Reports of Cases

JUDGMENT OF THE GENERAL COURT (First Chamber)

25 March 2015*

(Common foreign and security policy — Restrictive measures taken against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Obligation to state reasons — Rights of defence — Right to effective judicial protection — Error of assessment — Right to property — Right to reputation — Proportionality)

In Case T-563/12,

Central Bank of Iran, established in Tehran (Iran), represented by M. Lester, Barrister,

applicant,

v

Council of the European Union, represented by M. Bishop and V. Piessevaux, acting as Agents,

defendant,

APPLICATION for annulment, first, of Council Decision 2012/635/CFSP of 15 October 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 282, p. 58), in so far as it maintained, after review, the listing of the applicant's name in Annex II to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39), and, secondly, of Council Implementing Regulation (EU) No 945/2012 of 15 October 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 282, p. 16), in so far as it maintained, after review, the listing of the applicant's name in Annex IX to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1),

THE GENERAL COURT (First Chamber),

composed of H. Kanninen, President, I. Pelikánová (Rapporteur) and E. Buttigieg, Judges,

Registrar: L. Grzegorczyk, Administrator,

having regard to the written procedure and further to the hearing on 30 September 2014,

gives the following

* Language of the case: English.

Judgment

Background to the dispute

Restrictive measures adopted against the Islamic Republic of Iran

1 The present case has been brought in connection with the restrictive measures introduced in order to apply pressure on the Islamic Republic of Iran to end its proliferation-sensitive nuclear activities and the development of nuclear weapon delivery systems ('nuclear proliferation').

Restrictive measures imposed on the applicant

2 The applicant, Central Bank of Iran, is the central bank of the Islamic Republic of Iran.

3 On 9 June 2010, the United Nations Security Council adopted Resolution S/RES/1929 (2010), intended to widen the scope of the restrictive measures imposed by the earlier resolutions S/RES/1737 (2006) of 27 December 2006, S/RES/1747 (2007) of 24 March 2007 and S/RES/1803 (2008) of 3 March 2008, and to introduce additional restrictive measures against Iran.

4 On 17 June 2010, the European Council adopted a Declaration on the Islamic Republic of Iran, in which it underlined its deepening concerns about the Iranian nuclear programme and welcomed the adoption of Resolution S/RES/1929. Recalling its declaration of 11 December 2009, the European Council, in particular, invited the Council of the European Union to adopt restrictive measures implementing those contained in Resolution S/RES/1929. In accordance with the declaration of the European Council, the restrictive measures were to be applied, in particular, to persons and entities other than those designated by the United Nations Security Council or by the committee set up pursuant to paragraph 18 of Resolution S/RES/1737, but using the same criteria as those applied by those bodies.

5 On 1 December 2011, the Council reiterated its serious and deepening concerns over the nature of the Islamic Republic of Iran's nuclear programme, and in particular over the findings on Iranian activities relating to the development of military nuclear technology, as reflected in the latest International Atomic Energy Agency (IAEA) report. In the light of those concerns, and in accordance with the European Council Declaration of 23 October 2011, the Council decided to broaden existing sanctions by examining, in close coordination with international partners, additional measures including measures aimed at severely affecting the financial system of the Islamic Republic of Iran.

6 On 9 December 2011, the European Council endorsed the conclusions adopted by the Council on 1 December 2011 and invited the Council to proceed with its work relating to extending the scope of the European Union's restrictive measures against the Islamic Republic of Iran as a matter of priority.

7 By Council Decision 2012/35/CFSP of 23 January 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 19, p. 22), the applicant's name was included in the list in Annex II to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39).

8 Consequently, by Council Implementing Regulation (EU) No 54/2012 of 23 January 2012 implementing Regulation (EU) No 961/2010 on restrictive measures against Iran (OJ 2012 L 19, p. 1), the applicant's name was included in the list in Annex VIII to Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1). That listing took effect on 24 January 2012. It had the effect, in particular, of freezing the applicant's funds and economic resources.

9 The inclusion of the applicant's name in the abovementioned lists was based on the following ground:

'Involvement in activities to circumvent sanctions.'

10 By letter of 24 January 2012, received by the applicant on 6 February 2012, the Council informed the applicant of its inclusion in the lists in Annex II to Decision 2010/413, as amended by Decision 2012/35, and in Annex VIII to Regulation No 961/2010, as amended by Implementing Regulation No 54/2012. Copies of Decision 2012/35 and Implementing Regulation No 54/2012 were enclosed with the letter.

11 On the adoption of Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation No 961/2010 (OJ 2012 L 88, p. 1), the listing of the applicant's name in Annex VIII to Regulation No 961/2010, as amended by Implementing Regulation No 54/2012, was revoked in order to be replaced by the listing of the applicant's name, on grounds identical to those already mentioned in paragraph 9 above, in Annex IX to Regulation No 267/2012 (the list in Annex IX to Regulation No 267/2012 and the list in Annex II to Decision 2010/413, as amended by Decision 2012/35, hereinafter referred to together as 'the contested lists'), with effect from 24 March 2012.

12 By letter of 26 March 2012, the applicant denied any personal involvement in activities designed to circumvent the sanctions and, consequently, requested the Council to reconsider the listing of its name in Annex II to Decision 2010/413, as amended by Decision 2012/35, and in Annex VIII to Regulation No 961/2010, as amended by Implementing Regulation No 54/2012. The applicant also asked to be provided with the evidence justifying its listing.

13 By letter of 2 August 2012, the Council informed the applicant that it intended to supplement the statement of reasons justifying the applicant's inclusion in the contested lists, to include a reference to the fact that the applicant provided financial support to the Government of Iran, and that it thereby came within the scope of Article 20(c) of Decision 2010/413 and of Article 23(2)(d) of Regulation No 267/2012.

14 By letter of 7 October 2012, the applicant complained that the Council had failed to comply with its obligation to state reasons. The applicant denied any involvement in activities designed to circumvent the sanctions against the Islamic Republic of Iran or to provide financial support to the Iranian Government for nuclear proliferation. Lastly, it again requested the Council to provide it with the evidence justifying its inclusion in the contested lists.

15 By Council Decision 2012/635/CFSP of 15 October 2012 amending Decision 2010/413 (OJ 2012 L 282, p. 58), the reasons for the applicant's listing in Annex II to Decision 2010/413, as amended by Decision 2012/35, were supplemented as follows:

'Involvement in activities to circumvent sanctions. Provides financial support to the Government of Iran.'

16 Consequently, by Council Implementing Regulation (EU) No 945/2012 of 15 October 2012 implementing Regulation No 267/2012 (OJ 2012 L 282, p. 16), the reasons for the inclusion of the applicant's name in the list in Annex IX to Regulation No 267/2012 were also supplemented as stated in paragraph 15 above.

17 By letter of 28 November 2012, the applicant again requested the Council to provide it with the evidence justifying its inclusion in the contested lists.

18 By letter of 10 December 2012, the Council informed the applicant that its inclusion in the contested lists was based on a listing proposal presented by a Member State, which could not be identified on grounds of confidentiality. The content of that proposal, as set out in the Council's cover note bearing the reference 17576/12, enclosed with the letter of 10 December 2012, was worded as follows:

'The activities of the [applicant] help to circumvent the international sanctions against Iran.

[The restrictive measure imposed on the applicant] could substantially reinforce the diplomatic pressure currently being brought to bear on Iran.'

19 By application lodged at the Court Registry on 12 June 2012, the applicant brought an action for, in essence, annulment of (i) Decision 2012/35, and (ii) Regulation No 267/2012, in so far as they included or, after review, maintained its name on the lists annexed to those two acts. The action was registered as Case T-262/12.

Procedure and forms of order sought

20 By application lodged at the Court Registry by means of e-Curia at 20.44 on 26 December 2012, the applicant brought the present action for annulment of Decision 2012/635 and Implementing Regulation No 945/2012, in so far as those acts maintained, after review, the applicant's name on the contested lists. That action was allocated to the Fourth Chamber of the General Court on account of the connection between the cases. The applicant produced a witness statement by its Vice Governor for Foreign Exchange Affairs, Ms R, in support of the action.

21 On the same day, at 21.19, the applicant lodged at the Court Registry, by means of e-Curia, a written pleading on the amendment of the form of order sought in Case T-262/12 so as to cover also Decision 2012/635 and Implementing Regulation No 945/2012, in so far as those measures maintained, after review, the applicant's name on the contested lists. In that pleading, the applicant also asked the Court, if it should deem '[the] … application [as amended by the pleading amending the form of order sought] to be admissible in its entirety, … to join [Case T-262/12 and the present case] or to treat [the two cases] as a single application for annulment'.

22 By document of 16 April 2013, the Council lodged a defence in the present case, in which it argued that the action was inadmissible on the ground of *lis pendens*.

23 On 21 June 2013, the applicant lodged a reply.

24 On 20 September 2013, the Council lodged a rejoinder.

25 The composition of the Chambers of the Court having been altered with effect from 23 September 2013, the Judge-Rapporteur was assigned to the First Chamber, to which the present case was therefore allocated.

26 Acting upon a report of the Judge-Rapporteur, the Court decided to open the oral procedure and, by way of measures of organisation of procedure under Article 64 of its Rules of Procedure, requested the parties to answer certain questions. The applicant and the Council complied with that request within the prescribed period.

27 By judgment of 18 September 2014 in *Central Bank of Iran* v *Council* (T-262/12, EU:T:2014:777), the Court annulled Regulation No 267/2012, in so far as it had listed the applicant in Annex IX thereto, and dismissed the action as to the remainder. As regards the claims for annulment of Decision 2012/635 and Implementing Regulation No 945/2012 in so far as those measures maintained, after

review, the applicant's name on the contested lists, the dismissal of the action was based on the inadmissibility of those claims on the ground of *lis pendens*, by reason of the bringing of the present action.

28 The applicant and the Council presented oral argument and answered the oral questions put to them by the Court at the hearing on 30 September 2014. The applicant stated that its claims in respect of costs related only to the costs of the present case and not to the costs of Case T-262/12, which was recorded in the minutes of the hearing.

29 The applicant claims that the Court should:

— annul Decision 2012/635 and Regulation No 945/2012, in so far as they maintained, after review, its name on the contested lists ('the contested acts');

— order the Council to pay the costs.

30 The Council contends that the Court should:

— primarily, dismiss the action as inadmissible;

— in the alternative, dismiss the action as unfounded;

— order the applicant to pay the costs.

Law

Admissibility

Plea of inadmissibility of the action on the ground of *lis pendens*

31 The Council argues that the present claims should be dismissed as inadmissible on the ground of *lis pendens*. In the pleading amending the form of order sought in the action in Case T-262/12, the applicant had already sought annulment of the contested acts and relied upon the same pleas.

32 According to settled case-law, an action brought subsequently to another which is between the same parties, is brought on the basis of the same submissions and seeks annulment of the same legal measure must be dismissed as inadmissible on the ground of *lis pendens* (judgment of 16 September 2013 in *De Nicola* v *EIB*, T-618/11 P, ECR-SC, EU:T:2013:479, paragraph 98; see also, to that effect, judgment of 22 September 1988 in *France* v *Parliament*, 358/85 and 51/86, ECR, EU:C:1988:431, paragraph 12).

33 The amendment of forms of order sought effected by means of a document lodged at the Court Registry in the course of proceedings, in circumstances such as those of Case T-262/12, constitutes a procedural step which, without prejudice to any subsequent decision of the Court on admissibility, is equivalent to the bringing of an action by means of an application (order of 21 June 2012 in *Hamas* v *Council*, T-531/11, EU:T:2012:317, paragraph 16).

34 In the present case, the claims for annulment contained in the written pleading on the amendment of the form of order sought in Case T-262/12 (paragraph 21 above) and those contained in the application which initiated proceedings in the present case (paragraph 20 above) are between the same

parties, are brought on the basis of the same submissions and seek annulment of the same legal measures, namely Decision 2012/635 and Implementing Regulation No 945/2012, in so far as those measures maintained, after review, the applicant's name on the contested lists.

35 Contrary to what is claimed by the Council, which raised the objection that the present action is inadmissible on the ground of *lis pendens*, it cannot be held that that action was brought subsequently to the lodging of the written pleading on the amendment of the form of order sought in Case T-262/12. It is apparent, on the contrary, from the times of lodging stated in paragraphs 20 and 21 above that that pleading was lodged after the action was brought in the present case.

36 Thus, in the judgment in *Central Bank of Iran* v *Council*, paragraph 27 above (EU:T:2014:777), the claims for annulment of Decision 2012/635 and Implementing Regulation No 945/2012, in so far as those measures maintained, after review, the applicant's name on the contested lists, were rejected as being inadmissible on the ground of *lis pendens*, by reason of the bringing of the present action.

37 It follows that the claims for annulment of Decision 2012/635 and Implementing Regulation No 945/2012, in so far as those measures maintained, after review, the applicant's name on the contested lists, cannot be rejected as being inadmissible on the ground of *lis pendens*.

38 Accordingly, this plea of inadmissibility raised by the Council must be rejected as unfounded.

Plea of inadmissibility of the action, alleging that all the pleas relied on in support of the action are based on the applicant's invocation of the protections and guarantees linked to fundamental rights

39 The Council submits that the action is inadmissible in that it relies on pleas which are all based on the applicant's invocation of protections and guarantees linked to fundamental rights. In the Council's submission, the applicant, as the central bank of the Islamic Republic of Iran, is a governmental organisation which does not enjoy the protections and guarantees linked to fundamental rights which it invokes before the Court.

40 The applicant claims that the plea of inadmissibility raised by the Council should be rejected on the ground that it has *locus standi* to enjoy the protections and guarantees linked to fundamental rights, as was affirmed in the judgment in *Central Bank of Iran* v *Council*, paragraph 27 above (EU:T:2014:777).

41 It must be observed that, contrary to what is contended by the Council, it is not the case that all the pleas in law relied on in support of this action are based on the applicant's invocation of the protections and guarantees linked to fundamental rights. The first plea in law, for example, is based on a claimed error of assessment. Consequently, the present plea of inadmissibility has no basis in fact.

42 Further, that plea is without any legal basis since, according to the case-law, the question whether the applicant qualifies for the rights which it invokes in the second, third and fourth pleas in law does not concern the admissibility of those pleas in law and, consequently, of the action based on those pleas in law, but whether they are well founded (see, to that effect, judgment of 6 September 2013 in *Post Bank Iran* v *Council*, T-13/11, EU:T:2013:402, paragraph 54).

43 Accordingly, this plea of inadmissibility raised by the Council must be rejected as unfounded. Its rejection is, in view of the defence put forward by the Council, without prejudice to verification of the applicant's ability to rely on the protections and guarantees linked to fundamental rights, which will have to take place, if necessary, at the stage of the examination of the merits of the pleas in law that are based on those protections and guarantees, that is in this instance, the second, third and fourth pleas in law (see, in that regard, paragraphs 51 to 100 and 112 to 120 below).

44 In the light of the foregoing, it must be held that the present action is admissible in its entirety.

Substance

45 The applicant raises four pleas in law in support of its claim for annulment of the contested acts. The first plea alleges that the Council made an error of assessment in holding, in the contested acts, that one of the criteria laid down in Article 20 of Decision 2010/413, as amended by Decision 2012/35 and then by Decision 2012/635 ('Article 20 of Decision 2010/413'), and in Article 23 of Regulation No 267/2012 for including the name of a person or entity in the contested lists was satisfied. The second plea alleges breach of the obligation to state reasons, in that the Council failed to give adequate and sufficient reasons to justify the contested acts. The third plea alleges breach of the principle of respect for the rights of the defence and of the right to effective judicial review. The fourth plea alleges breach of the principle of proportionality and infringement of the applicant's fundamental rights, notably the right to protection of its property and reputation.

46 It is necessary to start by examining the second plea, alleging breach of the obligation to state reasons, by considering, in the first place, the general question whether, contrary to what is contended by the Council, the applicant may rely on the protections and guarantees linked to fundamental rights which it invokes, and, in the second place, the question whether a breach of the obligation to state reasons can be specifically identified in this case.

Whether the applicant may rely on the protections and guarantees linked to fundamental rights

47 The parties' arguments have already been set out in paragraphs 39 and 40 above, to which reference must therefore be made.

48 It is common ground between the parties that the applicant has a legal personality of its own and is, therefore, a legal person that is formally distinct from the Iranian State.

49 It is evident from the grounds set out in paragraphs 67 to 71 of the judgment in *Central Bank of Iran* v *Council*, paragraph 27 above (EU:T:2014:777), that EU law contains no rule preventing legal persons which are governmental organisations or State bodies from taking advantage of fundamental rights protection and guarantees. Those rights may therefore be relied on by those persons before the Courts of the European Union in so far as those rights are compatible with their status as legal persons (judgment of 6 September 2013 in *Bank Melli Iran* v *Council*, T-35/10 and T-7/11, ECR, EU:T:2013:397, paragraph 70).

50 It follows from this that the applicant may rely on the protections and guarantees linked to fundamental rights which it invokes, in particular, in connection with its second plea.

The second plea in law, alleging breach of the obligation to state reasons

51 The applicant maintains that the Council has not complied with the obligation arising under Article 296 TFEU, as interpreted in the case-law, to state the reasons on which the measures which it adopts are based. In the contested acts, the Council did not explain on which specific criterion laid down in Article 20 of Decision 2010/413 and in Article 23 of Regulation No 267/2012 it based its decision to maintain, after review, the applicant's name on the contested lists. The claims that the applicant had an '[i]nvolvement in activities to circumvent sanctions' and had '[provided] financial support to the Government of Iran' are vague and provide no clear indication of what exactly the allegations concerning the applicant are. They paraphrase approximately some of the criteria laid down in the abovementioned provisions. It is, however, clear from the case-law that the actual and specific reasons for the contested acts ought to have been communicated to the applicant at the same

time as those acts, and failure to do so cannot be made good in the course of the present proceedings. In the present case, the applicant claims that it did its best to challenge the contested acts, albeit that it did not know the precise reasons for them. However, the reasons relied on are so vague and lacking in detail that the only possible response was in the form of a general denial, as in the letters of 26 March and 7 October 2012 or in the witness statement of Ms R, and therefore do not comply with the requirements of the case-law. In addition, the Council had failed to explain why it did not take account of the applicant's statements, subsequently confirmed by the witness statement of Ms R, that it had never been involved in nuclear proliferation or the circumvention of sanctions.

52 The Council disputes the applicant's arguments and submits that the second plea should be rejected. It maintains that the reasons for the contested acts enabled the applicant to understand the scope of the restrictive measures taken against it and provided it with sufficient information properly to challenge those measures. In the present case, the contested acts should be sufficiently reasoned in relation to one of the criteria set out in Article 20 of Decision 2010/413 and in Article 23 of Regulation No 267/2012.

53 According to a consistent body of case-law, the purpose of the obligation to state the reasons on which an act adversely affecting an individual is based, which is a corollary of the principle of respect for the rights of the defence, is, first, to provide the person concerned with sufficient information to make it possible to ascertain whether the act is well founded or whether it is vitiated by a defect which may permit its legality to be contested before the Courts of the European Union and, secondly, to enable those Courts to review the legality of that act (see judgment of 15 November 2012 in *Council* v *Bamba*, C-417/11 P, ECR, EU:C:2012:718, paragraph 49 and the case-law cited).

54 The statement of reasons required by Article 296 TFEU must disclose in a clear and unequivocal fashion the reasoning followed by the institution which adopted the measure in such a way as to enable the person concerned to ascertain the reasons for the measures and to enable the court having jurisdiction to exercise its power of review (see judgment in *Council* v *Bamba*, paragraph 53 above, EU:C:2012:718, paragraph 50 and the case-law cited).

55 As regards an act of the Council which imposes restrictive measures, the statement of reasons must identify the actual and specific reasons why the Council considers, in the exercise of its discretion, that those measures must be adopted in respect of the person concerned (judgment in *Council* v *Bamba*, paragraph 53 above, EU:C:2012:718, paragraph 52).

56 Article 24(3) of Decision 2010/413 and Article 46(3) of Regulation No 267/2012 also require the Council to state individual and specific reasons for restrictive measures adopted pursuant to Article 20(1)(b) and (c) of Decision 2010/413 and Article 23(2) and (3) of Regulation No 267/2012 and to make them known to the persons and entities concerned (see, to that effect and by analogy, judgment of 16 November 2011 in *Bank Melli Iran* v *Council*, C-548/09 P, ECR, EU:C:2011:735, paragraph 48). According to the case-law, the Council must, in principle, fulfil its obligation to state reasons by means of an individual communication, publication in the *Official Journal of the European Union* alone not being sufficient (see, to that effect, judgment of 13 September 2013 in *Makhlouf* v *Council*, T-383/11, ECR, EU:T:2013:431, paragraphs 47 and 48; see also, to that effect and by analogy, judgment in *Bank Melli Iran* v *Council*, EU:C:2011:735, paragraph 52).

57 The statement of reasons required by Article 296 TFEU and by Article 24(3) of Decision 2010/413 and Article 46(3) of Regulation No 267/2012 must be appropriate to the provisions under which the restrictive measures were adopted. The requirements to be satisfied by the statement of reasons depend on the circumstances of each case, in particular the content of the measure in question, the nature of the reasons given and the interest which the addressees of the measure, or other parties to whom it is of direct and individual concern, may have in obtaining explanations. It is not necessary for the reasoning to go into all the relevant facts and points of law, since the question whether the

statement of reasons is sufficient must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question (see judgment in *Council* v *Bamba*, paragraph 53 above, EU:C:2012:718, paragraph 53 and the case-law cited).

58 In particular, the reasons given for a measure adversely affecting a person are sufficient if that measure was adopted in a context which was known to that person and which enables him to understand the scope of the measure concerning him (see judgment in *Council* v *Bamba*, paragraph 53 above, EU:C:2012:718, paragraph 54 and the case-law cited).

59 In this case, it is clear from the material in the file that the contested acts are based on the following grounds:

'Involvement in activities to circumvent sanctions. Provides financial support to the Government of Iran.'

60 It is common ground, as is clear from paragraphs 28 and 29 of the defence, that the Council did not communicate any further reason to the applicant before the present action was brought on 26 December 2012.

61 In paragraph 28 of the defence, the Council stated that '[t]he fact referred to in the … statement of reasons [set out in paragraph 59 above], i.e. "involvement in activities to circumvent sanctions", correspond[ed] to both of the … criteria for [listing previously referred to]', namely, on the one hand, the criterion of providing 'support' for nuclear proliferation, 'as mentioned in Article 23(2)(a) of Regulation … No 267/2012 and Article 20(1)(b) of Decision 2010/413', and, on the other, that of 'assist[ing]' a person or entity whose name is included in a list of persons and entities subject to restrictive measures adopted against the Islamic Republic of Iran 'to evade or violate … restrictive measures', 'as mentioned in Article 23(2)(b) of [Regulation No 267/2012] and Article 20(1)(b) of [Decision 2010/413]'.

62 In addition, in paragraph 29 of the defence, the Council stated that 'the further reason added by the contested [acts], that the applicant "Provides financial support to the Government of Iran", correspond[ed] to the criterion … in Article 23(2)(d) of Regulation … No 267/2012 and Article 20(1)(c) of Decision 2010/413'.

63 In that regard, it must be recalled that Article 23(2)(a), (b) and (d) of Regulation No 267/2012 and Article 20(1)(b) and (c) of Decision 2010/413 define a number of alternative criteria for entering the name of a person or entity on the contested lists.

64 Among those criteria, first of all, Article 23(2)(a) of Regulation No 267/2012 provides that all funds and economic resources of the persons, entities and bodies identified as being engaged in, directly associated with, or providing support for nuclear proliferation, including through involvement in the procurement of prohibited goods and technology, are to be frozen (criterion of support for nuclear proliferation). In addition, Article 23(2)(b) of Regulation No 267/2012 provides that all funds of persons, entities or bodies that have assisted a person, entity or body whose name is on a list of persons, entities or bodies subject to restrictive measures to evade or violate the provisions of that regulation, Decision 2010/413 or United Nations Security Council resolutions are to be frozen (criterion of assistance in circumventing restrictive measures). Lastly, Article 23(2)(d) of Regulation No 267/2012 provides that all funds of persons, entities and bodies identified as being other persons, entities or bodies that provide support, such as material, logistical or financial support, to the Government of Iran, and persons and entities associated with them, are to be frozen (criterion of support to the Government of Iran).

65 Similarly, Article 20(1)(b) of Decision 2010/413 provides that all funds and economic resources of persons and entities that are engaged in, directly associated with, or providing support for, nuclear proliferation, including through the involvement in procurement of the prohibited goods, equipment, materials and technology, are to be frozen (criterion of support for nuclear proliferation). Moreover, it provides that all funds of persons and entities regarded as having assisted a person or entity whose name is included in a list of persons and entities subject to restrictive measures adopted against the Islamic Republic of Iran to evade or violate the provisions of Decision 2010/413 or United Nations Security Council resolutions are to be frozen (criterion of assistance in circumventing restrictive measures). In addition, Article 20(1)(c) of Decision 2010/413 states in particular that all funds of persons and entities that provide support to the Government of Iran are to be frozen (criterion of support to the Government of Iran).

66 In so far as it has been indicated in paragraph 63 above that the criteria thus defined in Article 23(2)(a), (b) and (d) of Regulation No 267/2012 and in Article 20(1)(b) and (c) of Decision 2010/413 were alternative criteria, it is necessary, first of all, to specify to what extent, in those provisions, the criterion of support to the Government of Iran may be distinguished from the criterion of support for nuclear proliferation. In that regard, it must be borne in mind that the latter criterion implies that the existence of a direct or indirect link is established between the activities of the person or entity concerned and nuclear proliferation. The criterion of support to the Government of Iran, which extends the scope of the restrictive measures in order to reinforce the pressure being brought to bear on the Islamic Republic of Iran, covers any activity of the person or entity concerned which, regardless of any direct or indirect link established with nuclear proliferation, is capable, by its quantitative or qualitative significance, of encouraging that proliferation, by providing the Government of Iran with support in the form of resources or facilities of a material, financial or logistical nature which allow it to pursue nuclear proliferation. The existence of a link between the provision of such support to the Government of Iran and the pursuit of nuclear proliferation activities is thus presumed by the applicable legislation, which is aimed at depriving the Government of Iran of its sources of revenue, in order to oblige it to end the development of its nuclear proliferation programme as a result of insufficient financial resources.

67 Next it should be noted that, in addition to indicating the legal basis of the measure adopted, the obligation to state reasons by which the Council is bound relates precisely to the circumstances which enable it to hold that one or other of the listing criteria is satisfied in the case of the parties concerned (see, to that effect, judgment of 14 October 2009 in *Bank Melli Iran* v *Council*, T-390/08, ECR, EU:T:2009:401, paragraph 83).

68 Lastly, it must be borne in mind that failure to refer to a precise provision need not necessarily constitute an infringement of essential procedural requirements when the legal basis for the measure may be determined from other parts of the measure. However, such explicit reference is indispensable where, in its absence, the parties concerned and the Courts of the European Union are left uncertain as to the precise legal basis (judgment of 26 March 1987 in *Commission* v *Council*, 45/86, ECR, EU:C:1987:163, paragraph 9).

69 Consequently, it is necessary to examine whether the statement of reasons in the contested acts contains explicit references to the three criteria mentioned in paragraphs 64 and 65 above, or at least to one or other of them, and whether, if that is the case, the statement of reasons may be regarded as sufficient to enable the applicant to determine whether the contested acts are well founded and to state a defence before the Court, and to enable the Court to exercise its power of review.

70 The reasons set out in paragraph 59 above do not expressly indicate to which of the criteria laid down in Article 23(2) of Regulation No 267/2012 and in Article 20(1)(c) of Decision 2010/413 they relate. None the less, in so far as they refer to ‘activities to circumvent sanctions’, they can readily be construed as relating to the criterion of assistance in circumventing restrictive measures. In addition, as the Council correctly observes, the reference in those reasons to the fact that the applicant

'[p]rovides financial support to the Government of Iran' corresponds to the criterion of support to the Government of Iran, which, as has been stated in paragraph 66 above, is separate from the criterion of support for nuclear proliferation.

71 On the other hand, in the absence of any reference to any provision by the applicant of 'support' for nuclear proliferation or to any 'involvement' on its part in the procurement of prohibited goods and technology, the reasons set out in paragraph 59 above cannot be related, as the Council contends, to the criterion of support for nuclear proliferation.

72 It is true that in paragraphs 26 to 28 of the defence, the Council maintains that the applicant's 'support' for nuclear proliferation or for the procurement of prohibited goods, equipment, materials and technology is 'necessarily' a consequence of its 'position as "banker to the Iranian Government"', since it 'provides banking services for Iranian Government Ministries and other Government-controlled entities, which include those involved in [nuclear proliferation]' and 'would necessarily have been involved in [the] procurement [of the necessary materials and supplies for such proliferation]' and in 'the illegal export from Iran to other "rogue countries" of arms and other material [enabling such procurement to be financed]'.

73 It must be noted in that regard that the Council is in practice referring to factors implying a certain degree of connection between the applicant's activities and the nuclear activities of the Islamic Republic of Iran which cannot readily be inferred from the reasons set out in paragraph 59 above, and which cannot therefore be taken into account for the purposes of determining to which of the listing criteria those reasons must relate.

74 In the light of the foregoing observations, it must be held that the question whether the statement of reasons for the contested acts is sufficient can be assessed only with regard to the criteria of assistance in circumventing restrictive measures and of support to the Government of Iran, to which the Council implicitly but necessarily refers in those acts.

75 To the extent that the contested acts are based on the criterion of assistance in circumventing restrictive measures, and since it has been noted in those acts that the applicant had been 'involve[d] in activities to circumvent sanctions', the statement of reasons is insufficient, in the sense that it does not enable the applicant or the Court to understand the circumstances which led the Council to consider that that criterion was satisfied in the case of the applicant and, accordingly, to adopt the contested acts. That statement of reasons appears to be no more than a reproduction of the criterion itself. It contains nothing in the form of specific reasons why that criterion is applicable to the applicant. The statement of reasons gives no details of the names of persons, entities or bodies included in a list imposing restrictive measures whom the applicant assisted in circumventing sanctions, or of when, where and how that assistance took place. The Council does not refer to any identifiable transaction, or to any particular assistance. In the absence of any other details, that statement of reasons is insufficient to enable the applicant to determine, having regard to the criterion of assistance in circumventing restrictive measures, whether the contested acts are well founded and to state a defence before the Court, and to enable the Court to exercise its power of review (see, to that effect, judgment in *Central Bank of Iran* v *Council*, paragraph 27 above, EU:T:2014:777, paragraph 91).

76 Admittedly, the Council relied in its written pleadings on an implied statement of reasons for the contested acts in that respect, observing that the assistance provided by the applicant in evading or violating the restrictive measures was 'necessarily' a consequence of 'the applicant's position as "banker to the Iranian Government"'. According to the Council, in that position, the applicant 'provide[d] banking services for Iranian Government Ministries and other Government-controlled entities, which include those involved in [nuclear proliferation]'.

77 It should nevertheless be noted in that regard that the reasoning may be implicit on condition that it enables the persons concerned to know why the measures in question were taken and provides the competent court with sufficient material for it to exercise its power of review (see, to that effect, judgments of 7 January 2004 in *Aalborg Portland and Others* v *Commission*, C-204/00 P, C-205/00 P, C-211/00 P, C-213/00 P, C-217/00 P and C-219/00 P, ECR, EU:C:2004:6, paragraph 372 and the case-law cited, and of 8 February 2007 in *Groupe Danone* v *Commission*, C-3/06 P, ECR, EU:C:2007:88, paragraph 46 and the case-law cited). Reasons that are not made explicit can accordingly be taken into account if they are obvious, both to the persons concerned and to the competent court.

78 However, it is not obvious in the present case that, as the central bank of the Islamic Republic of Iran, the applicant necessarily assisted persons or entities involved in the Government of Iran or controlled by it, and whose names were included in the lists of persons and entities subject to the restrictive measures adopted against the Islamic Republic of Iran, to evade or violate those measures by providing them with banking services, for example, by making funds available. While it is obvious that, by virtue of its functions and powers as the central bank of the Islamic Republic of Iran, the applicant generally provides financial support to the Government of Iran (see paragraph 108 below), it does not necessarily follow from this that it specifically provides such support to persons or entities involved in that government or controlled by it, including those whose names are included in the lists of persons and entities subject to the restrictive measures adopted against the Islamic Republic of Iran.

79 Consequently, the implicit reasoning relied on by the Council cannot be taken into account in order to compensate for the insufficiency of the explicit statement of reasons as regards the criterion of assistance in circumventing restrictive measures.

80 In so far as the contested acts are based on the criterion of support to the Government of Iran, it is necessary to examine, in line with the interpretation of that criterion set out in paragraph 66 above, whether the Council was referring to the activities of the applicant which, even if they do not, as such, have any direct or indirect link with nuclear proliferation, are nevertheless capable of encouraging its development, by providing the Government of Iran with resources or facilities which allow it to pursue such proliferation.

81 Although, as regards the criterion of support to the Government of Iran, the Council was thus obliged to state and to specify the resources and facilities which the applicant allegedly provided to that government, it was not, contrary to what is maintained by the applicant, obliged to give reasons for the contested acts in relation to the possible use of those resources and facilities by the Government of Iran for the purpose of its pursuit of nuclear proliferation.

82 In the present case, the Council expressly referred to 'financial support to the Government of Iran' and argued, in paragraph 29 of the defence, that '[t]his reason [did] not need to be further demonstrated since it [was] obvious that, as banker to the Iranian Government, the applicant provide[d] financial support to that government'.

83 Admittedly, as regards the criterion of support to the Government of Iran, the Council did not expressly refer in the statement of reasons for the contested acts to the financial services provided to the Government of Iran by the applicant in its capacity as the central bank of the Islamic Republic of Iran.

84 However, in the present case, the applicant was in a position to understand that the Council was referring to the financial services which the applicant, as the central bank of the Islamic Republic of Iran, provided to the Government of Iran. It is apparent, moreover, from its written pleadings that the applicant did understand this. In paragraph 23 of the application, the applicant observes, by reference to the witness statement of Ms R, that '[t]he Government [of Iran] is one of [its] customers', but states in that regard that '[a]lmost all central banks act as the Government's banker, and [that] in that

sense only all central banks provide "financial support", or more accurately financial services, to the Government'. The applicant's defence was essentially therefore to contend, as in the letter of 7 October 2012 (paragraph 14 above), that it had not provided financial support to any institution (including the Government of Iran) in order to fund nuclear proliferation activities.

85 The fact that the Council did not in this instance specify the functions and powers of the applicant as the central bank of the Islamic Republic of Iran is not decisive, since these are laid down by publicly accessible legislative provisions which, accordingly, may be presumed to be known to all. It is common ground between the parties that the functions and powers of the applicant, as the central bank of the Islamic Republic of Iran, are defined in Chapter 2 of Part Two of the Monetary and Banking Law of the Islamic Republic of Iran, approved on 9 July 1972, notably in Articles 12 and 13 thereof. It can therefore be held that the statement of reasons for the contested acts to the effect that the applicant '[p]rovides financial support to the Government of Iran' refers implicitly but necessarily to the functions and powers of the applicant as the central bank of the Islamic Republic of Iran, as these are defined in Chapter 2 of Part Two of that Law, notably in Articles 12 and 13 thereof.

86 Thus, in the context of the present case, the Council was not obliged to provide an explicit statement of reasons relating to the financial services and, therefore, to the financial facilities or resources which, as the central bank of the Islamic Republic of Iran, the applicant allegedly provided to the Government of Iran.

87 Accordingly, the reasons given for the contested acts may be regarded as sufficient, in the light of the requirements of the case-law, so far as concerns the criterion of support to the Government of Iran.

88 In so far as the grounds relating to the provision of financial support to the Government of Iran provide an autonomous and sufficient statement of reasons for the contested acts and, therefore, those acts cannot be annulled as a result of the insufficiency of the other reasons relied on in support of them, the second plea in law, concerning a breach of the obligation to state reasons, must be rejected.

89 It follows from the foregoing, however, that only the reasons relating to the provision of financial support to the Government of Iran, in so far as they constitute an autonomous and sufficient statement of reasons for the contested acts, may be taken into consideration when examining the other pleas in the present action, namely (i) the third plea, alleging breach of the principle of respect for the rights of the defence and of the right to effective judicial review; (ii) the first plea, alleging an error of assessment; and (iii) the fourth plea, alleging breach of the principle of proportionality and infringement of the applicant's fundamental rights.

The third plea in law, alleging breach of the principle of respect for the rights of the defence and of the right to effective judicial review

90 The applicant takes issue with the Council for having breached the principle of respect for the rights of the defence and the right to effective judicial protection, as interpreted in the case-law, when it adopted the contested acts, in that it failed to provide the applicant with the evidence justifying the contested acts and did not put the applicant in a position to be able to put forward its views on that evidence effectively. In the present case, no evidence to substantiate the contested acts was communicated to it before those acts were adopted, or even following their adoption, despite the applicant having submitted several requests to that effect, in particular in its letter of 28 November 2012 (paragraph 17 above). The fact that the Council acted on a proposal presented by a Member State to include the applicant's name in the contested lists does not alter the fact that it ought to have ensured that such inclusion was justified, if necessary by requesting the Member State concerned to submit evidence and information justifying the applicant's inclusion. In any event, according to the applicant the Council cannot attempt to remedy that failure to communicate evidence in the context

of the present proceedings without breaching the applicant's right to effective judicial protection. It is apparent from the Council's cover note bearing the reference 17576/12 that the Council did not adopt the contested acts on the basis of evidence of the applicant's involvement in nuclear proliferation or in the circumvention of sanctions, but did so solely on the unlawful ground that its inclusion in the contested lists 'could substantially reinforce the diplomatic pressure currently being brought to bear on Iran'. In addition, the Council had failed to hear the applicant and to take account of the factual statements which the applicant had communicated to the Council.

91 The Council disputes the applicant's arguments and argues that the third plea should be rejected on the ground that, even if the applicant has rights of defence, those rights were respected in the present case, given that the applicant was informed of the contested acts, was provided with sufficient information and evidence to enable it to understand the grounds for those acts and, moreover, had the opportunity of submitting comments on them. In so far as the applicant criticises it for not having verified the merits of the contested acts, adopted on the proposal of a Member State, this is a complaint which is connected with the breach of an obligation other than that relied on in the present plea and which should, therefore, be dismissed as ineffective.

92 It must be recalled that the fundamental right to observance of the rights of defence during a procedure preceding the adoption of restrictive measures is expressly affirmed in Article 41(2)(a) of the Charter of Fundamental Rights of the European Union, recognised by Article 6(1) TEU as having the same legal value as the Treaties (see judgment in *Makhlouf* v *Council*, paragraph 56 above, EU:T:2013:431, paragraph 31 and the case-law cited).

93 The principle of respect for the rights of the defence requires, first, that the person or entity concerned must be informed of the evidence adduced against it to justify the measure adversely affecting it and, secondly, that the person or entity concerned must be afforded the opportunity effectively to make known its view on that evidence (see, by analogy, judgment of 12 December 2006 in *Organisation des Modjahedines du peuple d'Iran* v *Council*, T-228/02, EU:T:2006:384, paragraph 93).

94 In the context of the adoption of a decision maintaining a person's or entity's name on a list of persons or entities subject to restrictive measures, the Council must respect the right of that person or entity to a prior hearing where new evidence, namely evidence which was not included in the initial listing decision, is admitted against it in the decision maintaining its name on the list (see, to that effect, judgments of 21 December 2011 in *France* v *People's Mojahedin Organization of Iran*, C-27/09 P, ECR, EU:C:2011:853, paragraph 62, and *Makhlouf* v *Council*, paragraph 56 above, EU:T:2013:431, paragraphs 42 and 43).

95 In the present case, on 2 August 2012, the Council communicated to the applicant individually the statement of reasons for the contested acts, namely that it '[p]rovid[ed] financial support to the Government of Iran'. The legality of the contested acts must be assessed in the light of that statement of reasons which was used by the Council, and not that which appears in the Council's cover note under reference 17576/12, which is not reproduced in the contested acts.

96 It follows from paragraph 87 above that that statement of reasons could be regarded as sufficient, in the light of the requirements of the case-law, so far as concerns the criterion of support to the Government of Iran.

97 Furthermore, the Council did not in this instance have to communicate to the applicant the documentary evidence on which that statement of reasons was based, since that evidence, which related to the financial services specifically provided to the Government of Iran by the applicant, as the central bank of the Islamic Republic of Iran, could be presumed to be known to all and to be implicitly included in the statement of reasons for the contested acts so far as concerns the criterion

of support to the Government of Iran (see paragraph 85 above). In other words, the Council did not have to provide the applicant with the actual documents specifying the applicant's functions and powers as the central bank of the Islamic Republic of Iran.

98 The applicant was able to challenge that statement of reasons and the underlying evidence even before the adoption of the contested acts. In the letter of 7 October 2012, it accordingly denied providing financial support to any institution (including the Government of Iran) in order to fund nuclear proliferation. It was also able effectively to exercise its right of appeal by objecting in the present action that it '[did] not support the Government financially any more than any other central bank in the world' and that '[s]till less [did] it provide the kind of support to which the contested [acts] relate, namely support for nuclear proliferation activities'.

99 Consequently, the applicant's rights of defence and its right to effective judicial review were respected when the contested acts were adopted.

100 The Court must therefore reject the third plea in law, alleging breach of the principle of respect for the rights of the defence and of the right to effective judicial review.

The first plea in law, alleging an error of assessment

101 The applicant claims that the Council made an error of assessment in maintaining, after review, the applicant's name on the contested lists when it did not satisfy the substantive criteria which, pursuant to Article 20 of Decision 2010/413 and Article 23 of Regulation No 267/2012, permit the inclusion of its name on those lists. The applicant maintains that it is impossible, for want of any details in the contested acts, to ascertain which criterion set out in those provisions is connected with the grounds whereby the applicant '[p]rovide[d] financial support to the Government of Iran'. It is considerably impeded in the exercise of its right to a remedy and, from that point of view, has been put in an unsatisfactory, inappropriate position. In any event, according to the applicant, the Council made an error of assessment in finding that the criterion set out in Article 20(1)(c) of Decision 2010/413 and Article 23(2)(d) of Regulation No 267/2012, namely that of support to the Government of Iran, was satisfied in the present case. It is clear from the Council's cover note (reference 17576/12), attached to the letter of 10 December 2012, that the true reasons for the contested acts were that the inclusion of the applicant's name in the contested lists 'could substantially reinforce the diplomatic pressure currently being brought to bear on Iran'. The applicant maintains that there is nothing to suggest that when the Council adopted the contested acts, it took into account the ground that the applicant had provided support to the Government of Iran, and therefore, in accordance with the case-law, that ground is irrelevant for the purpose of justifying those acts. In any event, the mere assertion that it provided certain services to the Government, without proof of any link between those services and nuclear proliferation, is insufficient to justify the contested acts, in accordance with the case-law.

102 The Council disputes the applicant's arguments and contends that the first plea should be rejected, on the ground that it made no error of assessment, given that the substantive criteria, set out in Article 20(1)(b) and (c) of Decision 2010/413 and in Article 23(2)(a), (b) and (d) of Regulation No 267/2012 were satisfied in the applicant's case. The further reason added by the contested acts, that the applicant '[p]rovides financial support to the Government of Iran', corresponds to the criterion set out in Article 20(1)(c) of Decision 2010/413 and Article 23(2)(d) of Regulation No 267/2012, relating to support to the Government of Iran. That reason did not need to be substantiated in so far as it is obvious that, as banker to the Government of Iran, the applicant provides financial support to that government. That reason should be taken into account, since it was expressly mentioned in the contested acts.

103 As is evident from paragraphs 89 and 95 above, in the context of the examination of the present plea, it is in the light of the statement of reasons for the contested acts whereby the applicant '[p]rovide[d] financial support to the Government of Iran', and not the statement of reasons in the Council's cover note (reference 17576/12), that the legality of those acts must be assessed, and, in the context of the first plea, that it is necessary to inquire whether those acts are vitiated by an error of assessment concerning the applicability of the criterion of support to the Government of Iran, set out in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012.

104 For the reasons stated in paragraph 85 above, for the purposes of assessing the merits of that statement of reasons, account may be taken of the functions and powers of the applicant as the central bank of the Islamic Republic of Iran, as these are defined in Chapter 2 of Part Two of the Monetary and Banking Law of the Islamic Republic of Iran, which concern the 'Functions and Powers' of 'Bank Markazi Iran', notably in Articles 12 and 13 thereof.

105 It is evident from Article 12 of the Monetary and Banking Law of the Islamic Republic of Iran that:

'Bank Markazi Iran, as banker to the Government, shall fulfil the following functions.

(a) Keeping of the accounts of ministries, government agencies, agencies affiliated to the government, government corporations and municipalities, as well as organisation[s] more than half of whose capitals are held by ministries, government agencies, agencies affiliated to the government, government corporations or municipalities, and also handling of all their banking transactions at home and abroad.

(b) Sale of all types of Government Bonds and Treasury Bills and repayment of principal and payment of interest thereof as the agent of the Government, with the right to transfer such agency to individuals or other organisations.

…

(e) Concluding payments agreements in the execution of monetary, financial, trade and transit agreements between the Government and foreign countries.'

106 Article 13 of the Monetary and Banking Law of the Islamic Republic of Iran provides, moreover:

'Bank Markazi Iran shall be vested with the following powers:

1. Granting of loans and credits to ministries and government organisations, subject to legal authorisation;

2. Guarantee of commitments made by the Government, ministries or government organisations, subject to legal authorisation;

3. Granting of loans and credits to, and guarantee of loans and credits obtained by, government corporations and municipalities and organisations affiliated to the government or municipalities against adequate collateral;

…

5. Purchase and sale of Treasury Bills and Government Bonds as well as bonds issued by foreign governments or accredited international financial organisations …'

107 It is apparent from those provisions that the function of the applicant is, inter alia, to hold the accounts of the Government of Iran, to execute or conclude financial transactions in the name and on behalf of that government, to provide it with loans or credits, to guarantee its commitments and to purchase or sell the bonds it issues.

108 By virtue of its functions and powers as the central bank of the Islamic Republic of Iran, as defined in Chapter 2 of Part Two of the Monetary and Banking Law of the Islamic Republic of Iran, and notably in Articles 12 and 13 thereof, it is evident that the applicant provides the Government of Iran with financial services which are capable, by their quantitative and qualitative significance, of encouraging nuclear proliferation, by providing the Government of Iran with support in the form of resources or facilities of a material, financial or logistical nature which allow it to pursue such proliferation.

109 It is true that the applicant claimed — for the first time at the hearing — that its powers to grant loans and credits or to provide guarantees to the government were subject to conditions, such as obtaining legal authorisation, which were never met during the relevant period, with the result that it did not exercise those powers or provide the Government of Iran, in practice, with any financial facility or resource. However, it is for the applicant, which thus raises a defence in order to put into context the effects of the powers conferred on it by law, to prove the facts in support of that defence. In the present case, however, the applicant has not produced such evidence. In any event, the defence put forward by the applicant does not apply to all the financial services which, as the central bank of the Islamic Republic of Iran, it provided to the Government of Iran, such as the holding of accounts, the execution and conclusion of financial transactions or the purchase and sale of bonds. Furthermore, while the applicant disputed having placed its own financial resources at the disposal of the Government of Iran, it has always acknowledged that it provided the Government of Iran with financial services, in the same way as any central bank of a State provides the government of that State with such services. Those services are capable, by their quantitative and qualitative significance, of providing the Government of Iran with support which allows it to pursue nuclear proliferation.

110 Accordingly, the Council was justified in concluding that the applicant '[p]rovide[d] financial support to the Government of Iran', and therefore that the criterion set out in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012, of support to the Government of Iran, as interpreted in paragraph 66 above, was met in the present case.

111 Consequently, the first plea in law, alleging an error of assessment, must be rejected.

The fourth plea in law, alleging breach of the principle of proportionality and infringement of the applicant's fundamental rights, notably the right to protection of its property and reputation

112 The applicant takes issue with the Council for having, in the contested acts, infringed its right to property and its right to respect for its reputation, as well as the principle of proportionality, in so far as, at all events, the contested acts constituted an unnecessary and disproportionate interference with its property and its reputation. In the present case, the contested acts have, it claims, a significant impact on its property and its reputation, and also, as regards in this instance its activities as the central bank of the Islamic Republic of Iran, on the entire Iranian people, as the witness statement of Ms R shows. The contested acts have thus been adopted contrary to the European Union's public statements that restrictive measures are not aimed at the Iranian people. The contested acts are not founded on proof of an existing link between the applicant and nuclear proliferation, but solely on the fact that the inclusion of the applicant's name in the contested lists 'could substantially reinforce the diplomatic pressure currently being brought to bear on Iran'. The applicant submits that such a reason is too general and does not correspond to the stated aim of EU legislation introducing restrictive measures against the Islamic Republic of Iran, namely to combat nuclear proliferation and, in particular, to prevent its funding. The contested acts are based on a ground that is too general and

vague to be properly challenged. The applicant therefore has no proper means of securing the removal of its name from the contested lists. The contested acts therefore also constitute a breach of the principles of legal certainty and foreseeability.

113 The Council disputes the applicant's arguments and contends that the fourth plea should be rejected as unfounded. The restriction on the applicant's fundamental rights and freedoms is, it maintains, justified by the legitimate aim of ending nuclear proliferation and its funding, which in turn falls within the general aim of maintaining international peace and security, already recognised by the Court as being an objective of public interest pursued by the European Union. The contested acts apply to only a small part of the applicant's funds, most of which are situated in Iran or in non-Member States of the European Union. Furthermore, Article 20(3) to (4a), (6) and (7) of Decision 2010/413, as amended by Decision 2012/35 and subsequently by Decision 2012/635, and Articles 24 to 27 and 28 of Regulation No 267/2012 provide for the release of frozen funds to cover some expenses. Those exceptions, which in some cases specifically cover the applicant, significantly lessen the effects of the sanctions adopted against it.

114 By virtue of the principle of proportionality, which is one of the general principles of EU law, the lawfulness of the prohibition of an economic activity is subject to the condition that the prohibitory measures should be appropriate and necessary in order to achieve the objectives legitimately pursued by the legislation in question; when there is a choice between several appropriate measures, recourse must be had to the least onerous, and the disadvantages caused must not be disproportionate to the aims pursued (see judgment in *Bank Melli Iran* v *Council*, paragraph 49 above, EU:T:2013:397, paragraph 179 and the case-law cited).

115 The case-law makes it clear, moreover, that the fundamental rights relied on by the applicant, namely, the right to property and the right to reputation, are not absolute rights, and that their exercise may be subject to restrictions justified by objectives of public interest pursued by the European Union. Thus, any restrictive economic or financial measure entails, *ex hypothesi*, consequences affecting the right to property and the right to reputation of the person or entity subject to that measure, so causing harm to that person or entity. The importance of the aims pursued by the restrictive measures at issue is, however, such as to justify negative consequences, even of a substantial nature, for the persons or entities concerned (see, to that effect, judgment of 9 July 2009 in *Melli Bank* v *Council*, T-246/08 and T-332/08, ECR, EU:T:2009:266, paragraph 111 and the case-law cited).

116 In the present case, it is apparent from paragraphs 88, 100 and 110 above that, to the extent that the contested acts are founded on the criterion of support to the Government of Iran, they are not vitiated by any infringement of essential procedural requirements or any error of assessment that would justify their annulment.

117 Next, it is apparent from paragraph 66 above that, to the extent that they are founded on the criterion of support to the Government of Iran, the contested acts are justified by an objective of public interest which consists in depriving the Government of Iran of all financial facilities or resources that allow it to pursue nuclear proliferation, irrespective of whether the persons or entities providing those facilities or resources are supporting nuclear proliferation themselves.

118 Lastly, as regards the harm caused to the applicant, it is certainly true that the applicant's rights of property are considerably restricted by the contested acts, since it cannot, inter alia, use the funds belonging to it which are situated in the territory of the European Union or which are held by nationals of Member States of the European Union, or transfer funds belonging to it to the European Union, unless specially authorised. Likewise, the contested acts are seriously detrimental to the applicant's reputation, given that the restrictive measures imposed on it may cause its partners and customers to regard it with a certain suspicion or mistrust.

119 However, the difficulties caused to the applicant as a result of the contested acts are not disproportionate to the importance of the aim of maintaining international peace and security that is pursued by those acts. This is particularly the case in this instance, given that, first of all, the contested acts relate to only part of the applicant's assets. Next, Article 20(3) to (4a), (6) and (7) of Decision 2010/413, as amended by Decision 2012/35 and then by Decision 2012/635, and Articles 24 to 27 and 28 of Regulation No 267/2012 provide for the release of the applicant's funds to cover some of its expenses, notably those considered essential, or to enable the applicant to provide credit or financial institutions with liquidity for the financing of trade, or to enable certain specific trade contracts to be honoured. Lastly, it should be pointed out that the Council is not alleging that the applicant is itself involved in nuclear proliferation. The applicant is not, therefore, personally associated with the behaviour posing a risk to international peace and security, a lesser degree of mistrust of the applicant being generated as a result.

120 In those circumstances, the Court must reject the fourth plea in law, alleging breach of the principle of proportionality and infringement of the applicant's fundamental rights, notably the right to protection of its property and reputation.

121 Accordingly, the action must be dismissed.

Costs

122 Under Article 87(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the applicant has been unsuccessful, it must be ordered to pay the costs in accordance with the form of order sought by the Council.

On those grounds,

THE GENERAL COURT (First Chamber)

hereby:

1. **Dismisses the action;**

2. **Orders Central Bank of Iran to pay the costs.**

Kanninen Pelikánová Buttigieg

Delivered in open court in Luxembourg on 25 March 2015.

[Signatures]