

Pleas in law and main arguments

The Appellant requests the Court of Justice to set aside the judgment of the General Court, to annul the acts at issue (the Annexes to Council Decision 2014/776/CFSP⁽¹⁾ and to Council Implementing Regulation (EU) No 1202/2014⁽²⁾, and of Annex II to Council Decision 2010/413/CFSP⁽³⁾ and Annex IX to Council Regulation (EU) No 267/2012⁽⁴⁾ (as amended, respectively, by Article 1 of Decision 2014/776/CFSP and Article 1 of Implementing regulation (EU) No 1202/2014)) insofar as they designate the Appellant as an entity subject to restrictive measures under Article 23(2) of Council Regulation (EU) No 267/2012, to award it compensation for the damage sustained to its reputation by virtue of the Council's acts, and to order the Council to pay the costs incurred by it at first instance and on appeal.

The Appellant puts forward the following two pleas in law in support of its claim that the judgment of the General Court was vitiated by legal error, and that the Court of Justice should set it aside and decide the case for itself:

First, that the General Court wrongly failed to rule that the Council failed to comply with an essential procedural requirement and/or made a manifest error of assessment when adopting the decision to list SUT because it failed to undertake the decision-making exercise it was obliged to undertake.

Secondly, that the General Court wrongly interpreted the legal criterion of 'support' to the Government of Iran in Article 20 (1)(c) of Council Decision 2010/413/CFSP (as amended) and Article 23(2)(d) of Regulation (EU) No 267/2012 of 23 March 2012 (as amended) relied upon by the Council as justifying the Appellant's designation as subject to restrictive measures with the result that it wrongly concluded that the evidence presented by the Council supported the Appellant's listing.

- ⁽¹⁾ Council Decision 2014/776/CFSP of 7 November 2014 amending Decision 2010/413/CFSP concerning restrictive measures against Iran
OJ L 325, p. 19
- ⁽²⁾ Council Implementing Regulation (EU) No 1202/2014 of 7 November 2014 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran
OJ L 325, p. 3
- ⁽³⁾ Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP
OJ L 195, p. 39
- ⁽⁴⁾ Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010
OJ L 88, p. 1

Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on 15 July 2016 — T — 2, družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme, d.o.o. (currently in a state of insolvency) v Republika Slovenija

(Case C-396/16)

(2016/C 335/57)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Appellant: T — 2, družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme, d.o.o. (currently in a state of insolvency)

Respondent: Republika Slovenija

Questions referred

1. Should the reduction of the obligations on the basis of an arrangement with creditors, as in the main proceedings, which has been approved by judicial decree and has acquired the force of *res judicata* be treated as a change in the factors used to determine the amount of input VAT to be deducted, within the meaning of Article 185(1) of the VAT Directive,⁽¹⁾ or should it be treated as a different situation, in which the deduction is higher or lower than that to which the taxable person was entitled, within the meaning of Article 184 of the VAT Directive?
2. Should the reduction of the obligations on the basis of an arrangement with creditors, as in the main proceedings, which has been approved by judicial decree and has acquired the force of *res judicata* be regarded as a (partial) non-payment of a transaction, within the meaning of the first subparagraph of Article 185(2) of the VAT Directive?
3. Must a Member State, taking into account the requirements of clarity and certainty in legal situations imposed by the EU legislature and having regard for Article 186 of the VAT Directive, lay down, for the purpose of requiring adjustment of the deduction in the event of failure to make complete or partial payment, as permitted by the second subparagraph of Article 185(2) of that directive, detailed rules, in national law, to cover cases of non-payment, or may it include, in those rules, an arrangement with creditors approved by judicial decree which has acquired the force of *res judicata* (should this come within the concept of non-payment)?

⁽¹⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).