Reports of Cases

JUDGMENT OF THE GENERAL COURT (Seventh Chamber)

5 May 2015 *

(Common foreign and security policy — Restrictive measures against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Obligation to state reasons — Error of assessment — Plea of illegality — Right to conduct business — Right to property — Protection of public health, security and the environment — Precautionary principle — Proportionality — Rights of defence)

In Case T-433/13,

**Petropars Iran Co.**, established in Kish Island (Iran),

**Petropars Oilfields Services Co.**, established in Kish Island,

**Petropars Aria Kish Operation and Management Co.**, established in Tehran (Iran),

**Petropars Resources Engineering Kish Co.**, established in Tehran,

represented by S. Zaiwalla, P. Reddy, Z. Burbeza, Solicitors, R. Blakeley, G. Beck, Barristers, and M. Brindle QC,

applicants,

v

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

defendant,

APPLICATION for (i) annulment of Council Decision 2013/270/CFSP of 6 June 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013 L 156, p. 10) and of Council Implementing Regulation (EU) No 522/2013 of 6 June 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013 L 156, p. 3) and (ii) a declaration that Article 20(1)(c) of 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 Article 23(2)(d) of 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) are inapplicable,

THE GENERAL COURT (Seventh Chamber),

composed of M. Jaeger, President, M. van der Woude (Rapporteur) and E. Buttigieg, Judges,

Registrar: C. Kristensen, Administrator,

* Language of the case: English.

having regard to the written procedure and further to the hearing on 19 November 2014,

gives the following

## Judgment

### Background to the dispute

1 The applicants, Petropars Iran Co. ('PPI'), Petropars Oilfields Services Co. ('POSCO'), Petropars Aria Kish Operation and Management Co. ('POMC') and Petropars Resources Engineering Kish Co. ('PRE'), are Iranian companies operating in the oil, gas and petrochemical sectors.

2 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 proliferation-sensitive nuclear activities and the development of nuclear weapon delivery systems.

3 On 9 June 2010, the United Nations Security Council ('the Security Council') adopted Resolution 1929 (2010) ('UNSCR 1929 (2010)'), which aimed to extend the scope of the restrictive measures imposed by Resolutions 1737 (2006), 1747 (2007) and 1803 (2008) and to introduce additional restrictive measures against the Islamic Republic of Iran.

4 On 17 June 2010, the European Council underlined its deepening concern about the Islamic Republic of Iran's nuclear programme and welcomed the adoption of UNSCR 1929 (2010). Recalling its declaration of 11 December 2009, it invited the Council of the European Union to adopt measures implementing those contained in UNSCR 1929 (2010) as well as accompanying measures, with a view to supporting, through negotiation, the resolution of all outstanding concerns regarding the development by the Islamic Republic of Iran of sensitive technologies in support of its nuclear and missile programmes. Those measures were to focus on the areas of trade, the financial sector, the Iranian transport sector and key sectors in the oil and gas industry, and on additional designations, in particular for the Islamic Revolutionary Guards Corps.

5 On 26 July 2010, the Council adopted Decision 2010/413/CFSP concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39). Annex II to that decision lists the persons and entities — other than those designated by the Security Council or by the Sanctions Committee created by Resolution 1737 (2006) mentioned in Annex I — whose assets are to be frozen. Recital 22 in the preamble to that decision refers to UNSCR 1929 (2010) and states that that resolution notes the potential connection between the revenue derived by the Islamic Republic of Iran from its energy sector and the funding of its proliferation-sensitive nuclear activities.

6 On 23 January 2012, the Council adopted Decision 2012/35/CFSP amending Decision 2010/413 (OJ 2012 L 19, p. 22). According to recital 13 in the preamble to that decision, the restrictions on admission and the freezing of funds and economic resources should be applied to additional persons and entities providing support to the Government of the People's Republic of Iran which enabled it to pursue proliferation-sensitive nuclear activities or the development of nuclear weapon delivery systems, in particular persons and entities providing financial, logistical or material support to that government.

7 Article 1(7)(a)(ii) of Decision 2012/35 added the following point to Article 20(1) of Decision 2010/413, providing for the freezing of funds belonging to the following persons and entities:

'(c) other persons and entities not covered by Annex I that provide support to the Government of Iran, and persons and entities associated with them, as listed in Annex II.'

8 Consequently, on 23 March 2012 the Council adopted Regulation (EU) No 267/2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1). In order to implement Article 1(7)(a)(ii) of Decision 2012/35, Article 23(2) of that regulation provides for the freezing of funds of persons, entities and bodies listed in Annex IX thereto, identified as:

'(d) 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.'

9 On 15 October 2012, the Council adopted Decision 2012/635/CFSP amending Decision 2010/413/CFSP (OJ 2012 L 282, p. 58). According to recital 16 in the preamble to that decision, additional persons and entities should be included in the list of persons and entities subject to restrictive measures as set out in Annex II to Decision 2010/413, in particular Iranian State-owned entities engaged in the oil and gas sector, since they provide a substantial source of revenue for the Iranian Government.

10 Article 1(8)(a) of Decision 2012/635 amended Article 20(1)(c) of Decision 2010/413, which consequently provides that restrictive measures are to be imposed on:

'(c) other persons and entities not covered by Annex I that provide support to the Government of Iran and entities owned or controlled by them or persons and entities associated with them, as listed in Annex II.'

11 Article 2 of Decision 2012/635 included in Annex II to Decision 2010/413 the name of designated entity National Iranian Oil Co. ('NIOC'), on the grounds that that entity, owned and operated by the Iranian State, provided financial resources to the Iranian Government, as well as the names of designated entity Naftiran Intertrade Co. ('NICO'), wholly owned by NIOC, and of designated entity Petropars Ltd ('PPL'), a subsidiary of NICO.

12 Consequently, on the same date, the Council adopted Implementing Regulation (EU) No 945/2012 implementing Regulation No 267/2012 (OJ 2012 L 282, p. 16). Article 1 of that implementing regulation included the designated entities NIOC, NICO and PPL in Annex IX to Regulation No 267/2012 for the same reasons as those given in Decision 2012/635.

13 On 21 December 2012, the Council adopted Regulation (EU) No 1263/2012 amending Regulation No 267/2012 (OJ 2012 L 356, p. 34). Article 1(11) of that regulation amended Article 23(2)(d) of Regulation No 267/2012, which thus provides for the freezing of funds of the persons, entities and bodies listed in Annex IX thereto, identified as:

'(d) being other persons, entities or bodies that provide support, such as material, logistical or financial support, to the Government of Iran and entities owned or controlled by them, or persons and entities associated with them.'

14 On 6 June 2013, the Council adopted Decision 2013/270/CFSP amending Decision 2010/413 (OJ 2013 L 156, p. 10) ('the contested decision'). Article 1 of that decision listed the applicants in Annex II to Decision 2010/413, which contains the list of '[p]ersons and entities involved in nuclear or ballistic missile activities and persons and entities providing support to the Government of Iran'.

15 Consequently, on the same date, the Council adopted Implementing Regulation (EU) No 522/2013 implementing Regulation No 267/2012 (OJ 2013 L 156, p. 3) ('the contested regulation'). Article 1 of that regulation listed the applicants in Annex IX to Regulation No 267/2012, which contains the list of '[p]ersons and entities involved in nuclear or ballistic missile activities and persons and entities providing support to the Government of Iran'.

16 PPI was included on the list in Annex II to Decision 2010/413 and on the list in Annex IX to Regulation No 267/2012 (together, 'the lists') by the contested decision and the contested regulation (together, 'the contested acts') on the ground that it was a 'subsidiary of designated entity Petropars Ltd'. As regards the three other applicants, the Council gave the following reasons: 'subsidiary of designated entity [PPI]'.

17 The contested acts were communicated to the applicants by letters of 10 June 2013.

18 By letter of 7 August 2013, the applicants challenged the restrictive measures adopted against them and requested the Council to specify the legal basis of their respective listings, to state the reasons on which those listings were based, to provide copies of all the information and evidence upon which the Council relied in order to adopt the contested acts and of all the documents on its file. Moreover, it is stated in that letter that the contested acts were notified only to PPI.

19 On 12 August 2013, the Council acknowledged receipt of the applicants' letter of 7 August 2013 and stated that it was under examination.

## Procedure and forms of order sought by the parties

20 By application lodged at the Registry of the General Court on 20 August 2013, the applicants brought the present action.

21 Following a change in the composition of the Chambers of the Court, the Judge-Rapporteur was assigned to the Seventh Chamber, to which the present case was accordingly allocated.

22 The applicants claim that the Court should:

— annul the contested acts, in so far as they concern them;

— declare Article 20(1)(c) of Decision 2010/413 and Article 23(2)(d) of Regulation No 267/2012 inapplicable to them;

— order the Council to pay the costs.

23 The Council contends that the Court should:

— dismiss the action as unfounded;

— order the applicants to pay the costs.

24 As two members of the Chamber were prevented from sitting in the present case, the President of the General Court designated himself and another judge to complete the Chamber pursuant to Article 32(3) of the Rules of Procedure of the General Court.

## Law

25 The applicants put forward five pleas in law in support of their action. The first plea alleges that there is no legal basis for the applicants' designation. The second plea alleges an error of assessment. The third plea alleges that Article 20(1)(c) of Decision 2010/413 and Article 23(2)(d) of Regulation No 267/2012 are unlawful if those provisions apply to the subsidiaries of designated entities. The fourth plea alleges violation of the right to property, the right to conduct business, the principle of environmental protection and of the European Union's humanitarian values and, in any event, the

principle of proportionality and the precautionary principle. The fifth plea, put forward in the alternative, alleges failure to notify two of the applicants and violation of the obligation to state reasons, of the rights of the defence and of the right to effective judicial protection.

26 At the hearing, the applicants withdrew the third plea in law, which was noted in the minutes of the hearing. As the third plea in law was the only plea put forward in the application in support of the second head of claim, that head of claim must be rejected as inadmissible.

*The first plea, alleging that there is no lawful basis for the applicants' designation*

27 The applicants claim, in essence, that there is no lawful basis for their inclusion on the lists. In their view, being a subsidiary of a designated entity is not one of the criteria laid down under Article 20(1) of Decision 2010/413 or in Article 23(2) of Regulation No 267/2012.

28 In the reply, the applicants state, first, that it is only in the defence that the Council justified the inclusion of their names on the lists on the basis that they were owned or controlled by NIOC.

29 Next, the applicants submit that being a subsidiary of an entity designated as providing support to the Iranian Government does not constitute a ground for including their names on the lists, since that does not mean that such a subsidiary is owned or controlled by that entity.

30 Lastly, the applicants maintain that the Council may include on the lists the name of an entity owned or controlled by another entity only if the latter is itself listed on the basis of a legal criterion relevant to the adoption of restrictive measures. In the present case, PPL and PPI were not included on the lists on the basis of such a criterion.

31 The General Court considers that the question raised in the first plea is whether the contested acts were such as to enable the applicants to identify the criterion forming the legal basis on which they were included on the lists. That question must therefore be examined in the light of the case-law relating to the obligation the Council is under to state reasons when adopting restrictive measures. The arguments concerning the substantive legality of the contested acts, in particular those relating to the claim that PPI did not exercise control over its subsidiaries and to the privatisation of PPL, will therefore be examined with the second plea, alleging an error of assessment.

32 First of all, it must be borne in mind that, 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, EU:C:2012:718, paragraph 49 and the case-law cited).

33 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 persons concerned to ascertain the reasons for the measure and to enable the court with jurisdiction to exercise its power of review (judgment in *Council* v *Bamba*, paragraph 32 above, EU:C:2012:718, paragraph 50). The statement of reasons must therefore, in principle, be notified to the person concerned at the same time as the act adversely affecting him, for failure to state the reasons cannot be remedied by the fact that the person concerned learns the reasons for the act during the proceedings before the Courts of the European Union (judgement of 12 December 2006 in *Organisation des Modjahedines du peuple d'Iran* v *Council*, '*OMPI I*', T-228/02, ECR, EU:T:2006:384, paragraph 139).

34 Next, with regard to restrictive measures adopted under the common foreign and security policy, it must be noted that if the party concerned is not afforded the opportunity to be heard before the adoption of an initial decision to include its name on the list, compliance with the obligation to state reasons is all the more important because it constitutes the sole safeguard enabling the party concerned, especially after the adoption of that decision, to make effective use of the legal remedies available to it to challenge that decision on the ground that it is unlawful (judgments in *Council* v *Bamba*, paragraph 32 above, EU:C:2012:718, paragraph 51, and in *OMPI I*, paragraph 33 above, EU:T:2006:384, paragraph 140).

35 Accordingly, the statement of reasons for an act of the Council which imposes a restrictive measure must not only identify the legal basis of that act but also the actual and specific reasons why the Council considers, in the exercise of its discretion, that such a measure must be adopted in respect of the party concerned (see, to that effect, judgments in *OMPI I*, paragraph 33 above, EU:T:2006:384, paragraph 146; 14 October 2009 in *Bank Melli Iran* v *Council*, T-390/08, ECR, EU:T:2009:401, paragraph 83; and *Council* v *Bamba*, paragraph 32 above, EU:C:2012:178, paragraph 52).

36 However, the statement of reasons must be appropriate to the measure at issue and the context in which it was 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 statement of reasons to specify all the relevant matters of fact and law, since the question whether the statement of reasons is adequate 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. In particular, the reasons given for a decision are sufficient if it was adopted in circumstances known to the party concerned which enable him to understand the scope of the measure concerning him (judgments in *Bamba* v *Council*, paragraph 32 above, EU:C:2012:718, paragraphs 53 and 54; *OMPI I*, paragraph 33 above, EU:T:2006:384, paragraph 141; and *Bank Melli Iran* v *Council*, paragraph 35 above, EU:T:2009:401, paragraph 82).

37 In the present case, it should be recalled that PPI was included on the lists on the ground that it was a subsidiary of designated entity PPL, whereas the other three applicants were designated on the ground that they were subsidiaries of PPI.

38 It is clear that that statement of reasons does not expressly state the legal basis for the contested acts. However, as is apparent from the case-law cited at paragraph 36 above, the requirements to be satisfied by the statement of reasons depend on the circumstances of each case. It is therefore necessary to examine the grounds of the contested acts in the light not only of their wording but also the context in which those acts were adopted and the reasons relied on against NIOC and the other entities belonging to the group controlled by that company.

39 In the first place, it should be recalled that Article 20(1)(c) of Decision 2010/413 and Article 23(2)(d) of Regulation No 267/2012 provide for the freezing of the funds and economic resources of entities providing support to the Iranian Government. Those measures also provide for the adoption of restrictive measures in respect of entities owned or controlled by an entity providing support to that government. As observed by the applicants, an entity can therefore be included on the lists on the basis of that criterion only if the parent company which owns the entity or controls it provides such support, which the Council does not dispute.

40 In the second place, it should be noted that the use of the word ‘subsidiary’ in the statement of reasons for the inclusion of the name of each of the applicants enabled the applicants to understand that the Council had decided to include their names on the lists, not on the basis of a criterion for inclusion applicable to entities providing support to the Iranian Government, but on the basis of a criterion for inclusion applicable to entities held or controlled by an entity providing support to that government.

That word necessarily refers to control exercised by a parent company which may be the result, inter alia, of capital links between that company and the subsidiary in question. By stating that the applicants are 'subsidiaries', the statement of reasons thus indicates clearly that there is ownership or control within the meaning of Decision 2010/413 or Regulation No 267/2012.

41 In the third place, it is true that the contested acts do not expressly state which entity, whose name was included on the lists on account of support it provides to the Iranian Government, owns or controls the applicants. PPI, the parent company of the three other applicants, was included on the lists not because it provided support to that government but on the ground that it was a subsidiary of PPL, which was included on the lists because it was a subsidiary of NICO.

42 However, in the present case, in the light of the context in which the contested acts were adopted and, in particular, the inclusion of NIOC on the lists as well as that of the other entities owned or controlled by that entity, the Court finds that it may reasonably be concluded that the applicants were able to identify NIOC as the parent company which owned or controlled them and, accordingly, the legal basis of their inclusion on the list, without receiving further explanations.

43 First, it should be noted that the lists on which applicants were included, set out in Annex II to Decision 2010/413 and in Annex IX to Regulation No 267/2012, contain the names of '[p]ersons and entities involved in nuclear or ballistic missile activities and persons and entities providing support to the Government of Iran'. Those entities include not only NIOC, the listing of which is justified by the fact that that company contributes financial resources to that government, but also a large number of entities which that company owns, either directly or indirectly. NIOC is therefore at the head of a large group of companies and the holding chain linking that company to the applicants could easily be identified in the light of the grounds on which the various entities forming part of that group were included on the lists.

44 In particular, the inclusion on the lists of PPL, identified as the parent company of PPI, on account of the fact that it was a subsidiary of NICO, which was itself included on the lists on the ground that it was a subsidiary of NIOC, thus made it possible for PPI and the other applicants to understand that they were the subject of restrictive measures because they were indirectly owned or controlled by NIOC, the only entity within the group which had been included on the lists on account of support given to the Iranian Government, in accordance with Article 20(1)(c) of Decision 2010/413 and Article 23(2)(d) of Regulation No 267/2012. Examined in the light of those lists, the statement of reasons for the contested acts therefore made it possible for the applicants to identify the criterion used in the provisions referred to above which served as the legal basis for their inclusion on the lists.

45 Secondly, as they formed part of the group controlled by NIOC, the applicants must have been aware of the restrictive measures adopted in respect of other entities belonging to that group and were therefore able to understand that, in the same way as those other entities, their inclusion on the lists was justified in the light of the bonds of ownership or control linking them to NIOC.

46 Thirdly, it is apparent from the content of the application that, when the contested acts were adopted, the applicants were in possession of the information necessary to understand the reasons for their inclusion on the lists and, therefore, to identify the legal basis of that inclusion. The application reproduces a diagram which clearly indicates the criterion justifying the listing of NIOC, namely the criterion for inclusion applicable to entities providing support to the Iranian Government, and the holding chain linking NIOC to each of the applicants.

47 In the light of those circumstances, it must be concluded that, although it is succinct and does not specify all the relevant matters of fact and law, the statement of reasons for the contested acts none the less enabled the applicants to identify the criterion laid down in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012 which served as the legal basis for their inclusion on the lists. First, the use of the word 'subsidiary' clearly indicates that the inclusion of the

applicants is based on the criterion for inclusion applicable to entities owned or controlled by an entity which provides support to the Iranian Government and, second, the context in which the contested acts were adopted made it possible to identify the entity in question, which, according to the Council, owned or controlled them, namely NIOC, whose inclusion on the lists — which the applicants were aware of — was based on the criterion for inclusion applicable to entities providing support to that government, as provided for in the measures referred to above.

48 In the light of the foregoing, the first plea must be rejected as unfounded.

*The second plea, alleging an error of assessment*

49 The applicants claim, in essence, that the Council made an error of assessment in considering that the criterion for inclusion laid down in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012 was met.

50 The applicants point out that only 97% of POSCO, 48% of POMC and 49% of PRE is held by PPI, with the result that it cannot be presumed that POSCO, POMC or PRE are owned or controlled by PPI.

51 Moreover, the applicants observe that PPL has not been owned by NIOC or by NICO since March 2012, as all of PPL's share capital was transferred to the Iranian national pension fund and the social security body. They therefore take the view that they could not be regarded as being owned or controlled by NIOC at the time they were included on the lists, in the absence of any other evidence from the Council.

52 As a preliminary point, it should be noted that the applicants mention very briefly in the application that PPL, the parent company of PPI, is independent of the entities above it, namely NICO and NIOC, without going into any detail in that regard. It is only in the reply that the applicants rely on that transfer of ownership to show that they were no longer owned by NIOC at the time they were included on the lists.

53 In the rejoinder, the Council contends that the applicants' argument that PPL ceased to form part of the group controlled by NIOC is in contradiction with what they stated in the application.

54 It should be noted that it follows from Article 44(1)(c) in conjunction with Article 48(2) of the Rules of Procedure that the original application must set out the subject-matter of the proceedings and contain a summary of the pleas in law relied on, and that new pleas in law may not be introduced in the course of the proceedings unless they are based on matters of law or of fact which come to light in the course of the procedure. However, a plea which constitutes an amplification of a plea previously made, either expressly or by implication, in the original application and is closely linked to it must be declared admissible (judgement of 20 September 1990 in *Hanning* v *Parliament*, ECR, T-37/89, EU:T:1990:49, paragraph 38). Similar requirements must be met where a submission is made in support of a plea in law (see, for example, judgment of 14 May 1998 in *Mo och Domsjö* v *Commission*, T-352/94, ECR, EU:T:1998:103, paragraph 333).

55 In the present case, it is clear that the argument expounded by the applicants in the reply, challenging the claim that PPL was owned by NICO, is not based on any new factor which came to light in the course of the procedure. Moreover, that argument cannot be regarded as an amplification of a submission previously made in the application as it does not in any way correspond to the facts as presented by the applicants when they lodged their application.

56 First, in the application, the applicants reproduced a diagram of the hierarchical structure of the group controlled by NIOC showing that NIOC held all the share capital in NICO, which, in turn, held all the share capital in PPL, which held the entire share capital in PPI, which held shares in the other

applicants, namely 97% of the shares in POSCO, 48% of the shares in POMC and 49% of the shares in PRE. It is clear that the holding chain thus described shows no break in the chain of ownership linking the applicants to NIOC.

57 Second, at no point in the application did the applicants mention that the links that existed between them and NIOC were severed in March 2012; they simply stated that those links were too remote to meet the criterion for inclusion established in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012.

58 Third, in the application, when the applicants state that PPL was included on the lists on the ground that it was a subsidiary of NICO, no submission is made to challenge that ground. On the contrary, the applicants rely on that fact in support of their argument that they could not be regarded as entities connected with an entity providing support to the Iranian Government as their parent company had not been included on the lists on account of the provision of such support but on the basis of its status as an entity owned or controlled by an entity which provided such support.

59 Accordingly, the claim that PPL no longer belonged to the group controlled by NIOC after March 2012 must be rejected as inadmissible and it is necessary to examine whether the contested acts are justified solely in the light of the holding chain as described in paragraph 56 above.

60 First, it should be noted that the effectiveness of the judicial review guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union requires, inter alia, that, as part of the review of the lawfulness of the grounds which are the basis of the decision to list or to maintain the listing of a given person, the Courts of the European Union are to ensure that that decision has been taken on a sufficiently solid factual basis. That entails a verification of the factual allegations in the summary of reasons underpinning that decision, with the consequence that judicial review cannot be restricted to an assessment of the cogency in the abstract of the reasons relied on, but must concern whether those reasons, or, at the very least, one of those reasons, deemed sufficient in itself to support that decision, is substantiated (judgment of 18 July 2013 in *Commission and Others* v *Kadi*, '*Kadi II*', C-584/10 P, C-593/10 P and C-595/10 P, ECR, EU:C:2013:518, paragraph 119).

61 It is the task of the competent EU authority to establish, in the event of challenge, that the reasons relied on against the person concerned are well founded, and not the task of that person to adduce evidence of the negative — that those reasons are not well founded. It is necessary that the information or evidence produced should support the reasons relied on against the person concerned. If that material is insufficient to allow a finding that a reason is well founded, the Courts of the European Union are to disregard that reason as a possible basis for the contested decision to list or maintain a listing (judgment in *Kadi II*, paragraph 60 above, EU:C:2013:518, paragraphs 121 to 123).

62 Next, according to case-law, when the funds of an entity identified as providing support to the Iranian Government are frozen, there is a not insignificant danger that that entity may exert pressure on the entities it owns or controls or which belong to it, in order to circumvent the effect of the measures applying to it. Consequently, the freezing of the funds of such entities, as imposed by the Council by Article 20(1)(c) of Decision 2010/413 and Article 23(2)(d) of Regulation No 267/2012, is necessary and appropriate in order to ensure the effectiveness of the measures adopted and to ensure that those measures are not circumvented (see, to that effect and by analogy, judgment of 13 March 2012 in *Melli Bank* v *Council*, C-380/09 P, ECR, EU:C:2012:137, paragraphs 39 and 58).

63 Accordingly, when adopting a decision under the provisions referred to above, the Council must carry out an assessment of the circumstances of the individual case in order to determine which entities may be classified as entities 'owned or controlled'. On the other hand, the nature of the activity of the entity concerned and the fact that there may be no connection between that activity and the provision of support to the Iranian Government are not relevant criteria in that context, as the grounds for the adoption of a measure freezing the funds of an entity that is owned or controlled do not have to

include the fact that the entity itself directly provides support to that government (see, to that effect and by analogy, judgment in *Melli Bank* v *Council*, paragraph 62 above, EU:C:2012:137, paragraphs 40 to 42).

64 Lastly, it is also settled case-law that, where the capital of an entity is entirely owned by an entity providing support to the Iranian Government, the criterion for inclusion laid down in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012 is satisfied (see, to that effect and by analogy, judgment in *Melli Bank* v *Council*, paragraph 62 above, EU:C:2012:137, paragraph 79).

65 In the present case, the Council considered that, as NIOC held all the shares in NICO, which itself held all the shares in PPL, which in turn held all the shares in PPI, which held shares in the other applicants, namely 97% of the shares in POSCO, 48% of the shares in POMC and 49% of the shares in PRE, each of the applicants must be regarded as being owned or controlled NIOC within the meaning of Article 20(1)(c) of Decision 2010/413 and Article 23(2)(d) of Regulation No 267/2012.

66 It is therefore necessary to examine whether, in the light of that holding chain and in respect of each applicant, the Council made an error of assessment in taking the view that the criterion for inclusion applicable to entities owned by an entity providing support to the Iranian Government was satisfied.

67 In the first place, with regard to PPI, which is a subsidiary of NIOC, the Court considers that the Council did not make an error of assessment in including that entity on the lists.

68 Bearing in mind the case-law cited at paragraph 64 above, the fact that an entity providing support to the Iranian Government owns the entire capital of an entity implies of itself that the criterion for inclusion laid down in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012 is satisfied. Moreover, it should be noted that, in the field of competition law, in which the issue of the relationship between a subsidiary and its parent company also has to be addressed, the existence of intermediary companies between those two companies does not affect the application of the rebuttable presumption that the parent company in question exercises decisive influence over the conduct of its subsidiary. It is indeed considered that it is possible for such influence to be exercised indirectly via intermediary companies (see, to that effect, judgments of 20 January 2011 in *General Química and Others* v *Commission*, C-90/09 P, ECR, EU:C:2011:21, paragraph 88, and 27 September 2012 in *Shell Petroleum and Others* v *Commission*, T-343/06, ECR, EU:T:2012:478, paragraph 52).

69 Accordingly, where the capital of an entity is indirectly held by an entity providing support to the Iranian Government, the criterion for inclusion laid down in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012 is satisfied, irrespective of the presence and number of intermediary companies between that parent entity and the entity that is owned by it, provided that each of the entities present in the holding chain is entirely owned by its respective direct parent company. In such circumstances, the parent entity retains sole and exclusive control over all its subsidiaries and is therefore in a position, via intermediary companies, to exert pressure on the entity which it owns indirectly in order to circumvent the effect of the measures applying to it, therefore justifying the adoption of restrictive measures in respect of the entity that is thus indirectly owned.

70 In the present case, it must therefore be concluded that the inclusion on the lists of PPI, the capital of which was entirely owned by PPL, which is wholly owned by NICO, which was, in turn, wholly owned by NIOC, is justified in the light of the criterion applicable to entities owned or controlled by an entity providing support to the Iranian Government.

71 In the second place, with regard to POSCO, it should be recalled that virtually all the capital of that entity — that is, 97% — was owned by PPI.

72 In that regard, it is apparent from competition law-related case-law that a parent company is able to exercise decisive influence over the conduct of its subsidiary not only if it owns all the capital but also if it owns virtually all the capital of that subsidiary (see, to that effect, judgment of 30 September 2009 in *Arkema* v *Commission*, T-168/05, EU:T:2009:367, paragraph 71).

73 Accordingly, it must be concluded that, where all the capital or virtually all the capital of an entity is owned by an entity providing support to the Iranian Government, the criterion for inclusion laid down in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012 is satisfied.

74 In the present case, in spite of the fact that there are three intermediary companies between NICO and POSCO and the fact that PPI is not the sole owner of POSCO, the Council did not make an error of assessment in adopting restrictive measures directed at POSCO.

75 As indicated at paragraphs 68 and 69 above, the number of intermediary companies has no effect on the ability of a parent company to have significant influence on the conduct of its subsidiary where the capital of the subsidiary and that of each of the intermediary companies is entirely owned by that parent company. The same conclusion applies where the parent company holds virtually all the capital of the subsidiary and the intermediary companies, as in the case under examination, in which, through PPI, NIOC owns 97% of the capital of POSCO. It may reasonably be concluded that, as PPI is exclusively or almost exclusively owned by NIOC, POSCO remains subject to the exclusive sole control of that parent company.

76 It must therefore be concluded that the Council did not make an error of assessment in considering that POSCO was owned by NIOC and, accordingly, the second plea must be rejected as unfounded in so far as it concerns that applicant.

77 In the third place, with regard to POMC and PRE, the Council submits that, according to competition law-related case-law, the presumption that a parent company actually exerts decisive influence over its subsidiary is also applicable where two companies are placed in a position analogous to that in which a single company owns the entire capital of its subsidiary. In the situation under consideration, given that the capital in POMC is owned jointly by PPI and Global O & M Company (with shares of 48% and 47%, respectively) and that PRE is a joint venture in which the capital was held by PPI and Telford International (with shares of 49% and 47%, respectively), the Council considers that the case-law cited at paragraph 64 above is relevant and that POMC and PRE must therefore be regarded as indirectly controlled by NIOC via, inter alia, PPI.

78 Moreover, at the hearing, the Council argued that, given that PPI had a greater share in the capital of POMC than that held by Global O & M Company and a greater share in the capital of PRE than that held by Telford International, it could be assumed that that entity had the last word and could impose its decisions on POMC and PRE.

79 However, the Court considers that, in the present case, as regards POMC and PRE, the presumption that their parent company actually exerts decisive influence on them is not applicable.

80 First, in so far as concerns the argument relating to the joint ownership of capital in POMC and PRE, it should be noted that, unlike PPI, Global O & M Company and Telford International were not the subject of restrictive measures. In those circumstances, it is not in the interest of either of the latter two companies to assist PPI in exerting pressure on their common subsidiary in order to circumvent the effect of the restrictive measures directed solely at that subsidiary. Therefore, the situation cannot be regarded as analogous to that in which a single entity owns all the capital of its subsidiary as, in such circumstances, the fact that there exists joint control is liable to prevent PPI and, as a consequence, NIOC from exerting pressure on POMC and PRE for the purpose of circumventing the effect of the restrictive measures applied to it.

81 Next, it should be recalled that, according to case-law, a 60% holding in an entity's share capital does not mean, by itself, that the criterion for inclusion laid down in Article 20(1)(c) of Decision 2010/413 and in Article 23(2)(d) of Regulation No 267/2012 is satisfied (judgment of 6 September 2013 in *Persia International Bank* v *Council*, T-493/10, ECR (Extracts), EU:T:2013:398, paragraph 106). *A fortiori*, in the present case, a holding of 48% and of 49% in the share capital of POMC and PRE, respectively, is not sufficient by itself, in the light of the case-law cited at paragraph 64 above, to justify the adoption of restrictive measures in respect of those entities.

82 As PPI does not own all or virtually all the share capital of POMC or PRE, it is necessary to examine whether, given the circumstances of the present case, there was a not insignificant risk that the latter two companies might be led to circumvent the effect of the restrictive measures applied to NIOC.

83 The Council has failed to adduce any evidence that would enable the Court to reach the conclusion that PPI was in a position to exercise control over POMC or PRE. Although the share held by PPI in the capital of the latter two companies was slightly greater than that held by those entities' other main shareholders, it is none the less a minority holding. It cannot therefore be assumed that PPI had the power to appoint more than half the board members of POMC or half the board members of PRE or otherwise had the last word within the board of directors of those entities.

84 It must therefore be concluded that the Council made an error of assessment in considering that POMC and PRE were held or controlled by NIOC.

85 In the light of the foregoing, the second plea in law must be rejected as unfounded, in so far as concerns PPI and POSCO, and upheld, in so far as concerns POMC and PRE. As a consequence, the contested acts must be annulled in so far as concerns the latter two applicants.

*The fourth plea, alleging violation of the right to property, the right to conduct business, the principle of environmental protection and the Union's humanitarian values and, in any event, the principle of proportionality and the precautionary principle*

86 The applicants contend that the contested acts constitute a violation of fundamental rights and freedoms.

87 First, the applicants submit, in essence, that the contested acts violate their right to property and their right to conduct a business and are disproportionate in relation to the aim pursued.

88 Next, the applicants maintain that the contested acts are liable to cause significant harm to the environment, to the health and safety of workers and to ordinary Iranians, including children. The applicants claim that, as a result of the sanctions, they will be unable to complete Phase 19 of the South Pars Development Project, the completion of which is critical to preventing a gas shortage during the winter in Iran. Moreover, in the reply, the applicants specify that most of the equipment and technical services used was sourced from EU countries. The inability to obtain that equipment will therefore force the Islamic Republic of Iran to rely on alternative heating fuels which are more harmful to the environment and will increase the risk to the health and safety of humans living and working in the vicinity of the development projects.

89 In the light of those risks, the applicants submit that the Council infringed the precautionary principle. The Council ought to have taken into account the effects of freezing their assets before adopting the contested acts.

90 Lastly, the applicants maintain that the measures adopted by the Council are disproportionate to their stated aim.

91 The Court is of the view that all of the applicants' arguments must be rejected.

92 In the first place, with regard to the applicants' right to property and the right to conduct a business, it should be observed, first, that those rights form part of the fundamental rights enshrined in Article 17 and Article 16, respectively, of the Charter of Fundamental Rights, whose observance is ensured by the Courts of the European Union. However, it should be recalled that fundamental rights are not absolute and that their exercise may be subject to restrictions justified by objectives of public interest pursued by the European Union (judgment of 16 November 2011 in *Bank Melli Iran* v *Council*, C-548/09 P, ECR, EU:C:2011:735, paragraph 113).

93 Next, according to case-law, the principle of proportionality, which is one of the general principles of EU law, requires that measures adopted by EU institutions should not exceed the limits of what is appropriate and necessary in order to attain the legitimate objectives pursued by the legislation in question, and where 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 (judgment of 18 November 1987 in *Maizena and Others*, 137/85, ECR, EU:C:1987:493, paragraph 15).

94 In the present case, the applicants' right to conduct a business and their right to property are restricted to a considerable extent as a result of the adoption of the contested acts, as they are prevented from having access to funds held by them in the EU, other than by means of special authorisation, and, under Article 23(3) of Regulation No 267/2012, no fund or economic resource may be made available to them, either directly or indirectly. However, given the prime importance of the preservation of international peace and security, the Council was entitled to take the view that the infringements of the rights referred to above that would result from the inclusion on the lists of the entities owned by an entity providing support to the Iranian Government were appropriate and necessary for the purpose of exerting pressure on that government in order to oblige it to cease its nuclear proliferation activities (see, to that effect and by analogy, judgment in *Bank Melli Iran* v *Council*, paragraph 62 above, EU:C:2012:137, paragraph 61).

95 Accordingly, in the light of the objectives pursued, such restrictions cannot be regarded as a disproportionate and intolerable interference undermining the very substance of the right to property and the right to conduct a business (see, to that effect, judgment in *Bank Melli Iran v Council*, paragraph 92 above, EU:C:2011:735, paragraphs 114 and 115).

96 Moreover, contrary to the applicants' contentions, the freezing of their funds cannot be regarded as disproportionate on account of a violation, as alleged, of their right to submit their arguments to the Council. As will be concluded in connection with the examination of the fifth plea (see paragraph 123 et seq. below), the applicants were given the opportunity to express their point of view.

97 Accordingly, the arguments alleging violation of the right to property and the right to conduct a business and that the measures in question were disproportionate must be rejected as unfounded.

98 In the second place, with regard to the risk of harm to the environment and to the health and safety of workers and ordinary Iranians, it should be noted, first, that the fact that it is impossible to obtain key equipment and technical services from undertakings established in the EU — presented as the cause of that risk — is not the result of the restrictive measures directed at the applicants.

99 It is apparent from the applicants' arguments, and from the documents annexed to the reply which were produced in support of those arguments, that the risk of a gas shortage or the risk of reliance on alternative heating fuels are not the consequence of any financial difficulties that may affect the applicants as a result of the freezing of their funds and would prevent them from acquiring the equipment necessary to conduct their businesses, but are the result of the restrictions imposed by the EU in relation to the supply to Iranian entities of goods or key technologies or of technical services associated with those goods intended for the gas industry in the Islamic Republic of Iran.

100 As observed by the Council, those restrictions, provided for, inter alia, in Article 4 of Decision 2010/413 and Articles 8 and 9 of Regulation No 267/2012, apply to any Iranian entity and may therefore affect the applicants, irrespective of whether they are included on the lists. Moreover, a claim that those provisions are unlawful cannot be made in the present proceedings as they do not constitute the legal basis of the contested acts.

101 It must therefore be concluded that the claim that the contested acts pose a risk to the environment and to the health and safety of workers and ordinary Iranians is unfounded.

102 In the third place, with regard to the precautionary principle, it should be noted that that principle is a general principle of EU law, requiring the authorities in question, in the particular context of the exercise of the powers conferred on them by the relevant rules, to take appropriate measures to prevent specific potential risks to public health, safety and the environment, by giving precedence to the requirements related to the protection of those interests over economic interests (see judgments of 26 November 2002 in *Artegodan and Others* v *Commission*, T-74/00, T-76/00, T-83/00 to T-85/00, T-132/00, T-137/00 and T-141/00, ECR, EU:T:2002:283, paragraphs 183 and 184, and 21 October 2003 in *Solvay Pharmaceuticals* v *Council*, T-392/02, EU:T:2003:277, paragraph 121 and the case-law cited).

103 In the present case, as is apparent from paragraphs 98 to 101 above, the applicants have failed to establish that there may be a risk to health, safety or the environment that may have arisen as a result of the freezing of their funds. Therefore, the Council cannot be criticised for not having considered the possible application of the precautionary principle when adopting the contested acts.

104 In the light of all of the foregoing, the fourth plea must be rejected as unfounded.

*The fifth plea, alleging failure to give notification in so far as concerns two of the applicants and violation of the obligation to state reasons, of the rights of the defence and the right to effective judicial protection*

105 The applicants submit that the Council committed numerous violations of procedural rights, the rights of the defence and the right to effective judicial protection in respect of them.

106 First, the applicants contend that the Council failed to notify the contested acts to POMC and PRE individually.

107 Second, the applicants submit that the Council failed to give adequate reasons for its decision to impose restrictive measures on them and did not therefore inform them of the basis for their inclusion on the lists. In the reply, the applicants state that the reason for the claim that they are owned or controlled by NIOC does not correspond to the statement of reasons given in the contested acts.

108 Third, the applicants maintain that the Council failed to provide them, despite their request, with the information and evidence on which it relied when adopting the contested acts. They submit, therefore, that they have not been able to make representations and properly challenge their inclusion on the lists.

109 As a preliminary point, it should be noted that the applicants have requested the Court to examine the procedural arguments raised in the fifth plea only in the event that the Court rejects the first four pleas. Given that the second plea was upheld in so far as concerns POMC and PRE, it will be necessary to examine the fifth plea only with regard to PPI and POSCO ('the first two applicants'). Therefore, the argument that the contested acts were not notified to POMC or PRE will not be examined in connection with the fifth plea.

110 First, as regards the obligation to state adequate reasons, it is apparent from the examination of the first plea (see paragraphs 27 to 48 above) that the statement of reasons for the contested acts is sufficient as it enabled the first two applicants not only to identify the legal basis of those acts but also the actual and specific reasons why the Council considered that restrictive measures had to be adopted in respect of them, in accordance with the case-law cited at paragraph 35 above.

111 Next, with regard to the rights of the defence, it should be noted that, according to settled case-law, observance of those rights, especially the right to be heard, in all proceedings initiated against an entity which may lead to a measure adversely affecting that entity, is a fundamental principle of EU law which must be guaranteed, even when there are no rules governing the procedure in question (judgment in *Bank Melli Iran* v *Council*, paragraph 35 above, EU:T:2009:401, paragraph 91).

112 The principle of respect for the rights of the defence requires, first, that the entity concerned must be informed of the evidence adduced against it to justify the measure adversely affecting it. Second, it must be afforded the opportunity properly to make known its views on that evidence (see, by analogy, judgment in *OMPI I*, paragraph 33 above, EU:T:2006:384, paragraph 93).

113 Consequently, as regards an initial measure whereby the funds of an entity are frozen, unless there are compelling reasons touching on the security of the EU or of its Member States or the conduct of their international relations which preclude it, the evidence adduced against that entity should be disclosed to it either concomitantly with or as soon as possible after the adoption of the measure concerned. Where the entity concerned so requests, it must also have the right to make submissions concerning that evidence once the act has been adopted (see, by analogy, judgment in *OMPI I*, paragraph 33 above, EU:T:2006:384, paragraph 137).

114 It should also be observed that, when sufficiently precise information has been disclosed, enabling the entity concerned properly to state its point of view on the evidence adduced against it by the Council, the principle of respect for the rights of the defence does not mean that that institution is obliged spontaneously to grant access to the documents in its file. It is only at the request of the party concerned that the Council is required to provide access to all non-confidential official documents concerning the measure at issue (see judgment in *Bank Melli Iran* v *Council*, paragraph 35 above, EU:T:2009:401, paragraph 97 and case-law cited).

115 Lastly, the principle of effective judicial protection means that the EU authority in question is bound to disclose the grounds for a restrictive measure to the entity concerned, so far as possible, either when that measure is adopted or, at the very least, as swiftly as possible thereafter, in order to enable the entity concerned to exercise, within the periods prescribed, its right to bring an action. Observance of that obligation to disclose the grounds is necessary both to enable the persons to whom restrictive measures are addressed to defend their rights in the best possible conditions and to decide, with full knowledge of the relevant facts, whether there is any point in their applying to the Courts of the European Union, and also to put the latter fully in a position to carry out the review of the lawfulness of the measure in question, which is the duty of those courts (see, to that effect and by analogy, judgment of 3 September 2008 in *Kadi and Al Barakaat International Foundation* v *Council and Commission*, C-402/05 P and C-415/05 P, ECR, EU:C:2008:461, paragraphs 335 to 337 and case-law cited).

116 In the present case, first, as regards the initial disclosure of inculpatory evidence, it should be recalled (i) that the contested acts were communicated to the first two applicants by letters of 10 June 2013 and (ii) that it is apparent from the examination of the first plea and paragraph 110 above, concerning the obligation to state reasons, that the contested acts gave sufficient reasons in so far as they enabled the first two applicants to understand the reasons why they were included on the lists.

117 Therefore, it must be found that the Council did not violate the first two applicants' rights of defence in so far as concerns the original disclosure of the evidence against them.

118 In the second place, with regard to access to documents, without there being any need to rule on the claim that the Council failed to disclose to the first two applicants the documents in their file in good time, the Court finds that the Council did not violate those applicants' rights of defence.

119 It must be noted that the belated disclosure of a document on which the Council relied in order to adopt or maintain the restrictive measures concerning an entity does not constitute a breach of the rights of the defence that would justify the annulment of the acts concerned unless it is established that the restrictive measures in question could not have been lawfully adopted or maintained if the document belatedly disclosed had to be excluded as inculpatory evidence (judgment in *Persia International Bank* v *Council*, paragraph 81 above, EU:T:2013:398, paragraph 85).

120 As a consequence, in the present case, even if the Council had disclosed the documents in the applicants' files belatedly, that could justify the annulment of the contested acts only if it was also established that the adoption of the restrictive measures in respect of the first two applicants could not be justified on the basis of the evidence disclosed to them in good time, namely the grounds set out in the contested acts.

121 First, it must be noted that the documents disclosed when the defence was lodged do not contain any new information that could be relevant to the defence of the first two applicants, as their content does not disclose any new information concerning them. Second, it is apparent from the examination of the second plea that the reasons given in the contested acts, as disclosed to the first two applicants, were sufficient for the purpose of justifying the adoption of the restrictive measures concerning them.

122 In those circumstances, the Court finds that the Council did not violate the first two applicants' rights of defence in so far as concerns access to documents.

123 In the third place, with regard to whether it was possible for the first two applicants properly to make known their views, it should be noted that, following the adoption of the contested acts, the applicants sent a letter to the Council on 9 August 2013 in which they set out their views and requested disclosure of the reasons for their inclusion on the lists and of the evidence on their file.

124 Accordingly, the first two applicants were given the opportunity properly to make known their views, with the result that it cannot be claimed that the Council violated their rights of defence in that regard.

125 In those circumstances, the Court considers that the first two applicants were able to defend their rights and that it has, to all intents, been placed in a position enabling it to review the lawfulness of the contested acts. The first two applicants are therefore incorrect in claiming that the Council violated their right to effective judicial protection.

126 As a consequence, the fifth plea must be rejected as unfounded in so far as concerns the first two applicants.

127 In the light of all the foregoing, the action must be dismissed, in so far as concerns PPI and POSCO, and upheld, in so far as concerns POMC and PRE.

**The temporal effects of the annulment of the contested acts in so far as they concern POMC and PRE**

128 Under the second paragraph of Article 264 TFEU the Court may, if it considers this necessary, state which of the effects of an act which it has declared void are to be considered as definitive. It follows from the case-law that the Courts of the European Union may decide, on the basis of that provision, the date when their annulling judgments are to take effect (judgment of 12 December 2013 in *Nabipour and Others* v *Council*, T-58/12, EU:T:2013:640, paragraphs 250 and 251).

129 In this case, the Court considers, for the reasons set out below, that it is necessary to maintain the temporal effects of the contested acts until the date of expiry of the period for bringing an appeal stated in the first paragraph of Article 56 of the Statute of the Court of Justice of the European Union or, if an appeal has been brought within that period, until the dismissal of the appeal.

130 It must be borne in mind that the nuclear programme pursued by the Islamic Republic of Iran is a source of serious concerns at both the international and European levels. That is the background to the Council's gradual extension of the number of restrictive measures adopted against that State, in order to hinder the development of activities which jeopardise peace and international security, in the context of implementation of Security Council resolutions.

131 Consequently, the interest of POMC and PRE in ensuring that the annulment of the contested acts should take effect immediately in so far as they are concerned must be weighed against the objective of general interest pursued by the EU's policy in relation to restrictive measures against the Islamic Republic of Iran. The adjustment of the temporal effects of the annulment of a restrictive measure may thus be justified by the need to ensure that restrictive measures are effective and, in short, by overriding considerations to do with security or the conduct of the international relations of the EU and of its Member States (see, by analogy with there being no obligation to inform the person or entity concerned beforehand of the grounds for an initial listing, judgment of 21 December 2011 in *France* v *People's Mojahedin Organization of Iran*, C-27/09 P, ECR, EU:C:2011:853, paragraph 67).

132 The annulment with immediate effect of the contested acts in so far as they concern POMC and PRE would enable them to transfer all or part of their assets outside the EU, without the Council being able, if appropriate, to apply in good time Article 266 TFEU with a view to correcting the irregularities identified in this judgment, and consequently the effectiveness of any freezing of assets in relation to those entities which might, in the future, be decided on by the Council might be seriously and irreversibly prejudiced.

133 As regards the application of Article 266 TFEU in this case, it must be observed that the annulment by this judgment of POMC's and PRE's listing stems from the fact that the reasons stated for that listing are not supported by sufficient evidence (see paragraphs 77 to 84 above). Although it is for the Council to decide on what measures to adopt to comply with this judgment, a further listing of POMC and PRE cannot automatically be ruled out. In the course of further review, the Council has the possibility of again listing those entities on the basis of reasons which are supported to the requisite legal standard.

134 It follows that the effects of the contested acts must be maintained as regards POMC and PRE, until the date of expiry of the period for bringing an appeal or, if an appeal is brought within that period, until the dismissal of the appeal.

**Costs**

135 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. Under Article 87(3) of the Rules of Procedure, the Court may order that the costs be shared or order the parties to bear their own costs if each party succeeds on some and fails on other heads, or where the circumstances are exceptional.

136 In the circumstances of the present case, the Court decides that each party must bear its own costs.

On those grounds,

THE GENERAL COURT (Seventh Chamber)

hereby:

1. **Annuls the following, in so far as they concern Petropars Aria Kish Operation and Management Co. and Petropars Resources Engineering Kish Co.:**

   — **Council Decision 2013/270/CFSP of 6 June 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran;**

   — **Council Implementing Regulation (EU) No 522/2013 of 6 June 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran;**

2. **Orders that the effects of Decision 2013/270 and Regulation No 522/2013 be maintained as regards Petropars Aria Kish Operation and Management Co. and Petropars Resources Engineering Kish Co. until the date of expiry of the period for bringing an appeal, as provided for in the first paragraph of Article 56 of the Statute of the Court of Justice of the European Union, or, if an appeal is brought within that period, until the date of any dismissal of that appeal;**

3. **Dismisses the action as to the remainder;**

4. **Orders each party to bear its own costs.**

Jaeger Van der Woude Buttigieg

Delivered in open court in Luxembourg on 5 May 2015.

[Signatures]