Reports of Cases

JUDGMENT OF THE GENERAL COURT (First Chamber)

2 July 2019 *

(Non-contractual liability — Common foreign and security policy — Restrictive measures against the Islamic Republic of Iran — Freezing of funds — Restriction on admission to the territory of the Member States — Compensation for the damage allegedly suffered following the inclusion and retention of the applicant's name on lists of persons and entities subject to restrictive measures — Material damage — Non-material damage)

In Case T-406/15,

Fereydoun Mahmoudian, residing in Tehran (Iran), represented by A. Bahrami and N. Korogiannakis, lawyers,

applicant,

v

Council of the European Union, represented by R. Liudvinaviciute-Cordeiro and M. Bishop, acting as Agents,

defendant,

supported by

European Commission, represented initially by A. Aresu and D. Gauci, and subsequently by A. Aresu and R. Tricot, acting as Agents,

intervener,

APPLICATION pursuant to Article 268 TFEU for compensation for the damage allegedly suffered by the applicant following the adoption 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), Council Implementing Regulation (EU) No 668/2010 of 26 July 2010 implementing Article 7(2) of Regulation (EC) No 423/2007 concerning restrictive measures against Iran (OJ 2010 L 195, p. 25), Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413 (OJ 2010 L 281, p. 81), and 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), by which the applicant's name was included and maintained on the lists of persons and entities subject to restrictive measures,

THE GENERAL COURT (First Chamber),

composed of I. Pelikánová (Rapporteur), President, V. Valančius and U. Öberg, Judges,

* Language of the case: French

Registrar: M. Marescaux, Administrator,

having regard to the written part of the procedure and further to the hearing on 11 December 2018,

gives the following

Judgment

I. Background to the dispute

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 proliferation-sensitive nuclear activities and the development of nuclear weapon delivery systems ('nuclear proliferation').

2 The applicant, Fereydoun Mahmoudian, is Fulmen's majority shareholder and Chairman of its Board of Directors. Fulmen is an Iranian company, active in particular in the electrical equipment sector.

3 The European Union adopted Council Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran (OJ 2007 L 61, p. 49) and Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1).

4 Article 5(1)(b) of Common Position 2007/140 provided for the freezing of all funds and economic resources which belong to certain categories of persons and entities. The list of those persons and entities was contained in Annex II to Common Position 2007/140.

5 As regards the powers of the European Community, Article 7(2) of Regulation No 423/2007 provided for the freezing of the funds of the persons, entities or bodies identified by the Council of the European Union as being engaged in nuclear proliferation in accordance with Article 5(1)(b) of Common Position 2007/140. The list of those persons, entities and bodies constituted Annex V to Regulation No 423/2007.

6 Common Position 2007/140 was repealed by Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran (OJ 2010 L 195, p. 39).

7 Article 20(1) of Decision 2010/413 provides for the freezing of the funds of several categories of entities. That provision concerns, in particular, 'persons and entities … that are engaged in, directly associated with, or providing support for [nuclear proliferation], or persons or entities acting on their behalf or at their direction, or entities owned or controlled by them, including through illicit means … as listed in Annex II'.

8 The list in Annex II to Decision 2010/413 was replaced by a new list, adopted in Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413 (OJ 2010 L 281, p. 81).

9 On 25 October 2010, the Council adopted Regulation (EU) No 961/2010 on restrictive measures against Iran and repealing Regulation No 423/2007 (OJ 2010 L 281, p. 1).

10 From the adoption of Decision 2010/413 on 26 July 2010, the applicant was placed, by the Council, on the list of persons, entities and bodies in Table I of Annex II to that decision.

11 Consequently, the applicant's name was placed on the list of persons, entities and bodies in Table I of Annex V to Regulation No 423/2007 by Council Implementing Regulation (EU) No 668/2010 of 26 July 2010 implementing Article 7(2) of Regulation No 423/2007 (OJ 2010 L 195, p. 25). The consequence of the adoption of Implementing Regulation No 668/2010 was the freezing of the applicant's funds and economic resources.

12 In both Decision 2010/413 and Implementing Regulation No 668/2010, the Council stated the following grounds in respect of the applicant: 'Director of Fulmen'.

13 By letter of 26 August 2010, the applicant asked the Council to reconsider his listing in Annex II to Decision 2010/413 and Annex V to Regulation No 423/2007. He also asked the Council to notify him of the evidence on the basis of which the restrictive measures imposed on him had been adopted.

14 The listing of applicant's name in Annex II to Decision 2010/413 was not affected by the adoption of Decision 2010/644.

15 Since Regulation No 423/2007 was repealed by Regulation No 961/2010, the applicant's name was placed by the Council in Table A, No 14, of Annex VIII to the latter regulation. Consequently, the applicant's funds have since been frozen pursuant to Article 16(2) of Regulation No 961/2010.

16 By letter of 28 October 2010, the Council responded to applicant's letter of 26 August 2010 stating that, after reconsideration, it rejected his request to have his name removed from the list in Annex II to Decision 2010/413 and the list in Annex VIII to Regulation No 961/2010. It stated in that regard that, as the file did not contain any new factors which justified a change in its position, the applicant was to remain subject to the restrictive measures laid down in those acts. The Council further stated that its decision to maintain the applicant's name on the contested lists was not based on any factors other than those referred to in the reasons stated for those lists.

17 By judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), the General Court annulled Decision 2010/413, Implementing Regulation No 668/2010, Decision 2010/644 and Regulation No 961/2010 in so far as they concerned Fulmen and the applicant.

18 As regards the temporal effects of the annulment of the contested measures in the context of the action giving rise to the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), in paragraph 106 of the judgment, the Court recalled, in respect of Regulation No 961/2010, that, under the second paragraph of Article 60 of the Statute of the Court of Justice of the European Union, by way of derogation from Article 280 TFEU, decisions of the General Court declaring a regulation to be void take effect only as from the date of expiry of the period for bringing an appeal referred to in the first paragraph of Article 56 of that Statute or, if an appeal has been brought within that period, as from the date of dismissal of the appeal. In the present case, it held that the risk of serious and irreparable harm to the effectiveness of the restrictive measures imposed by Regulation No 961/2010 did not appear sufficiently great, having regard to the considerable impact of those measures on the applicants' rights and freedoms, to warrant the maintenance of the effects of that regulation with respect to the applicants for a period exceeding that laid down in the second paragraph of Article 60 of the Statute of the Court of Justice of the European Union.

19 Moreover, in paragraph 107 of the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), the Court maintained the effects of Decision 2010/413, as amended by Decision 2010/644, until the annulment of Regulation No 961/2010 took effect.

20 On 4 June 2012, the Council brought an appeal before the Court of Justice against the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142). That appeal was registered as Case C-280/12 P. In support of that appeal, the Council claimed inter alia that the General Court had erred in law in holding that the Council was required to adduce evidence to prove that Fulmen was active on the Qom/Fordoo (Iran) site notwithstanding the fact that the evidence that could be put forward came from confidential sources and that the General Court's errors of law concerned two aspects of the communication of that evidence, the first relating to the communication of evidence by the Member States to the Council, and the second to the communication of confidential material to the Court.

21 By judgment of 28 November 2013, *Council* v *Fulmen and Mahmoudian* (C-280/12 P, EU:C:2013:775), the Court of Justice dismissed the appeal as unfounded, confirming what the General Court had found in paragraph 103 of the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), namely that the Council had not adduced evidence that Fulmen was active on the Qom/Fordoo site.

22 By Council Implementing Regulation (EU) No 1361/2013 of 18 December 2013 implementing Regulation No 267/2012 (OJ 2013 L 343, p. 7), the Council, drawing conclusions from the judgment of 28 November 2013, *Council* v *Fulmen and Mahmoudian* (C-280/12 P, EU:C:2013:775), removed the applicant's name from the lists of persons and entities subject to restrictive measures in Annex II to Decision 2010/413 and Annex IX to Regulation No 267/2012, with effect from 19 December 2013. Since then, the applicant's name has not been re-listed.

II. Procedure and forms of order sought

23 By application lodged at the Registry of the General Court on 26 July 2015, the applicant brought the present action. The case was assigned to the First Chamber of the General Court.

24 On 9 November 2015, the Council lodged its defence.

25 By document lodged at the Registry of the General Court on 9 November 2015, the European Commission sought leave to intervene in the proceedings in support of the form of order sought by the Council.

26 On 2 December 2015, the applicant lodged his observations on the Commission's application to intervene. The Council did not submit observations on that application within the period prescribed.

27 By decision of the President of the First Chamber of the General Court of 10 December 2015, adopted in accordance with Article 144(4) of the Rules of Procedure of the General Court, the Commission was granted leave to intervene in the present dispute.

28 On 12 January 2016, the applicant lodged his reply.

29 On 25 January 2016, the Commission lodged its statement in intervention. Neither the Council nor the applicant submitted observations on that statement in intervention.

30 On 26 February 2016, the Council lodged its rejoinder.

31 By letter lodged at the Registry of the General Court on 29 March 2016, the applicant requested that a hearing be held, in accordance with Article 106(1) of the Rules of Procedure.

32 Acting on a proposal from the Judge-Rapporteur, the General Court (First Chamber) adopted a first measure of organisation of procedure to hear the parties on the possibility of staying proceedings pending the final decision of the Court of Justice in Case C-45/15 P, *Safa Nicu Sepahan* v *Council*. The Council submitted its observations in that regard within the period prescribed.

33 Following a change in the composition of the Chambers of the General Court, pursuant to Article 27(5) of the Rules of Procedure, the Judge-Rapporteur was assigned to the First Chamber, to which this case was consequently allocated.

34 By decision of 31 August 2016, the President of the First Chamber of the General Court decided to stay the proceedings in the present case.

35 Following delivery of the judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402), on a proposal from the Judge-Rapporteur, the General Court (First Chamber) adopted a second measure of organisation of procedure to hear the parties on the consequences for the present case that they drew from that judgment ('the second measure of organisation of procedure'). The main parties submitted their observations in that regard within the period prescribed.

36 By letter of 28 November 2018, the Commission informed the Court that, whilst it continued to support the Council's position, it did not consider it necessary to participate in the hearing in the present case.

37 The main parties presented oral argument and replied to the questions put by the Court at the hearing on 11 December 2018.

38 The applicant claims that the Court should:

– declare the application admissible and well founded;

– order the Council to pay him EUR 2 227 000 as compensation for the material damage he has suffered and EUR 600 000 as compensation for the non-material damage he has suffered as a result of that listing;

– order the Council to pay the costs.

39 The Council and the Commission contend that the Court should:

– dismiss the action;

– order the applicant to pay the costs.

III. Law

A. The jurisdiction of the General Court

40 In the rejoinder, on the basis of the judgment of 18 February 2016, *Jannatian* v *Council* (T-328/14, not published, EU:T:2016:86), the Council objects that, in so far as the applicant based his claim for compensation on the unlawfulness of his inclusion in the list in Annex II to Decision 2010/413, as amended by Decision 2010/644, the Court has no jurisdiction to rule on the present action, since the

second paragraph of Article 275 TFEU does not give the Court any jurisdiction to rule on a claim for compensation based on the unlawfulness of an act relating to the common foreign and security policy (CFSP).

41 In reply to a question put by the Court at the hearing, requesting that he submit his observations on the Council's plea of inadmissibility, the applicant stated that, by the present action, he sought to claim compensation for the damage caused only by the regulations adopted by the Council, which was noted in the minutes of the hearing. In the light of that reply, it must be considered that, in essence, the applicant has modified the second head of claim in the application and therefore, ultimately, he is requesting solely that the Court order the Council to pay him EUR 2 227 000 as compensation for the material damage he has suffered as a result of the unlawful inclusion of his name in the lists annexed to Implementing Regulation No 668/2010 and Regulation No 961/2010 ('the lists at issue') and EUR 600 000 as compensation for the non-material damage he has suffered as a result of that listing.

42 In any event, it should be borne in mind that, under Article 129 of the Rules of Procedure, the Court may at any time, of its own motion, after hearing the parties, rule on whether there exists any absolute bar to proceeding with a case, which, according to case-law, includes the jurisdiction of the Courts of the European Union to hear the action (see, to that effect, judgments of 18 March 1980, *Ferriera Valsabbia and Others* v *Commission*, 154/78, 205/78, 206/78, 226/78 to 228/78, 263/78, 264/78, 31/79, 39/79, 83/79 and 85/79, EU:C:1980:81, paragraph 7, and of 17 June 1998, *Svenska Journalistförbundet* v *Council*, T-174/95, EU:T:1998:127, paragraph 80).

43 On that basis, it follows from the case-law that, although a claim seeking compensation for the damage allegedly suffered as a result of the adoption of an act relating to the CFSP falls outside the jurisdiction of the Court (judgment of 18 February 2016, *Jannatian* v *Council*, T-328/14, not published, EU:T:2016:86, paragraphs 30 and 31), by contrast, the Court has always held that it has jurisdiction to hear a claim for damages allegedly suffered by a person or entity, as a result of restrictive measures against it, in accordance with Article 215 TFEU (see, to that effect, judgments of 11 July 2007, *Sison* v *Council*, T-47/03, not published, EU:T:2007:207, paragraphs 232 to 251, and of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraphs 45 to 149).

44 The same holds true in the case of a claim for compensation for damages allegedly suffered by a person or entity as a result of restrictive measures against it, in accordance with Article 291(2) TFEU.

45 According to the case-law, there is no provision in the FEU Treaty which provides that Part Six thereof, relating to the institutional and financial arrangements, would not be applicable to the restrictive measures. Relying on Article 291(2) TFEU, which provides that 'where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Articles 24 and 26 of the Treaty on European Union, on the Council' is thus not precluded, provided that the conditions in that provision are met (judgment of 1 March 2016, *National Iranian Oil Company* v *Council*, C-440/14 P, EU:C:2016:128, paragraph 35).

46 In the present case, the restrictive measures taken against the applicant, by Decision 2010/413, subsequently amended by Decision 2010/644, were implemented by Implementing Regulation No 668/2010, adopted in accordance with Article 291(2) TFEU, and by Regulation No 961/2010, adopted in accordance with Article 215 TFEU.

47 It follows that, even if the Court does not have jurisdiction to hear the applicant's claim for compensation, in so far as he seeks compensation for the damage that he allegedly suffered as a result of the adoption of Decision 2010/413, subsequently amended by Decision 2010/644, it does have jurisdiction to hear that claim, in so far as the applicant seeks compensation for the damage that he allegedly suffered as a result of the implementation of that decision by Implementing Regulation No 668/2010 and by Regulation No 961/2010 ('the acts at issue').

48 Consequently, it must be concluded that the Court has jurisdiction to examine the present action as modified at the hearing, thus in so far as it seeks compensation for the damage that the applicant alleges to have suffered as a result of the fact that the restrictive measures taken against him in Decision 2010/413, subsequently amended by Decision 2010/644, were implemented by the acts at issue ('the measures at issue').

B. Substance

49 Under the second paragraph of Article 340 TFEU, 'in the case of non-contractual liability, the Union shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties'. In accordance with settled case-law, in order for the European Union to incur non-contractual liability under the second paragraph of Article 340 TFEU for unlawful conduct of the institutions, a number of conditions must be satisfied: the institutions' conduct must be unlawful, actual damage must have been suffered and there must be a causal link between the conduct and the damage pleaded (see judgments of 9 September 2008, *FIAMM and Others* v *Council and Commission*, C-120/06 P and C-121/06 P, EU:C:2008:476, paragraph 106 and the case-law cited; of 11 July 2007, *Schneider Electric* v *Commission*, T-351/03, EU:T:2007:212, paragraph 113; and of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 47).

50 In support of the present action, the applicant argues that the three conditions referred to above are satisfied in the present case.

51 The Council, supported by the Commission, contends that the present action should be dismissed as unfounded on the grounds that it is for the applicant to adduce evidence that all the conditions necessary for the European Union to incur non-contractual liability are satisfied in the present case, and that he has failed to do so.

52 According to settled case-law, the conditions necessary for the European Union to incur non-contractual liability within the meaning of the second paragraph of Article 340 TFEU, as already listed in paragraph 49 above, are cumulative (judgment of 7 December 2010, *Fahas* v *Council*, T-49/07, EU:T:2010:499, paragraphs 92 and 93, and order of 17 February 2012, *Dagher* v *Council*, T-218/11, not published, EU:T:2012:82, paragraph 34). It follows that, where one of the conditions is not satisfied, the application must be dismissed in its entirety without it being necessary to examine the other preconditions (judgment of 26 October 2011, *Dufour* v *ECB*, T-436/09, EU:T:2011:634, paragraph 193).

53 It is therefore necessary to ascertain, in the present case, whether the applicant has discharged the burden of proving the unlawfulness of the conduct that he alleges against the Council, namely the adoption of the acts at issue and maintaining his name on the lists at issue, that he has actually suffered the material and non-material damage that he claims and the causal link between that adoption and the damage that he alleges.

1. The alleged unlawfulness

54 The applicant submits that the condition relating to the unlawful conduct on the part of an institution is satisfied since, in essence, the adoption of the acts at issue and maintaining his name on the lists at issue amount to a sufficiently serious breach, on the part of the Council, of rules of law intended to confer rights on individuals for the European Union to incur non-contractual liability in accordance with the case-law.

55 In that regard, first, the applicant notes that it is clear from the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), and the judgment of 28 November 2013, *Council* v *Fulmen and Mahmoudian* (C-280/12 P, EU:C:2013:775), on an appeal brought by the Council and dismissing that appeal (see paragraph 21 above), that the acts at issue are unlawful.

56 On the one hand, he recalls that, in the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), the Court held that the Council did not have the slightest evidence against him to substantiate the inclusion of his name in the lists at issue and considers that that fact constitutes a sufficiently serious breach of a rule of law that is intended to confer rights on individuals capable of giving rise to non-contractual liability on the part of the European Union. In reply to the question put to him in the context of the second measure of organisation of procedure, he states that, given that the facts giving rise to the present case and those which gave rise to the judgment of the Court of Justice of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402), are similar, all of the findings regarding the gravity of the unlawfulness of the Council's conduct in that case are transposable *mutatis mutandis* to the present case. He adds that the Court should conclude that the annulment of the acts at issue alone is not capable of constituting sufficient compensation for the non-material damage he has suffered.

57 On the other hand, the applicant considers that the Council's decision, notwithstanding the blatant nature of the unlawfulness found by the Court in the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), to bring appeal proceedings against that judgment, constitutes a misuse of powers which has resulted in the damage he has suffered being exacerbated.

58 Secondly, the applicant submits that the measures at issue resulted in his freedom to conduct a business and his right to property, which he enjoys under Articles 16 and 17 of the Charter of Fundamental Rights of the European Union ('the Charter'), being infringed. He states that that infringement of those fundamental rights makes the unlawful act committed by the Council worse, to the point of constituting a clear infringement.

59 In its reply to the question put to it in the context of the second measure of organisation of procedure, the Council, supported by the Commission, no longer disputes the unlawfulness deriving from the adoption of the measures at issue and acknowledges that the conclusions drawn by the Court of Justice in the judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402), relating to the existence of a sufficiently serious breach of a rule of law that is intended to confer rights on individuals are relevant in the present case, since the applicant was listed in circumstances similar to those in the case which gave rise to that judgment. However, it denies the applicant's allegations regarding a misuse of powers and an infringement of Articles 16 and 17 of the Charter and considers that the judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402), offers no guidance of any relevance in that regard.

60 In the present case, in the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), the General Court found that the acts at issue were unlawful.

61 Nevertheless, it should be borne in mind that, according to well-established case-law of the General Court, the finding that a legal act is unlawful is not sufficient, however regrettable that unlawfulness may be, for a finding that the condition for the non-contractual liability of the European Union relating to the unlawfulness of the conduct of the institutions complained of is satisfied (judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 50; see also, to that effect, judgments of 6 March 2003, *Dole Fresh Fruit International* v *Council and Commission*, T-56/00, EU:T:2003:58, paragraphs 71 to 75, and of 23 November 2011, *Sison* v *Council*, T-341/07, EU:T:2011:687, paragraph 31). The fact that one or more of the acts of the Council giving rise to the losses claimed by the applicant may have been annulled, even by a judgment of the General Court

delivered before the action for damages had been brought, is not, therefore, irrefutable evidence of a sufficiently serious breach on the part of that institution, giving rise *ipso jure* to non-contractual liability on the part of the European Union.

62 The condition underlying the existence of unlawful conduct by EU institutions requires a sufficiently serious breach of a rule of law that is intended to confer rights on individuals (see judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council*, C-45/15 P, EU:C:2017:402, paragraph 29 and the case-law cited).

63 The requirement of a sufficiently serious breach of a rule of law that is intended to confer rights on individuals is intended, whatever the nature of the unlawful act at issue, to avoid the risk of having to bear the losses claimed by the persons concerned obstructing the ability of the institution concerned to exercise to the full its powers in the general interest, whether that be in its legislative activity or in that involving choices of economic policy or in the sphere of its administrative competence, without however thereby leaving individuals to bear the consequences of flagrant and inexcusable misconduct (see judgments of 23 November 2011, *Sison* v *Council*, T-341/07, EU:T:2011:687, paragraph 34 and the case-law cited, and of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 51).

64 In the light of the case-law recalled in paragraphs 59 to 61 above, it is necessary to examine whether the rules of law which are alleged by the applicant, in the present case, to have been infringed are intended to confer rights on individuals and whether the Council has committed a sufficiently serious breach of those rules.

65 In support of his claim for compensation, the applicant relies, in essence, on two heads of unlawfulness, namely, first, the adoption of the acts at issue and maintaining his name on the lists at issue although the Council had no evidence to substantiate that conduct, and states that the effects of the unlawfulness were made worse by a misuse of power by the Council in so far as it brought an appeal against the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142) and, secondly, an infringement of Articles 16 and 17 of the Charter.

66 First, as regards the plea of unlawfulness resulting from the adoption of the acts at issue and the Council maintaining his name on the lists at issue although it had no evidence to substantiate that conduct, it should be recalled that, in paragraphs 68 and 69 of the judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council* (T-384/11, EU:T:2014:986), the Court held that an administrative authority, exercising ordinary care and diligence, would have realised, at the time the act at issue in that case was adopted, that the onus was upon it to gather the information or evidence substantiating the restrictive measures concerning the applicant in that case in order to be able to establish, in the event of a challenge, that those measures were well founded by producing that information or evidence before the EU judicature. It concluded that, since it did not act in that way, the Council had incurred liability for a sufficiently serious breach of a rule of law intended to confer rights on individuals within the meaning of the case-law cited in paragraphs 61 and 62 above. In paragraph 40 of the judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402), delivered in appeal proceedings against the judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council* (T-384/11, EU:T:2014:986) and dismissing those appeals, the Court of Justice held that the General Court was fully entitled to find, notably in paragraphs 68 and 69 of its judgment, that the breach, over a period of almost three years, of the obligation on the Council to provide, in the event of a challenge, information or evidence substantiating the reasons for the adoption of restrictive measures against a natural or legal person, constituted a sufficiently serious breach of a rule of law intended to confer rights on individuals.

67 In the present case, as is clear from the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), as confirmed by the Court of Justice in the judgment of 28 November 2013, *Council* v *Fulmen and Mahmoudian* (C-280/12 P, EU:C:2013:775),

the fact remains that the infringement committed by the Council is not only identical in its subject matter but also lasted for around six months longer than the infringement committed by the Council in the case giving rise to the judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council* (T-384/11, EU:T:2014:986).

68 It follows, first, that the rule of law alleged to have been infringed in the present case is a rule of law that confers rights on individuals, including the applicant, as a natural person concerned by the acts at issue. Secondly, the breach of that rule is sufficiently serious, within the meaning of the case-law recalled in paragraph 63 above.

69 Moreover, it is clear from the observations made by the parties, following the second measure of organisation of procedure, regarding the consequences that they drew from the judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402), for the present case, that they agree, currently, that the unlawfulness in this case constitutes a sufficiently serious breach of a rule of law conferring rights on individuals.

70 With regard to the allegation that, in essence, that latter infringement is even more serious since it was exacerbated by the fact that the Council misused its powers by bringing an appeal against the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), that argument cannot succeed.

71 It is settled case-law that a measure is vitiated by misuse of powers only if it appears on the basis of objective, relevant and consistent evidence to have been taken with the exclusive or main purpose of achieving an end other than that stated or of evading a procedure specifically prescribed in the Treaty for dealing with the circumstances of the case (see judgment of 29 November 2017, *Montel* v *Parliament*, T-634/16, not published, EU:T:2017:848, paragraph 161 and the case-law cited).

72 In that regard, first, it should be recalled that the right to bring an appeal against judgments of the General Court is enshrined in the second subparagraph of Article 256(1) TFEU and is an integral part of the legal remedies available in the EU judicial system. Under that same article, an appeal before the Court of Justice is limited to points of law. Moreover, under the first sentence of the second paragraph of Article 56 of the Statute of the Court of Justice of the European Union, an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. It is clear from the provisions of primary EU law that, subject to the limits laid down therein, any party is free not only to bring an appeal against a judgment of the General Court but, in addition, to raise any ground of appeal that it considers useful in order to set out its case and for it to succeed. Accordingly, to that end, contrary to the applicant's claims, the Council cannot be criticised for having brought an appeal against the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), in order to have, as it states in its defence, 'settled case-law concerning geographic restrictive measures', since that argument clearly relates to a point of law, within the meaning of the second subparagraph of Article 256(1) TFEU.

73 Secondly, the applicant's claim that the Council brought an appeal against the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142) solely in order to apply pressure on the Islamic Republic of Iran to cease its nuclear programme, thus maintaining the effects of the acts at issue against the applicant, cannot succeed. That claim is not only not substantiated by any evidence or information, in any event, the fact remains that the maintenance of those effects is an inherent part of the decision to bring appeal proceedings and to bring them under the second paragraph of Article 60 of the Statute of the Court of Justice of the European Union. Accordingly, under that article, 'by way of derogation from Article 280 [TFEU], decisions of the General Court declaring a regulation to be void shall take effect only as from the date of expiry of the period referred to in the first paragraph of Article 56 of this Statute or, if an appeal shall have been brought within that period, as from the date of dismissal of the appeal'.

74 Moreover, it should be recalled (see paragraph 18 above) that, as regards the temporal effects of the annulment of Regulation No 961/2010, in paragraph 106 of the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), the Court held that, in the present case, the risk of serious and irreparable harm to the effectiveness of the restrictive measures imposed by Regulation No 961/2010 did not appear sufficiently great to warrant the maintenance of the effects of that regulation with respect to the applicants for a period exceeding that laid down in the second paragraph of Article 60 of the Statute of the Court of Justice of the European Union. Furthermore, in paragraph 107 of that judgment (see paragraph 19 above), it decided to maintain the effects of Decision 2010/413, as amended by Decision 2010/644, until the annulment of Regulation No 961/2010 took effect.

75 It is clear from the foregoing considerations that maintaining the effects of the acts at issue against the applicant, following the annulment of those acts by the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), derives from the application of provisions of the Statute of the Court of Justice of the European Union and the General Court's assessment which is not subject to appeal, and not the Council's conduct as alleged by the applicant, in so far as it brought an appeal against that judgment.

76 Consequently, in the absence of any objective evidence, adduced by the applicant, capable of demonstrating that the Council brought the appeal against the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), with the aim of causing him injury or applying pressure on the Islamic Republic of Iran to cease its nuclear programme, the argument alleging a misuse of powers by the Council which exacerbated the breach of the rule of law at issue in the present case must be rejected as unfounded.

77 As regards the second plea of unlawfulness, alleging an infringement of Articles 16 and 17 of the Charter, it must be noted that the applicant merely recalls the requirements in order to constitute an infringement of the exercise of the rights and freedoms recognised by the Charter and submits that the measures at issue that were imposed against him had as their object and effect considerable restrictions on his right to property and his freedom to pursue an economic activity, as recognised by Articles 16 and 17 of the Charter.

78 Although, according to settled case-law, the right to property is guaranteed by Article 17 of the Charter, he does not enjoy, under EU law, absolute protection, but must be viewed in relation to his function in society. Consequently, the exercise of that right may be restricted, provided that those restrictions correspond to objectives of public interest pursued by the European Union and do not constitute, in relation to the aim pursued, a disproportionate and intolerable interference, impairing the very substance of the right thus guaranteed (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 97 and the case-law cited). That case-law may be transposed, by analogy, to the freedom to conduct a business, which is guaranteed by Article 16 of the Charter.

79 In the present case, first, it should be pointed that the adoption of the acts at issue against the applicant, in so far as they provided for the freezing of his funds, his financial assets and his other economic resources, pursued the objective of preventing nuclear proliferation and therefore putting pressure on the Islamic Republic of Iran to end the activities concerned. That objective formed part of the more general framework of the efforts relating to maintaining international peace and security and, consequently, was legitimate and appropriate (see, to that effect and by analogy, judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraphs 100 and 101 and the case-law cited).

80 Secondly, the measures at issue were also necessary since other less restrictive measures, such as a system of prior authorisation or an obligation to justify, a posteriori, how the funds transferred were used, were not as effective in achieving the goal pursued, namely preventing nuclear proliferation and

therefore putting pressure on the Islamic Republic of Iran to end the activities concerned, particularly given the possibility of circumventing the restrictions imposed (see, by analogy, judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 101 and the case-law cited).

81 Therefore, the applicant has not demonstrated that the acts at issue infringed his rights under Articles 16 and 17 of the Charter.

82 In the light of all the foregoing considerations, it must be concluded that only the first head of unlawfulness, resulting from the adoption of the acts at issue and the Council maintaining his name on the lists at issue, although it had no evidence to substantiate that conduct, constitutes unlawful conduct that may give rise to liability on the part of the European Union, in accordance with the case-law recalled in paragraph 63 above.

2. The alleged damage and the existence of a causal link between the unlawfulness of the conduct complained of and that damage

83 The applicant considers that he has proved that he suffered actual and certain material and non-material damage as a result of the acts at issue and the causal link between the unlawfulness of the conduct complained of and the alleged damage. In view of the particular circumstances of the case, he considers that the judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402) does not call into question the merits of his claim for compensation.

84 The Council, supported by the Commission, contests the arguments put forward by the applicant. It considers that the conclusions drawn by the Court of Justice in the judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402), concerning the conditions governing compensation for material and non-material damage are relevant and support its arguments in the present case.

85 It must be examined whether the applicant has adduced evidence of the alleged damage and of the causal link between the unlawfulness of the conduct complained of and that damage.

86 As regards the condition of actual damage, according to the case-law, the European Union can incur non-contractual liability only if an applicant has actually suffered real and certain damage (see to that effect, judgments of 27 January 1982, *De Franceschi* v *Council and Commission*, 51/81, EU:C:1982:20, paragraph 9, and of 16 January 1996, *Candiotte* v *Council*, T-108/94, EU:T:1996:5, paragraph 54). It is for the applicant to prove that this condition has been fulfilled (see judgment of 9 November 2006, *Agraz and Others* v *Commission*, C-243/05 P, EU:C:2006:708, paragraph 27 and the case-law cited) and, in particular, to adduce conclusive proof of both the existence and extent of the damage (see judgment of 16 September 1997, *Blackspur DIY and Others* v *Council and Commission*, C-362/95 P, EU:C:1997:401, paragraph 31 and the case-law cited).

87 More specifically, any claim for compensation for damage, whether the damage is material or non-material, and whether the indemnity is symbolic or substantial, must give particulars of the nature of the damage alleged in connection with the conduct at issue and must quantify the whole of that damage, even if approximately (see judgment of 26 February 2015, *Sabbagh* v *Council*, T-652/11, not published, EU:T:2015:112, paragraph 65 and the case-law cited).

88 As regards the condition that there be a causal link between the alleged conduct and the damage, that damage must be a sufficiently direct consequence of the alleged conduct, which must be the determining cause of the damage, although there is no obligation to make good every harmful consequence, even a remote one, of an unlawful situation (see judgment of 10 May 2006, *Galileo International Technology and Others* v *Commission*, T-279/03, EU:T:2006:121, paragraph 130 and the

case-law cited; see also, in that regard, judgment of 4 October 1979, *Dumortier and Others* v *Council*, 64/76, 113/76, 167/78, 239/78, 27/79, 28/79 and 45/79, EU:C:1979:223, paragraph 21). It is for the applicant to adduce proof of the existence of a causal link between the alleged conduct and the damage (see judgment of 30 September 1998, *Coldiretti and Others* v *Council and Commission*, T-149/96, EU:T:1998:228, paragraph 101 and the case-law cited).

89 In the light of the case-law recalled above, it is necessary to examine whether, in the present case, the applicant has proved that he suffered actual and certain material and non-material damage following the adoption of the acts at issue and his name being maintained on the lists at issue and the existence of a causal link between that adoption and that damage.

(a) The material damage alleged and the existence of a causal link

90 The applicant claims to have been particularly affected by the measures at issue that were taken against him since, at the time when the acts at issue were adopted, his interests were centred in France, within the European Union, since he had acquired French nationality and he resided in France, where he had opened bank accounts. He claims to have suffered four types of material damage, namely, first, a capital loss related to the lack of dynamic management of his financial assets, secondly, the loss of profits that he would have earned from managing his immovable property, thirdly, the losses incurred in European companies and, fourthly, the legal costs incurred in order to obtain a partial unfreezing of his funds and then to release the bank accounts that had been seized. In respect of those various instances of material damage, he requests that the Council be ordered to pay him damages totalling EUR 2 227 000.

91 The Council, supported by the Commission, contends that the claim for compensation for the material damage alleged must be rejected.

(1) The capital loss related to the lack of dynamic management of the applicant's financial assets

92 With regard to the capital loss related to the lack of dynamic management of his financial assets, in the application, the applicant claims that his portfolio of assets was worth approximately EUR 15 million, a large part of which was invested in shares in listed European companies, shares in other companies, fixed term deposits in various currencies and corporate and government bonds, including Greek State bonds. Moreover, he considers that, in so far as fund managers pay themselves on average 2% of the funds managed, the present damage, for which he is seeking compensation, amounts to 2% per year of the amount of his funds, which he estimates to be EUR 11 million, without taking into account his assets listed in bank accounts opened in Belgium, thus a total of EUR 660 000 over a three-year period.

93 In the reply, first of all, the applicant states that a 'dynamic' portfolio, which gets its name from its composition, is characterised by the holder of the portfolio taking higher risks than the holder of a 'balanced' portfolio, in return for higher performance in the long term. The very aim of Article 1 of Regulation No 423/2007 is precisely to prevent any person who is the subject of restrictive measures from adequately managing a 'dynamic' portfolio. Therefore, the application of restrictive measures is the factor giving rise to financial damage for which compensation should automatically be awarded where those measures are subsequently declared unlawful.

94 The applicant claims that his portfolio at the bank BNP Paribas required 'dynamic' management. As an example of dynamic management, he has attached as an annex to the reply a securities account statement from BNP Paribas. He adds that the exception provided for in Article 29(2) 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), does not apply to accounts of that nature, but to accounts such as the current account he held with Belfius, which did not require

dynamic management, which is why he did not include it in the portfolios for which he is seeking compensation for the damage allegedly suffered. Thus, during the period between July 2010 and the beginning of 2014, the lack of management of the applicant's accounts with BNP Paribas prevented him from selling high-risk positions, such as Greek State bonds, from taking advantage of market fluctuations, and from making the trade-offs that are necessary in dynamic management in order to adapt his investments and invest his liquid assets, generated by the reimbursement of fixed-term products, the payment of dividends and of interest.

95 The Council, supported by the Commission, contests the applicant's arguments.

96 It should be recalled that, in accordance with Article 76 of the Rules of Procedure, the application must contain, inter alia, the form of order sought by the applicant and, where appropriate, any evidence produced or offered. Article 85 of the Rules of Procedure requires such evidence to be submitted in the first exchange of pleadings. Moreover, additional evidence may be submitted at the reply stage only if the delay is justified.

97 In the present case, with regard to the damage resulting from the capital loss following the lack of dynamic management of his financial assets, the applicant's attempts to demonstrate in the application the damage he has suffered are very brief or even confused. As regards the damage allegedly suffered, in the application, the applicant merely gives a general description of the type of investments he has made and the composition of his portfolio of assets which he estimates, initially, in paragraph 66 of the application, at EUR 15 million.

98 First, at no point in the application does the applicant identify the banking institutions with which he entrusted the management of his assets, or even the amount of those assets. At most, he refers to them comprehensively, by referring, in a footnote to paragraph 66 of the application, to two annexes to the application, entitled 'Statements of accounts and correspondence from banking institutions' and 'Correspondence from banks', without indicating, specifically, to which elements and parts of those annexes he is referring.

99 It must be recalled that, according to well-established case-law, whilst the body of the application may be supported and supplemented on specific points by references to extracts from documents annexed to it, a general reference to other documents, even those annexed to the application, cannot make up for the absence of the essential submissions in law which must appear in the application. Moreover, it is not for the Court to seek and identify in the annexes the pleas and arguments on which it may consider the action to be based, since the annexes have a purely evidential and instrumental function (see, to that effect, judgment of 14 December 2005, *Honeywell* v *Commission*, T-209/01, EU:T:2005:455, paragraph 57 and the case-law cited).

100 Secondly, in paragraph 67 of the application and without providing any justification, the applicant puts a figure on his portfolio of assets of EUR 11 million and, on that basis, he applies a rate of 2% which he states, without providing any evidence, corresponds to the average remuneration of fund managers and, consecutively, he assesses the damage to be EUR 660 000 over a three-year period.

101 Such a brief and confused line of argument in the application is too imprecise to determine the extent of the present damage and, therefore, to enable the Court to understand, in the light of the provisions of the Rules of Procedure recalled above, the scope of the applicant's claims. Accordingly, those arguments must be rejected as inadmissible.

102 For the sake of completeness, even if, despite those factors, in the present case, the Court could research the evidence in the annexes to the application mentioned in paragraph 96 above, a finding should then be made that that evidence does not make it possible to determine with certainty the extent of the present damage.

103 The annex entitled 'Statements of accounts and correspondence from banking institutions' contains a number of documents that are not identified individually by the applicant. The Court notes however that the documents that can be identified seem to be as follows:

– an account statement from Dexia bank dated 30 July 2010 (pages 23 to 25 of the file of annexes to the application), which does not state the applicant's name as the relevant account holder;

– a certificate of the balance determined on 28 June 2010 of an account held by the applicant with Belfius Bank, dated 23 July 2015, accompanied by a statement for that account for the period 1 June to 9 October 2010 (pages 26 to 29 of the file of annexes to the application). The certificate and statement are, ultimately, irrelevant since, in the reply, the applicant expressly states that he does not take these into account in the present claim for compensation;

– statements for two accounts opened with Société Générale held by the applicant (pages 30 and 31 of the file of annexes to the application);

– a statement for an employee savings account held by the applicant with the institutions Amundi and Inter Expansion (pages 32 and 33 of the file of annexes to the application);

– a document entitled 'Portfolio Management Report' from BNP Paribas Wealth Management, which does not state the applicant's name as the relevant account holder (pages 34 to 38 of the file of annexes to the application);

– a table identifying accounts opened with six institutions, their value and their type, without giving details of the account holder's identity.

104 Thus, in addition to the fact that some of the abovementioned documents do not enable the name of the relevant account holder to be identified, nothing in the annex at issue enables the damage allegedly suffered by the applicant to be understood as being actual and certain.

105 The confused nature of the applicant's arguments is accentuated when reading the clarification he provides in the reply, since, according to those clarifications, only the assets entrusted to BNP Paribas should now be taken into account. Those assets, assuming they are held by the applicant, are said to amount to EUR 7 746 855, according to the document entitled 'Portfolio Management Report', reproduced on pages 34 to 38 of the file of annexes to the application, thus an amount which is well below the EUR 11 000 000 on which the applicant ultimately bases the calculation of the damage he claims to have sustained.

106 The annex entitled 'Correspondence from banks' contains three letters from three banking or asset management institutions, letters which state solely that those institutions give due effect to the acts at issue, namely the freezing of the applicant's assets and their desire to comply with the legislation in force. As regards the letter from BNP Paribas Wealth Management dated 11 February 2011, its author adds that a 'conservative', and therefore more secure, management of his assets, as the applicant had wanted, is impossible (page 157 of the file of annexes to the application). It must be held that those documents do not enable the extent of the damage alleged by the applicant to be determined. It follows from the additional considerations set out above that the applicant's claim for compensation for the damage resulting from the capital loss following the lack of dynamic management of his financial assets must, in any event, all be rejected as unfounded.

107 In the light of the conclusion drawn in paragraph 101 above and without it being necessary to examine whether the applicant has adduced evidence of a causal link, the claim for compensation for damage resulting from the capital loss following the lack of dynamic management of financial assets must be rejected as inadmissible.

(2) The loss of profits from the management of immovable property

108 As regards the loss of profits that he would have earned from managing his immovable property, the applicant states that the management of two apartments, that he owns, in France and Belgium, became impossible following the adoption of the acts at issue since he was unable to collect rent, and to pay for works and insurance policies.

109 In the reply, the applicant states that Article 29(2)(b) of Regulation No 267/2012, which allows him to continue collecting rent on existing rental agreements, did not apply to the apartment in France, which was not rented out on the date on which the applicant's name was included for the first time in the lists of persons and entities subject to restrictive measures because of minor maintenance work that had to be carried out there. Relying on an agreement signed on 18 October 2014, after the measures taken against him had been lifted, the applicant submits that the rental value of the apartment in question is EUR 2 500 per month, and therefore the loss of revenue from the failure to rent it can be estimated at EUR 102 500.

110 The Council, supported by the Commission, contests the applicant's arguments.

111 Principally, as noted in paragraph 96 above, the application must contain, inter alia, the form of order sought by the applicant and, where appropriate, any evidence produced or offered. Moreover, additional evidence may be submitted at the reply stage only if the delay is justified.

112 In the present case, the fact remains that, in paragraph 68 of the application, the only paragraph in that document that concerns the damage resulting from him being unable to manage his immovable property, the applicant merely states that that damage is the result of being 'unable to collect rent, and to pay for works and insurance policies, etc.' and submits absolutely no documents or evidence to substantiate that claim, to prove his ownership and to adduce evidence of the alleged damage and of the causal link. It is true that, with respect solely to the apartment he is said to own in France, in the reply, the applicant submitted Annex C.2 containing three documents, namely the lease agreement signed on 18 October 2014, a 2013 tax notice 'taxes on vacant dwellings' drawn up on 29 October 2013 and a letter dated 20 October 2014 to the tax office. However, even though those documents were drawn up before the present action was brought, the applicant provides no justification as to why they have been submitted late, at the reply stage. Accordingly, Annex C.2 to the reply must be rejected as inadmissible. In the light of the foregoing considerations, the claim for compensation for the abovementioned head of damage must therefore be rejected as inadmissible.

113 For the sake of completeness, even if, in the present case, that claim and Annex C.2 were declared admissible, the fact remains that the applicant has not adduced any evidence in respect of the damage concerned that the damage alleged is actual and certain. It should be noted in particular that the applicant has adduced nothing to prove his ownership of the two apartments he claims to own, or any evidence that the intention was to rent out those properties at the time when the acts at issue were adopted.

114 Moreover, contrary to what he has claimed, the acts at issue did not in any way prevent him from continuing to reside, if this had been the case before, in an apartment that he owned; particularly since, as he notes in paragraph 65 of the application, at the time when the acts at issue were adopted, he had French nationality and resided in France.

115 It follows from the additional considerations set out above that the applicant has adduced no evidence of the alleged damage in relation to the two apartments he claims to own in France and Belgium, and therefore his claim for compensation for the damage resulting from the loss of rental income should, in any event, be rejected as unfounded.

116 In the light of the conclusion drawn in paragraph 112 above and without it being necessary to examine whether the applicant has adduced evidence of a causal link, the claim for compensation for damage resulting from him being unable to manage his immovable property must be rejected as inadmissible.

(3) The losses incurred in European companies

117 As regards the losses incurred in European companies, the applicant states that, when the acts at issue were adopted, he held a 26% share in the French company Codefa Connectique S.A.S. ('Codefa') and was a shareholder in the German companies Decom Technology GmbH ('Decom') and Senteg GmbH, through the Belgian company Soreltek S.A. Those acts led to insurmountable difficulties for those companies and, therefore, a depreciation in their value. In order to demonstrate the existence of the material damage suffered within Codefa and Decom, he has submitted a report, dated 21 July 2015, prepared by an accountancy firm listed on the register of chartered accountants in the region of Paris Île-de-France (France) and attached in Annex A.14 to the application ('the accountant's report').

118 The Council, supported by the Commission, contests the applicant's arguments.

(i) The losses incurred in Senteg and Decom

119 Turning to the claim for compensation for damage resulting from losses incurred in Senteg and Decom. The Council, supported by the Commission, considers that that claim is inadmissible. They state that the applicant does not hold any shares in those companies. As regards Soreltek, which is said to hold 80% of the shares in Decom and 20% of the shares in Senteg and in respect of which the applicant claims to be the sole economic beneficiary, it is not clear from its articles of association or from other documents in the case file that it is, directly or indirectly, owned by the applicant, since 99% of it is owned by the Luxembourg company Wirkkraft S.A. and 1% by an unknown third company. Even if the applicant was the economic beneficiary of Wirkkraft, his interest in bringing proceedings would be too indirect in relation to Senteg or Decom.

120 In the reply, the applicant submits that he holds bearer shares in Wirkkraft, which he offers to produce if necessary, that he provides all of that company's funding and that he is the sole economic beneficiary of Wirkkraft and Soreltek.

121 In the first place, with regard to Soreltek, in accordance with the case-law recalled in paragraph 99 above, it is not for the Court to seek and identify in the annexes the pleas and arguments on which it may consider the action to be based. In the present case, in paragraph 76 of the application, the applicant merely claims '[to have] been identified as [the] sole economic beneficiary' of Soreltek. In support of that claim, he merely refers, without any detail, to four documents attached in Annex A.13 to the application.

122 In any event, even if, in the present case, the Court could research and identify the evidence to support that claim by the applicant, the fact remains that none of those documents attached in Annex A.13 to the application are capable of doing so.

123 First, Soreltek's articles of association, as recorded in the *Moniteur belge* (see pages 269 to 271 of the file of annexes to the application), make no reference to the applicant's self-professed status as the sole economic beneficiary of that company. At most, they indicate that 209 of the 210 shares in Soreltek, thus a little over 99% of those shares, are held by Wirkkraft and the final share by Transnational Consulting Group. Moreover, the applicant does not appear to hold the position of the Chief Executive or Managing Director of Soreltek (see page 271 of the file of annexes to the application).

124 Secondly, the purpose of two letters from Dexia bank to Soreltek, dated 11 August 2010 and 8 September 2010 (pages 272 and 273 of the file of annexes to the application), is to inform that company that, at the request of the Public Prosecutor of Brussels (Belgium), two of its accounts had been blocked and then liquidated. Nowhere is there any mention of the applicant being the sole economic beneficiary of that company.

125 Thirdly, the letter dated 11 February 2014 (reproduced on two occasions in duplicate on pages 274 and 275 of the file of annexes to the application), from the law firm at the office of the Public Prosecutor of Brussels, mentions only the roles of the signatories as 'lawyers for the applicant and for the company SA Soreltek' and the request to have their clients' bank accounts restored. Nothing in that letter is capable of corroborating the applicant's alleged status as the sole economic beneficiary of Soreltek.

126 Fourthly, the letter from the Public Prosecutor of Brussels, dated 6 December 2013 (page 276 of the file of annexes to the application), informs the applicant's lawyer that he has 'ordered today the release of the assets seized in that portfolio due to Mr Mahmoudian and SA Soreltek' and forwards a copy of a request from 'the bank ING to the COSC regarding Mr Mahmoudian's securities portfolio (Befimmo SCA SICAFI securities)'. Nowhere is there any mention of the applicant being the sole economic beneficiary of Soreltek.

127 In addition, it must be noted that, in paragraph 93 of the reply, the applicant has merely repeated that he was the economic beneficiary of Soreltek and infers from this that that company formed part of his assets.

128 In the second place, with regard to Wirkkraft, the fact remains that, in the application, the applicant did not submit any evidence to substantiate his claim, made in paragraph 92 of the reply, that he is the economic beneficiary of and holds bearer shares in that company. At most, in the reply, he states that he is 'willing' to provide the originals of those securities and, also, he asserts that 'the funding of … Wirkkraft comes entirely from the applicant who is its "economic beneficiary" as is clear from the statement submitted in Annex C.6'.

129 First, in the light of the provisions contained in Articles 76 and 85 of the Rules of Procedure, it was for the applicant to produce, at the application stage, evidence to prove that, as he claims, he held bearer shares in Wirkkraft. He does not in any way try to explain why, including at the reply stage, he has not submitted that additional evidence.

130 Secondly, with regard to the statement submitted in Annex C.6 to the reply, it must be noted that, even though it is dated 9 December 2013, thus a little under two years before the present action was brought, the applicant provides no justification as to why it was submitted at the reply stage. Therefore, Annex C.6 to the reply, which appears to contain only a declaration on honour signed by the applicant which is not substantiated in any way, must be rejected as inadmissible.

131 It follows from the foregoing considerations that the applicant has not demonstrated that, as he claims, he is the 'economic beneficiary' of and holds bearer shares in Wirkkraft.

132 In the light of all the foregoing considerations, it must be held that, in any event, as he has not adduced any evidence to substantiate his claims, to bring his claim for compensation for damage resulting from losses incurred in Senteg and Decom the applicant has relied on damage the actual occurrence of which he has not proven in accordance with the case-law recalled in paragraph 86.

133 Therefore, that claim must be rejected as inadmissible and, in any event, unfounded.

(ii) The losses relating to Codefa

134 With regard the claim for compensation for damage resulting from losses relating to Codefa, in order to demonstrate the material damage he claims to have suffered with respect to Codefa, the applicant relies, first, on the accountant's report and, secondly, on a number of copies of documents regarding Codefa, attached in Annex A.5 to the application.

135 In the first place, the probative value of the accountant's report must be assessed.

136 In that regard, given that there is no legislation at EU level governing the concept of proof, the Courts of the European Union have laid down a principle of unfettered production of evidence or freedom as to the form of evidence adduced, which is to be interpreted as the right to rely, in order to prove a particular fact, on any form of evidence, such as oral testimony, documentary evidence, confessions, and so on (see, to that effect, judgments of 23 March 2000, *Met-Trans and Sagpol*, C-310/98 and C-406/98, EU:C:2000:154, paragraph 29; of 8 July 2004, *Dalmine* v *Commission*, T-50/00, EU:T:2004:220, paragraph 72, and Opinion of Advocate General Mengozzi in *Archer Daniels Midland* v *Commission*, C-511/06 P, EU:C:2008:604, points 113 and 114). Correspondingly, the Courts of the European Union have laid down a principle of the unfettered evaluation of evidence, according to which the determination of reliability or, in other words, the probative value of an item of evidence is a matter for those Courts (judgment of 8 July 2004, *Dalmine* v *Commission*, T-50/00, EU:T:2004:220, paragraph 72, and Opinion of Advocate General Mengozzi in *Archer Daniels Midland* v *Commission*, C-511/06 P, EU:C:2008:604, points 111 and 112).

137 In order to establish the probative value of a document, it is necessary to take account of several factors, such as the origin of the document, the circumstances in which it was drawn up, the person to whom it was addressed and its content, and to consider whether, according to those aspects, the information it contains appears sound and reliable (judgments of 15 March 2000, *Cimenteries CBR and Others* v *Commission*, T-25/95, T-26/95, T-30/95 to T-32/95, T-34/95 to T-39/95, T-42/95 to T-46/95, T-48/95, T-50/95 to T-65/95, T-68/95 to T-71/95, T-87/95, T-88/95, T-103/95 and T-104/95, EU:T:2000:77, paragraph 1838, and of 7 November 2002, *Vela and Tecnagrid* v *Commission*, T-141/99, T-142/99, T-150/99 and T-151/99, EU:T:2002:270, paragraph 223).

138 In that context, the Courts of the European Union have already taken the view that an analysis, produced by an applicant, could not be regarded as a neutral and independent expert report, in so far as it was requested and paid for by the applicant and drawn up on the basis of information provided by the applicant, without the accuracy or the relevance of that information being subject to any kind of independent assessment (see, to that effect, judgment of 3 March 2011, *Siemens* v *Commission*, T-110/07, EU:T:2011:68, paragraph 137).

139 The Courts of the European Union have also already had occasion to state that an expert report could only be deemed of any evidential value as regards its objective content and that a mere unsubstantiated statement in such a document was not, in itself, conclusive (see, to that effect, judgment of 16 September 2004, *Valmont* v *Commission*, T-274/01, EU:T:2004:266, paragraph 71).

140 It is in the light of the principles referred to in paragraphs 136 to 139 above that it is appropriate to assess, in the present case, the probative value of the accountant's report.

141 It must be noted in this respect that the accountant's report was prepared by an accountancy firm listed on the register of chartered accountants in the region of Paris Île-de-France. It is clear from the letter on pages 2 and 3 of that report, sent to the applicant and dated 21 July 2015, that, in accordance with the terms established at a meeting on 18 June 2015, the objective of the assignment entrusted to that firm by the applicant was to evaluate the damage to him by the measures at issue, in respect of his shareholding in Codefa and Decom. To carry out that assignment, that letter states in particular that '[that] report has been prepared on the basis of the documents provided to us by Fereydoun

Mahmoudian'. It is clear from the wording of that letter that the accountant's report was prepared at the applicant's request for the purposes of demonstrating, in the context of the present dispute, the fact and the extent of the material damage alleged and that it relies mainly on the documents provided by the applicant. It is important to point out that those documents, to which reference is sometimes had in footnotes, are not annexed to the accountant's report.

142 On account of the context in which the accountant's report was prepared and in accordance with the principles referred to in paragraphs 136 to 139 above, the probative value of that report must be qualified. The report cannot be regarded as being sufficient to prove its contents, in particular in relation to the fact and extent of the damage alleged. At most, it may serve as prima facie evidence, provided that it is corroborated by other, conclusive evidence.

143 In the second place, with regard to the copies of documents regarding Codefa, attached in Annex A.5 to the application, but also the accountant's report to which the applicant makes a general reference in paragraph 71 of the application, it should be pointed out from the outset that, in accordance with the case-law cited in paragraph 99 above, it is not for the Court to seek and identify in the annexes the pleas and arguments on which it may consider the action to be based. This is particularly the case where an annex is similar to a file combining several documents relating to a subject or an individual, documents which are reproduced on a substantial number of pages. In such a case, in the absence of a specific reference, by the disclosing party, to the elements and parts of those annexes it wishes to highlight in order to prove the merits of its arguments, in the light of the abovementioned case-law, the evidential and instrumental value of such annexes is significantly reduced.

144 That is clearly the case, in the present proceedings, with regard to Annex A.5 to the application, which, as described by the applicant, is composed of 'copies of documents relating to Codefa', reproduced on pages 41 to 154 of the file of annexes to the application, thus a total of 114 pages. In the absence of a specific reference, in the application, to elements in those 114 pages of Annex A.5, it must be considered that the applicant has not proven that his arguments that are at issue in the present case are well founded.

145 As regards the general reference, in paragraph 71 of the application, to the accountant's report in order to demonstrate the existence of the damage sustained by the applicant, in particular in respect of his shares in Codefa, again, it must be held that, in the light of the provisions contained in Article 76 of the Rules of Procedure and the case-law recalled in paragraph 99 above, a general reference of that kind to that report, reproduced in pages 277 to 290 of the file of annexes to the application, cannot make up for the absence of the essential submissions in law which must appear in the application.

146 In the third place, with regard the claim for compensation for damage resulting from losses relating to Codefa, the applicant submits that, following the adoption of the acts at issue against the applicant and Fulmen, Codefa encountered difficulties and therefore he was unable to recover the loans he had granted, which amounted to EUR 220 000, or to recoup his investment, in the form of purchasing shares, in that company in 2009. On account of those difficulties, the applicant claims that, in October 2010, the bank Société Générale closed Codefa's account and cancelled an overdraft facility that the company had. In addition, it was unable to open an account with another bank. Finally, as a result of the sanctions imposed on the applicant and Fulmen, Codefa was not able to benefit from the French State aid granted to companies in difficulty, even though it was eligible for that aid. As a shareholder was unable to offer financial assistance, those financial difficulties led to its liquidation in 2012.

147 First, with regard to the two loans totalling EUR 220 000 that the applicant allegedly granted to Codefa, principally, it must be pointed out that, in the footnote to paragraph 72 of the application, the applicant refers solely and without giving detail to Annex A.5 to the application. Accordingly, the applicant has not adduced any evidence of the existence of those two loans and, therefore, in the light of the provisions contained in paragraph 76 of the Rules of Procedure, that argument must be rejected as inadmissible.

148 For the sake of completeness, even if that reference was considered to be sufficient in the present case, with the result that the Court is entitled to research in Annex A.5 to the application whether a document demonstrates that the loans in question exist, it would be necessary, at the very least, to acknowledge the two documents reproduced in pages 43 and 44 on the one hand, and pages 45 and 46 on the other, of the file of annexes to the application. Those documents are two loan agreements concluded between Codefa, as the borrower, and the applicant, as the lender, for EUR 70 000 and EUR 150 000 respectively, thus a total amount of EUR 220 000, which appears to correspond to the amount claimed by the applicant. However, it should be noted that, as the applicant himself acknowledged at the hearing, those two agreements, which are drafted in English, are not initialled or signed. In those circumstances, even if the arguments based on those two documents were considered admissible, the probative value of those documents is severely limited in so far as they do not make it possible to establish with certainty the existence of the debt on which the applicant bases his claim for compensation at issue. That conclusion cannot be altered in the light of the fact that, as the applicant stated at the hearing, it is clear from the details on Codefa's liabilities balance sheet (summary statements at 30 June 2011), reproduced on pages 80 and 81 of the file of annexes to the application, that under the section 'Bank loans and overdrafts', line 455002 'MAHMOUDIAN Féreidoun' reports a debt amount of EUR 220 000 net on 30 June 2011. Since Codefa was liquidated more than six months after those summary statements were drawn up, it is not possible to know for certain that the loans granted by the applicant to Codefa had not been reimbursed, in part or in full, in the meantime. Therefore, even if the Court is able to take into account that document in Annex A.5 to the application, to which the applicant did not expressly refer in the application, in any event, such a reference would not be capable of demonstrating the fact of the alleged damage.

149 Secondly, with regard to Société Générale's decision to close Codefa's accounts and to cancel an overdraft facility that it had, principally, it must be pointed out that, in the footnote to paragraph 73 of the application, the applicant refers solely and without giving detail to 'Annex A.5, see letter from Société Générale dated 2 September 2010'. As has already been considered in paragraph 144 above, a reference of that kind is insufficient with respect to an annex containing a multitude of documents reproduced over a total of 114 pages. Accordingly, the applicant has not adduced evidence of the existence of such decisions taken by Société Générale and, therefore, in the light of the provisions contained in paragraph 76 of the Rules of Procedure, that argument must be rejected as inadmissible.

150 For the sake of completeness, even if that reference was considered to be sufficient in the present case, with the result that the Court should research in Annex A.5 to the application which document is the 'letter from Société Générale dated 2 September 2010', it would then have found that that document is reproduced on the first page of Annex A.5, namely on page 41 of the file of annexes to the application. It must be noted, as the applicant himself acknowledged at the hearing, that nowhere in that letter from Société Générale does it state that the closure of Codefa's account, and the cancellation of the EUR 80 000 overdraft facility it had, result from the adoption of the acts at issue.

151 Thirdly, with regard to the alleged refusal by another banking institution to open a bank account in the name of Codefa on account of the acts at issue against the applicant, it must be stated that that allegation in the application is not substantiated by any evidence. Accordingly, in the light of the provisions contained in Article 76 of the Rules of Procedure, that argument must be rejected as inadmissible.

152 Fourthly, with regard to the allegation that Codefa was not able to benefit from the aid usually granted to companies in difficulty even though it was eligible nevertheless, it must again be stated that that allegation in the application is not substantiated by any evidence. Accordingly, in the light of the provisions contained in Article 76 of the Rules of Procedure, that argument must be rejected as inadmissible.

153 Fifthly, with regard to the allegation that, as a result of Codefa's liquidation, he was unable to 'recoup directly or indirectly his investment [in the form] of purchasing shares in 2009', it must be stated that that argument in the application is not substantiated by any evidence. In particular, the applicant does not specify the total amount he invested to buy the shares in Codefa, the number of shares or their nominal value. Accordingly, in the light of the provisions contained in Article 76 of the Rules of Procedure, that argument must be rejected as inadmissible.

154 In the light of all the foregoing considerations that, since the arguments put forward in support of the claim for compensation for damage resulting from losses relating to Codefa are partly inadmissible and partly unfounded, the applicant has not substantiated that claim. Accordingly, it must be concluded that that claim must be rejected as unfounded.

155 Therefore, in the light of the conclusions drawn in paragraphs 133 and 154 above, the claim for compensation for damage resulting from losses incurred by the applicant in European companies must be rejected as partly inadmissible and partly unfounded.

(4) The legal costs incurred in order to obtain a partial unfreezing of the applicant's funds and then to release the bank accounts that had been seized

156 With regard to the legal costs incurred in order to obtain a partial unfreezing of his funds and then to release the bank accounts that had been seized, the applicant submits that no information had been given to him with regard to the procedure to be followed in order to access the necessary funds to cover his personal expenses. Accordingly, to release EUR 1 000 per month, he used a law firm, in France, which sent him a statement for fees of EUR 8 875. Similarly, he appointed a law firm in Belgium, first to contact the Belgian authorities and then, following the judgment of 28 November 2013, *Council* v *Fulmen and Mahmoudian* (C-280/12 P, EU:C:2013:775), to take the necessary steps to release his bank accounts that had been seized, which warranted a statement for fees of EUR 8 838. In total, the legal costs at issue therefore amount to fees of EUR 17 713.

157 At the reply stage, the applicant noted that, given his age and personal circumstances, he needed specialist advice in order to assert his rights effectively before the banks and public authorities; the fact that it took a year to obtain the unfreezing of the amounts necessary to cover his essential expenses demonstrates that that battle was difficult and complicated; moreover, it is clear from the documents in the case file that the blocking of his accounts in Belgium was directly linked to the acts at issue.

158 The Council, supported by the Commission, contests the applicant's arguments.

159 In essence, in respect of the damage resulting from the legal costs he incurred in order to obtain, in France and in Belgium, a partial unfreezing of his funds, during the period at issue, and then to release his bank accounts that had been seized, the applicant requests the reimbursement of the lawyers' fees he claims to have paid for that purpose. In that regard, he has submitted, in annexes to the application, first, exchanges between the law firm established in France and the Directorate-General of the Treasury (France) and exchanges between the law firm established in Belgium and the Brussels Public Prosecutor's Office and, secondly, two fee statements prepared by the respective law firms. It must be held that, by 'period at issue', the applicant is referring to the period from the first listing of his name on 26 July 2010 (see paragraph 10 above) to his name being removed from the lists at issue on 19 December 2013 (see paragraph 22 above) ('the period at issue').

160 In that regard, as far as adducing evidence that actual damage was sustained is concerned, a task which falls to the applicant, in accordance with the case-law recalled in paragraph 86 above, without there being any need to adjudicate on the question whether, in the context of the national proceedings at issue in the present case, the applicant was obliged to appoint a lawyer, it must be noted that he has

merely submitted two fee statements, issued by his lawyers, which were addressed to him personally, for a total amount of EUR 17 713. However, he has adduced no evidence that those two fee statements have not only been paid, but above all, since he is requesting the reimbursement of those fees in respect of the present head of damage, that they were paid using his own funds.

161 In those circumstances, it must be concluded that the applicant has clearly adduced no conclusive evidence of the existence and the extent of the damage he alleges in respect of the lawyers' costs he chose to incur in the form of assistance in dealings with the French and Belgian national authorities. Thus, he has clearly failed to prove that the damage, resulting from legal costs he incurred in France and Belgium and for which he is seeking compensation, was actual and certain. Accordingly, the request for reimbursement of the lawyers' fees incurred by the applicant in France and in Belgium must be rejected (see, to that effect, order of 7 February 2018, *AEIM and Kazenas* v *Commission*, T-436/16, not published, EU:T:2018:78, paragraphs 46 and 47).

162 In the light of the conclusions drawn in paragraphs 107, 116, 155 and 161 above, the claim for compensation for the material damage allegedly sustained must be rejected as being partly inadmissible and, in any event unfounded, and partly unfounded.

(b) The non-material damage alleged and the existence of a causal link

163 The applicant submits that the adoption of the acts at issue and maintaining his name on the lists at issue caused him two types of non-material damage, namely, first, the damage caused to his repute and his reputation, in respect of which he seeks EUR 100 000 and, secondly, the suffering that ensued in terms of both the difficulties he faced in his day-to-day life and the damage to his health, in respect of which he seeks EUR 500 000.

164 In his reply to the question put to him in the context of the second measure of organisation of procedure regarding the consequences of the judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402), for the present case, he takes the view that, in view of the aggravating circumstances resulting, in particular, from the misuse of power by the Council, the full reparation for the non-material damage he has suffered must be greater than the amount agreed in the case which gave rise to the abovementioned judgment.

165 The Council, supported by the Commission, considers that the claim for compensation for the non-material damage alleged must be rejected.

(1) The damage to his repute and his reputation

166 The applicant submits that the damage caused to his repute and his reputation by the adoption and the publication of the acts at issue caused him non-material damage, distinct from any material loss, resulting from an impact on his personal relations with third parties.

167 Moreover, the subsequent annulment of the acts at issue is not able to make good in full the non-material damage he has suffered as a result of the damage they caused to his repute and his reputation, which was prolonged and exacerbated by the fact that the Council exhausted all of the legal remedies available. It is only in the appeal proceedings that the Council, for the first time, alleged the existence of confidential material justifying the adoption of the acts at issue. This has never been established. Despite his objections, which were well founded, the Council decided, without any evidence and without carrying out any checks, to maintain his name on the lists at issue for almost three and a half years, from 26 July 2010 to 19 December 2013.

168 The inclusion of his name in the lists at issue attracted some publicity, in particular as a result of the Council's use of media, in the business communities in both Iran and Europe, which tarnished his reputation further.

169 In response to the Council's arguments, the applicant submits that, in the judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council* (T-384/11, EU:T:2014:986), the Court acknowledged that, under certain conditions, non-material damage could stem from restrictive measures, without making a distinction between natural and legal persons; the BBC programmes and the report on the French television channel TF1, broadcast on 6 July 2014, to which he refers, demonstrate the scale of media coverage his case has received and give an accurate indication of the non-material damage he has suffered having been stigmatised by the Council in France in particular and in the West in general.

170 As regards the damage caused to the applicant's repute and reputation, the Council, supported by the Commission, contests the applicant's arguments.

171 First, it submits that, as far as reparation for non-material damage is concerned, the damage caused to the reputation of a natural person must be distinguished from that caused to a company engaged in a commercial activity. Thus, the present case must in particular be equated to the case giving rise to the judgment of 28 May 2013, *Abdulrahim* v *Council and Commission* (C-239/12 P, EU:C:2013:331), and not to the case giving rise to the judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council* (T-384/11, EU:T:2014:986). Therefore, according to the Council, the annulment of the acts at issue that were taken against the applicant, who is a natural person, constitute appropriate reparation for the damage caused to his reputation.

172 Secondly, the applicant has adduced no tangible evidence of damage to his personal reputation or to his repute, or, in other words, that the damage he alleges is actual and certain.

173 In the first place, it is necessary to examine at the outset the Council's argument that the damage caused to the reputation of a natural person must be distinguished, as far as reparation for non-material damage is concerned, from the damage caused to the reputation of a company engaged in a commercial activity. Thus, the present case is similar to the cases that gave rise to the judgments of 28 May 2013, *Abdulrahim* v *Council and Commission* (C-239/12 P, EU:C:2013:331), and of 18 February 2016, *Jannatian* v *Council* (T-328/14, not published, EU:T:2016:86), and not to the case giving rise to the judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council* (T-384/11, EU:T:2014:986), since the annulment of the acts at issue that were taken against the applicant, who is a natural person, constitute appropriate reparation for the damage caused to his reputation. Unlike a commercial company, in respect of which damage to reputation leads to financial repercussions and may be quantified in monetary terms, it is difficult to apply the same principle to a natural person.

174 The Council's argument, which assumes that, in respect of the non-contractual liability on the part of the European Union, the Court of Justice has established a distinction between a natural person and a legal person, cannot succeed. First, it should be noted that, in paragraph 72 of the judgment of 28 May 2013, *Abdulrahim* v *Council and Commission* (C-239/12 P, EU:C:2013:331), the Court of Justice merely held that the illegality of the act at issue in that case, the nature and subject matter of which were similar to the acts at issue, was capable of rehabilitating the applicant in that case, a natural person, or constituting a form of reparation for the non-material harm which he had suffered by reason of that illegality, and of thereby establishing that he retained his interest in bringing proceedings. It is clear from the abovementioned paragraph of that judgment that the Court of Justice merely considered, in that case, that the recognition of the illegality of the act at issue was capable of justifying that the applicant retained his interest in bringing proceedings, even though his name had been removed from the list at issue in that case.

175 Thus, contrary to what the Council essentially submits, in the judgment of 28 May 2013, *Abdulrahim* v *Council and Commission* (C-239/12 P, EU:C:2013:331), the Court of Justice did not adopt a position on whether such a finding was sufficient to fully rehabilitate the applicant in that case or to constitute a form of full reparation for the non-material damage he had suffered. Moreover, it must be noted that, in paragraph 49 of the judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council* (C-45/15 P, EU:C:2017:402), the Court of Justice ruled that, while, in the judgment of 28 May 2013, *Abdulrahim* v *Council and Commission* (C-239/12 P, EU:C:2013:331), it held that the annulment of unlawful restrictive measures was capable of constituting a form of reparation for non-material damage suffered, it did not follow from this that that form of reparation was necessarily sufficient, in every case, to ensure full reparation for such damage.

176 Furthermore, it must be stated that, again in paragraph 72 of the judgment of 28 May 2013, *Abdulrahim* v *Council and Commission* (C-239/12 P, EU:C:2013:331), the Court of Justice also did not limit the effects of the finding in that paragraph to natural persons only. In that regard, it should also be recalled that, in paragraph 70 of that judgment, the Court of Justice noted in particular that the restrictive measures concerned had substantial negative consequences and a considerable impact on the rights and freedoms of the persons covered by those measures. Those measures had been adopted under Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan (OJ 2002 L 139, p. 9). That regulation was capable of targeting both natural persons and legal entities.

177 In the light of the foregoing considerations, the Council is wrong to submit, in essence, that the damage caused to the reputation of a natural person must be distinguished, as far as reparation for damage is concerned, from the damage caused to the reputation of a company engaged in a commercial activity.

178 In the second place, turning now to the claim for compensation for the non-material damage alleged by the applicant resulting from the damage caused to his repute and his reputation, it should be recalled that the measures at issue have substantial negative consequences and a considerable impact on the rights and freedoms of the persons covered (see, to that effect, judgment of 28 May 2013, *Abdulrahim* v *Council and Commission*, C-239/12 P, EU:C:2013:331, paragraph 70). In that regard, when a person is the subject of restrictive measures because of the support he has allegedly given to nuclear proliferation, he is publicly associated with conduct which is considered a serious threat to peace and international security, as a result of which he becomes an object of opprobrium and suspicion, which thus affects his reputation, and he is therefore caused non-material damage (judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 80).

179 First, the opprobrium and suspicion provoked by restrictive measures such as the measures at issue relate to his willingness to be involved in activities regarded as reprehensible by the international community. Thus, the effect on the person concerned goes beyond the sphere of his current financial and economic interests (judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 82).

180 Secondly, the injury to the reputation of the person concerned is all the more serious since it is caused not by the expression of a personal opinion, but by an official statement of the position of an EU institution, which is published in the *Official Journal of the European Union* and entails binding legal consequences (judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 83).

181 In view of the foregoing, it must be held that, in the present case, the adoption of the acts at issue and maintaining the applicant's name on the lists at issue caused him non-material damage, distinct from any material loss resulting from an impact on his financial and economic interests. Consequently, he must be recognised as having a right to receive compensation for that damage (see, to that effect, judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 85).

182 As regards the actual non-material damage allegedly suffered, it should be recalled that, concerning such damage in particular, if adducing or offering evidence is not necessarily held to be a condition for the recognition of that damage, it is for the applicant to at least establish that the conduct alleged against the institution concerned was capable of causing damage to him (see judgment of 16 October 2014, *Evropaïki Dynamiki* v *Commission*, T-297/12, not published, EU:T:2014:888, paragraph 31 and the case-law cited; see also, to that effect, judgment of 28 January 1999, *BAI* v *Commission*, T-230/95, EU:T:1999:11, paragraph 39).

183 Moreover, while the Court of Justice held, in the judgment of 28 May 2013, *Abdulrahim* v *Council and Commission* (C-239/12 P, EU:C:2013:331), that the annulment of unlawful restrictive measures was capable of constituting a form of reparation for non-material damage suffered, it does not follow from this that that form of reparation is necessarily sufficient, in every case, to ensure full reparation for such damage, every decision in that regard being required to be taken on the basis of an assessment of the circumstances of the case (judgment of 30 May 2017, *Safa Nicu Sepahan* v *Council*, C-45/15 P, EU:C:2017:402, paragraph 49).

184 In the present case, it is true that the annulment of the acts at issue by the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), which found that the applicant's association with nuclear proliferation is unjustified and, consequently, unlawful, is capable of constituting a form of reparation for the non-material damage the applicant has suffered and for which he seeks compensation in the present case. However, in the circumstances of the present case, that annulment cannot represent full reparation for that damage.

185 It follows from the case-law recalled in paragraph 178 above that the adoption of the acts at issue and, accordingly, the allegation that the applicant was involved in nuclear proliferation, resulted in him becoming an object of opprobrium and suspicion, which thus affected his reputation and, therefore, his social and family relations (see, to that effect, judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 88).

186 Those effects, which lasted for almost three and a half years and are the cause of the non-material damage suffered by the applicant, cannot be wholly offset by a subsequent finding, in the present case, that the acts at issue are unlawful, for the following reasons.

187 First, the adoption of restrictive measures against a person tends to attract more attention and provoke a greater reaction, in particular outside the European Union, than does their subsequent annulment (see, to that effect, judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 88).

188 Secondly, the allegation levelled by the Council at the applicant is particularly serious inasmuch as it associates him with nuclear proliferation, in other words, an activity representing, in the Council's view, a threat to international peace and security (see, to that effect, judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 89).

189 Thirdly, as is clear from paragraph 21 above, that allegation has not been substantiated by any relevant information or evidence (see, to that effect, judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 90).

190 Fourthly, and in any event, although the listing of the applicant's name, which was published in the Official Journal, could have been withdrawn by the Council at any time, or at the very least amended or supplemented, in order to remedy any possible unlawfulness which could invalidate it, it was maintained for almost three and a half years despite the applicant's objections, in particular with regard to the lack of evidence regarding the allegation made against him. In that regard, the file does not contain anything which suggests that the Council, at any time or in any way, either on its own initiative or in response to the applicant's objections, checked whether that allegation was well founded in order to limit the harmful consequences which it would entail for the applicant (see, to that effect, judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 91).

191 Such checks would in any event have been particularly justified in this case, following the delivery of the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), in the light of the severity of the unlawful conduct it found, on the basis of settled case-law. Although that judgment was capable, at least in part, of constituting reparation for the non-material damage suffered by the applicant, it cannot in any event have had any effect in that respect with regard to the period after it was delivered, a period of approximately one year and nine months during which the applicant's name was maintained on the list.

192 Without in any way seeking to call into question the right of the institution concerned to bring an appeal against the General Court's final decision or the deferral of the effects of that decision, arising from the second paragraph of Article 60 of the Statute of the Court of Justice of the European Union, it must be held that, in a Union governed by the rule of law, in the light of the severity of the unlawful conduct found by the Court, the institution concerned must, even if it is alongside bringing an appeal, check the findings that were penalised by the Court. The aim of such a requirement is not to force the institution concerned to have already executed the Court's judgment but, as is clear from paragraph 91 of the judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council* (T-384/11, EU:T:2014:986), to check whether, in the light of the conclusions drawn by the Court, the contested acts may, or even must, be withdrawn, replaced or amended in order to limit their harmful consequences.

193 The non-material damage thus caused, by maintaining the applicant's name on the lists after the delivery of the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), as the applicant expressly alleges in the application, is different from the damage that occurred prior to the delivery of that judgment. Accordingly, in that judgment, the Court formally concluded, as the applicant submits, that the listing of his name was unlawful, in the light of settled case-law, as there was no evidence to support the allegation made against him.

194 In the present case, the Council was therefore able to assess whether maintaining the applicant's name on the lists as it stands, namely without any evidence to support the allegation made against him, was justified, in particular in the light of the assessments made and conclusions reached by the Court in the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), without risking causing more damage than the applicant had already suffered on the date of delivery of that judgment.

195 That conclusion cannot be altered in the light of the judgment of 28 November 2013, *Council* v *Fulmen and Mahmoudian* (C-280/12 P, EU:C:2013:775). In that judgment, the Court of Justice only examined and dismissed the appeal brought by the Council against the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), annulling the acts. It was unable to give a ruling on the compensation for the non-material damage caused by maintaining the applicant's name on the lists at issue after that latter judgment was delivered.

196 In the light of the foregoing considerations and, in any event, of the considerations in paragraphs 190 to 195 above, it must be concluded that the annulment of the listing of the applicant's name by the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), did not constitute full reparation for the non-material damage suffered by the applicant.

197 In the third place, it is necessary to examine whether, as the applicant claims, certain additional factors may have contributed to exacerbating the non-material damage he suffered and, therefore, should be taken into account when evaluating the compensation for the damage he has suffered.

198 First of all, with regard to the alleged protraction and exacerbation of the non-material damaged suffered by the applicant, on the ground that the Council, first, exhausted the remedies available to it under the FEU Treaty, in particular by bringing an appeal against the judgment of 21 March 2012, *Fulmen and Mahmoudian* v *Council* (T-439/10 and T-440/10, EU:T:2012:142), and, secondly, put forward for the first time before the Court of Justice a number of pleas or arguments in support of that appeal, including by referring, without having sent it however, to confidential material in the acts at issue, that argument cannot succeed. In the same way and for the same reasons that it was held in paragraphs 70 to 76 above that such circumstances cannot constitute a factor that makes the unlawful act committed by the Council worse, they cannot also, in principle, be the cause of any non-material damage that may give rise to non-contractual liability on the part of the European Union.

199 Secondly, as regards the broadcast of the report on the programme 'sept à huit' by the French television channel TF1, far from stating, as the applicant alleges, on account of its content, that he suffered greater non-material damage, that programme, which is available on the internet, focussed exclusively on the effects of the acts at issue on Fulmen and not on the applicant. In any event, even if it is assumed that that programme also related to the applicant's interests, it is clear that the programme was able to contribute to restoring his reputation. In particular, it publicises the annulment of the acts at issue by the EU Courts. However, with regard to the particularly serious allegation levelled by the Council at the applicant, the broadcast of that programme cannot, contrary to the Council's submissions, be regarded as capable of counteracting the negative effects of the measures at issue on the applicant's reputation.

200 Finally, with regard to the broadcast by the BBC of a photograph of the applicant and, on 24 May 2011, of a programme in which, according to the applicant, the Council's spokesperson played a part and stated, with regard to a number of individuals who were subject to the Council's sanctions, that 'finally, it has been proven that all of the decisions taken by the European Union were fair', in addition to the fact that the applicant does not provide any information in the application to enable the Court to establish the existence and content of those broadcasts, it must be considered that the broadcasts in question and the views expressed, according to the Council, by the spokesperson for the European External Action Service (EEAS) and not the Council, cannot have exacerbated the damage caused to the applicant by the acts at issue. Although those views were expressed even though the proceedings had been brought before the Court seeking the annulment of the acts at issue, those views, as reported by the applicant in the application, reflect only the views of the person involved, an agent of an EU institution, with regard to the lawfulness of decisions that that institution has adopted against a 'certain number individuals sanctioned by the Council'. Thus, in addition to the fact that all parties to a case pending before an EU court are free to express their views as to their rights, it must be stated that, in any event, the views expressed were not directed at the applicant individually.

201 In the light of all the foregoing considerations, the claim for compensation for non-material damage resulting from the damage caused to the applicant's repute and reputation must be upheld. In that regard, evaluating that damage *ex aequo et bono*, the Court considers that an award of EUR 50 000 would constitute appropriate compensation.

(2) The damage related to difficulties faced in day-to-day life and damage to health

202 The applicant assesses the damage resulting from the suffering endured on account of difficulties faced in day-to-day life and the damage to his health at EUR 500 000.

203 The Council, supported by the Commission, considers that the documents provided by the applicant are not sufficient to justify compensation for non-material damage which amounts to EUR 500 000.

(i) The damage resulting from the suffering endured on account of difficulties faced in day-to-day life

204 The applicant submits that, following the adoption of the acts at issue, since the funds he held within the European Union had been frozen, his personal and financial situation became very difficult. He was deprived of the opportunity not only to maintain his lifestyle, but also to meet his basic needs or even those of his close relatives, such as, inter alia, paying medical expenses, replacing his mobile phone and paying his home insurance. He claims that it was only from January 2012, thus 18 months after the first acts at issue were adopted, that he was given EUR 1 000 per month to meet his day-to-day needs. Thus, for over a year, he had to rely on loans from his friends and family.

205 As regards his expenses, he notes that he had to submit a reasoned request to the competent authority in order to obtain the amount required. Since the authorisation to pay his taxes, insurances and expenses was not issued until 25 March 2011, this resulted in significant delays in payments, penalties and numerous administrative issues. He adds that all payments required the submission of the invoice and special permission from the bank or competent administrative authority or the use of cash payments, which caused him huge worries and additional anxiety in his everyday life. He was prohibited from travelling in European countries other than France and from stopping over at an EU airport outside of France when travelling outside the European Union. He states that everyone in his family, social and professional circles, including the tenant living in his apartment in Belgium, have been interviewed by the security services of the Member States. His niece's application for French citizenship was refused on the grounds that she was linked to the applicant and had done a two-month internship at Fulmen, which for the applicant, had been the source of feelings of guilt. Having to borrow money from his close relatives, amounting to over EUR 20 000, in order to meet his basic needs, humiliated him and he lived in a state of anxiety about the future, in the event of his health deteriorating. He was also left with a strong sense of injustice with regard to his situation. The televised report on the programme 'sept à huit', broadcast on the French television channel TF1 on 6 July 2014, shows the extent of the impact that the restrictive measures have had on his personal situation.

206 In the reply, the applicant categorically rejects the Council's insinuation that he simply had to leave France and move to Iran.

207 In respect of the suffering endured on account of difficulties faced in day-to-day life, the Council states that it does not dispute that the measures at issue affected the applicant's day-to-day life. However, in the rejoinder, it states that it does not expressly acknowledge that the applicant has suffered non-material damage for which reparation may be granted. It submits that the expenses to which the applicant refers, namely health costs, insurance or taxes, are covered by Article 26 of Regulation No 267/2012 which provides for the release of funds that are necessary to cover the basic needs of the person subject to a fund-freezing measure. It cannot be held responsible for the slowness or poor functioning of the system implemented by the Member States under that provision. Nor can it be held responsible for the questioning of the applicant's family, social and professional circles, including his tenant, which was decided on by the security services or the police in the Member States. With regard to the refusal to grant the applicant's niece French citizenship, the EU rules on restrictive measures contain no provisions whose object or effect is to prevent the naturalisation of the family members of persons subject to those measures. In any event, first, this is not personal harm suffered by the

applicant and, secondly, the refusal to grant citizenship relied on is based on the fact that the applicant's niece had worked as an intern within Fulmen and not the family connection with the applicant.

208 With regard to the fact that the applicant was unable to maintain his lifestyle, this is a factor which is difficult to classify as actual and certain damage and the true extent of that damage is, in any case, questionable. Given the nature of the alleged damage, in the circumstances of the present case, there is no need to award compensation. The applicant's life was not disrupted to the extent he claims since he always retained his Iranian nationality and his residence and economic links in Iran, where he could have continued to enjoy the lifestyle he was accustomed to, even when that lifestyle was affected in Europe.

209 The applicant is not entitled to claim compensation for alleged damage resulting from a restriction on admission, in the present case being denied boarding in an airport outside of France, since, unlike the measures for the freezing of funds, restrictions on admission are not implemented by the adoption of a regulation on the basis of Article 215 TFEU.

210 As regards the damage resulting from the suffering endured on account of difficulties faced in day-to-day life, a distinction must be established between the three categories of damage alleged by the applicant.

211 First, in respect of the ban on travelling in European countries other than France and stopping over at an airport outside of France when travelling outside the European Union, with the result that the applicant was the subject of a decision to deny boarding on 17 July 2011, it must be recalled that, as the Council has submitted, those measures are based on Article 19 of Decision 2010/413, which replaces Article 4 of Common Position 2007/140. As held in paragraphs 47 and 48 above, the Court does not have jurisdiction to hear the applicant's claim for compensation, in so far as he seeks compensation for the damage that he allegedly suffered as a result of the adoption of Decision 2010/413. Accordingly, the applicant is not entitled to claim compensation for that damage.

212 Secondly, the applicant is wrong to direct a complaint towards the Council which alleges, in essence, sluggishness exhibited by the national authorities when dealing with the applicant's requests to receive a monthly amount in order to meet all of his basic day-to-day needs.

213 Article 19 of Regulation No 961/2010, namely one of the acts at issue, provided that, by way of derogation from Article 16 of Regulation No 961/2010, the competent authorities of the Member States, as identified on the websites listed in Annex V to that regulation, were able, in certain conditions, to authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, in particular, under Article 19(1)(a)(i) of that regulation, that are 'necessary to satisfy the basic needs of persons listed in Annex VII or VIII, and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges'.

214 The applicant is therefore wrong to hold the Council liable for damages that he may have suffered as a result of delays when dealing with his requests, to the competent authorities of the Member States, to release or make available his frozen funds or economic resources in order to meet his basic day-to-day needs, namely, therefore, in particular, paying medical expenses, including those for a member of his family, since the applicant does not specify whether it was a dependant family member, home insurance, his taxes, his expenses, a telephone line or even a new telephone. Such damages, even if established, can be attributed only to the competent authorities of the Member States, as designated by Regulation No 961/2010.

215 Thirdly, with regard to the damage resulting, in essence, from stress and feelings of anxiety, humiliation and guilt, in particular towards his close relatives, caused to the applicant by the acts at issue, depriving him of any means of maintaining his previous lifestyle, it should be noted at the outset that that damage is different from the damage resulting from the damage caused to the applicant's repute and reputation, which has been examined above and in respect of which the Court has decided, in paragraph 201 above, to award him compensation of EUR 50 000. As is clear from paragraph 82 of the judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council* (T-384/11, EU:T:2014:986), that damage is a consequence, in particular, of the opprobrium and suspicion provoked by restrictive measures such as the measures at issue, which relate to the willingness of the person concerned to be involved in activities regarded as reprehensible by the international community.

216 In the present case, with regard to the non-material damage alleged, which relates to damage caused by the measures at issue to the applicant's social and family life, it should be noted that that damage is not a consequence of the opprobrium or suspicion which calls into question the alleged willingness of the applicant 'to be involved in activities regarded as reprehensible by the international community' but, as a natural person, of the tarnishing, in essence, of his family or even social image, on account of him being suddenly unable, because his financial and economic assets had been frozen, to maintain his previous lifestyle.

217 It is apparent from all of the documents in the case file that relate specifically to the applicant's social standing and his family's living standards that he has adduced evidence that the damage alleged and examined here is actual and certain. In addition, it is clear from those documents that that damage is the direct and inevitable consequence of the acts at issue. Furthermore, although the Council does not acknowledge any non-material damage in that regard, it is clear from both its pleadings and the views it expressed at the hearing that it does not dispute that the measures at issue affected the applicant's day-to-day life.

218 In view of the foregoing, it must be held that the adoption of the acts at issue and maintaining the applicant's name on the lists at issue caused him non-material damage for which reparation may be granted, which is distinct not only from the material damage resulting from an impact on his financial and economic interests, but also from the non-material damage resulting from the damage caused to his repute and his reputation.

219 As regards the amount of the compensation to be awarded to the applicant in respect of that non-material damage, in the circumstances of the present case, although the annulment of the listing of the applicant's name should have allowed him, in principle, to restore carte blanche to use his assets and economic resources that had been frozen, by contrast, this cannot in any way have made good the damage examined here the impact of which was felt during the period at issue. As the Court of Justice has already held, the freezing of funds as such, through its broad scope, seriously disrupts both the family and working life of the persons covered (see judgment of 28 May 2013, *Abdulrahim* v *Council and Commission*, C-239/12 P, EU:C:2013:331, paragraph 70 and the case-law cited). Accordingly, it must be held that the annulment of the acts at issue is not capable, in itself, of constituting full reparation for that damage, or even of limiting the amount of compensation awarded.

220 In the light of the type and the gravity of the non-material damage thereby sustained by the applicant and as it is impossible to calculate that type of non-material damage on the basis of quantitative and measurable elements, it must be assessed *ex aequo et bono*. In that regard, by way of appropriate compensation, an award corresponding to EUR 500 for each month during which the applicant's name was included in the lists at issue must be upheld. Since the applicant appeared on those lists from July 2010 to December 2013, thus for 42 months, an award of EUR 21 000 would constitute appropriate compensation for the damage resulting from the suffering endured on account of difficulties faced in day-to-day life, namely, in essence, the damage cause to the applicant's social standing and his family's living standards.

(ii) The damage resulting from damage to health

221 Turning now to the damage resulting from the damage to his health, the applicant submits that, following the adoption of the acts at issue, he had to take antidepressant medication and, in that regard, in Annex A.11 to the application, he submits a medical certificate.

222 In Annex C.8 to the reply, the applicant attaches, 'if necessary', a new medical certificate.

223 In respect of the damage caused to the applicant's health, the Council submits that any compensation must be based on tangible evidence. It states that, in the present case, the applicant has not submitted a medical report, but has merely submitted a first medical certificate which mentions damage to his health which is neither permanent nor irreversible, as well as, in the reply, a second medical certificate which is particularly brief and does not enable an assessment to be made of the effects that the acts at issue may have had on the applicant's health.

224 With regard to the damage resulting from the damage to his health, the applicant claims to have taken antidepressant medication and, in that regard, in Annex A.11 to the application, he submits a medical certificate, dated 14 December 2010, issued by a psychiatrist at a Paris hospital. It is clear from that certificate that that doctor certifies that the applicant presented 'anxiety and major depression' which required very regular pharmacological and psychiatric treatment. According to that doctor, there was a significant deterioration in the applicant's state of health at the end of July 2010.

225 It is true that that medical certificate submitted by the applicant is, in itself, capable of corroborating his claim that he had to take antidepressant medication following the adoption of the acts at issue. However, it is implicitly clear from the final paragraph of that certificate that it was issued solely on the basis of information given by the applicant. There is nothing in the medical certificate at issue to show that the doctor's diagnosis is based on either a medical follow-up of the applicant that he had carried out in the past, or on medical reports and examinations by one or more doctors who had previously monitored the applicant. Furthermore, it should be noted that, as testified by that doctor, he did not treat the applicant until September 2010, thus two months after the acts at issue were adopted. In those circumstances, for the purposes of adducing evidence of the deterioration in his health which occurred at the time when the acts at issue were adopted, the applicant must, at the very least, have had to send to that doctor documents which would have enabled him to assess the state of his general or even psychiatric health before those acts were adopted. There is nothing in the file to support a finding that such communication had taken place. Moreover, the fact remains that the applicant has not produced any documents demonstrating that he was prescribed antidepressant medication after that medical certificate was issued.

226 In respect of the medical certificate submitted at the reply stage, in Annex C.8 to the reply, it should be noted that that certificate is dated 12 January 2016 and was issued by a psychiatrist. As far as the admissibility of that document is concerned, it is impossible not to note that the applicant provides no justification, except for the common wording 'if necessary', as to why that new certificate was submitted at the reply stage. However, with regard to the damage resulting from damage to health, it would have been entirely possible or even sufficient, in the present case, for the applicant to state that he wished to share the changes in his health since the first medical certificate was issued in 2010. In any event, even if it is assumed that that document in the case file is admissible, that certificate does not reveal a specific change in the applicant's state of health; at most it attests that the applicant presents anxiety and depression requiring continued treatment.

227 Therefore, although the medical certificates submitted by the applicant show that he suffered certain health problems in 2010 and 2016, they do not contain any evidence to suggest that those problems are related to the acts at issue. They are not capable of demonstrating the existence of a causal link

and the claim for compensation for damage resulting from the damage to the applicant's health must therefore be rejected (see, by analogy, judgment of 12 September 2007, *Combescot* v *Commission*, T-250/04, EU:T:2007:262, paragraph 100).

228 It follows from the foregoing considerations that that applicant has not adduced any evidence that the damage resulting from the damage to his health is actual and certain, or of a causal link. Therefore, the claim for compensation for that damage must be rejected as unfounded.

229 In the light of the conclusions drawn in paragraphs 201, 220 and 228 above, the claim for compensation for the non-material damage alleged by the applicant must be partially upheld. The Court considers that, in respect of the evaluation *ex aequo et bono* of the non-material damage suffered by the applicant, the award of EUR 71 000 would constitute appropriate compensation.

230 To conclude, the present action for compensation must be upheld and, accordingly, the applicant must be awarded compensation of EUR 71 000 in respect of the non-material damage he has suffered. However, his claim for compensation for material damage is rejected.

IV. Costs

231 Under Article 134(2) of its Rules of Procedure, where there is more than one unsuccessful party, the General Court must decide how the costs are to be shared.

232 In the present case, the Council was unsuccessful in part in respect of the claim for compensation for the non-material damage suffered by the applicant, whereas the applicant was unsuccessful in his claim for compensation for material damage. In those circumstances, each party should bear its own costs.

233 In accordance with Article 138(1) of the Rules of Procedure, institutions which have intervened in the proceedings are to bear their own costs. Consequently, the Commission must bear its own costs.

On those grounds,

THE GENERAL COURT (First Chamber)

hereby:

1. **Orders the Council of the European Union to pay Fereydoun Mahmoudian compensation of EUR 71 000 in respect of the non-material damage suffered;**

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

3. **Orders Fereydoun Mahmoudian, the Council and the Commission to bear their own respective costs.**

Delivered in open court in Luxembourg on 2 July 2019.

[Signatures]

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