due to a failure to take regard of the law of armed conflict.
2. Second plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant since the applicant cannot be qualified as a terrorist organisation as defined in Article 1(3) of Council Common Position 2001/931/CFSP <sup>(3)</sup>. In this regard the applicant submits that its activities do not amount to offences under international humanitarian law and national criminal law, which does not apply to situations of armed conflict.

3. Third plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant because no decision by a competent authority, as required by Article 1(4) of Council Common Position 2001/931/CFSP, has been taken.
4. Fourth plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant since the Council did not conduct any review as required by Article 1(6) of Council Common Position 2001/931/CFSP. The applicant contends that, as it no longer uses military means to achieve its goals and is no longer directly active in Sri Lanka, such a review would have led to the conclusion that it must be removed from the list.
5. Fifth plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant as it does not comply with the obligation to state reasons in violation of Article 296 TFUE.
6. Sixth plea in law, alleging that the Council Implementing Regulation (EU) No 83/2011 is void in as far as it concerns the applicant because it infringes upon the applicant's right of defence, the applicant's right to effective judicial protection.

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- (<sup>1</sup>) Council Implementing Regulation (EU) No 83/2011 of 31 January 2011 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) No 610/2010. (OJ 2011, L 28, p. 14).
- (<sup>2</sup>) Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism. (OJ 2001, L 344, p. 70).
- (<sup>3</sup>) Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism. (OJ 2001, L 344, p. 93).

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**Action brought on 11 April 2011 — Timab Industries and CFPR v Commission**

(Case T-211/11)

(2011/C 179/31)

*Language of the case: French*

**Parties**

*Applicants:* Timab Industries (Dinard, France) and Cie financière et de participations Roullier (CFPR) (Saint-Malo, France) (represented by: N. Lenoir, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

- annul the decision;
- order the Commission to pay the costs in their entirety.

**Pleas in law and main arguments**

The applicants seek the annulment of the Commission's decision of 1 February 2011 refusing access to certain Commission documents relating to a procedure pursuant to Article 101 TFEU and Article 13 of the Agreement on the European Economic Area, concerning a cartel on the European market in animal feed phosphates (Case COMP/38866).

In support of the action, the applicants rely on three pleas in law:

1. First plea in law, alleging error of law and a manifest error of assessment in relation to the second subparagraph of Article 4(3) of Regulation No 1049/2001,<sup>(1)</sup> in so far as the documents applied for are not opinions but decisions in respect of which it has not been established that disclosure might seriously undermine the decision-making process.
2. Second plea in law, alleging error of law and a manifest error of assessment in relation to the first indent of Article 4(2) of Regulation No 1049/2001, in so far as the documents applied for do not contain any sensitive commercial information precluding, even partly, their disclosure.
3. Third plea in law, alleging error of law and a manifest error of assessment in relation to the third indent of Article 4(2) of Regulation No 1049/2001, in so far as the Commission contended that the purpose of inspections, investigations and audits would be undermined.

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- (<sup>1</sup>) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

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**Action brought on 11 April 2011 — ClientEarth and PAN Europe v EFSA**

(Case T-214/11)

(2011/C 179/32)

*Language of the case: English*

**Parties**

*Applicants:* ClientEarth (London, United Kingdom) and Pesticides Action Network Europe (PAN Europe) (Brussels, Belgium) (represented by: P. Kirch, lawyer)