



## Reports of Cases

### Judgment of the General Court (Fourth Chamber) of 20 March 2013 — *Bank Saderat v Council*

(Case T-495/10)

(Common foreign and security policy — Restrictive measures against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Entity wholly owned by an entity identified as being involved in nuclear proliferation — Plea of illegality — Obligation to state reasons — Rights of the defence — Right to effective judicial protection)

1. *Judicial proceedings — Decision or regulation replacing the contested measure in the course of proceedings — New factor — Extension of the initial pleadings (see paras 36, 37)*
2. *European Union — Common foreign and security policy — Restrictive measures against Iran — Freezing of funds of persons, entities or bodies identified by the Council as being engaged in nuclear proliferation — Obligation to extend that measure to entities owned or controlled by such an entity — Whether an entity is owned or controlled — Implementation of relevant provisions of EU law — Council's lack of discretion — Action seeking the annulment of fund-freezing measures — Need to invoke inapplicability of the relevant provisions of EU law by means of a plea of illegality (Art. 277 TFEU; Council Regulations No 423/2007, Art. 7(2)(d), No 961/2010, Art. 16(2), and No 267/2012, Art. 23(2); Council Decision 2010/413, Art. 20(1)(b)) (see paras 50-54)*
3. *Acts of the institutions — Statement of reasons — Obligation — Scope — Restrictive measures against Iran — Freezing of funds of persons, entities or bodies engaged in or supporting nuclear proliferation — Minimum requirements — Infringement — Partial annulment of the contested measures (Art. 296, second para., TFEU; Council Regulations No 961/2010, Art. 36(3), and No 267/2012, Art. 46(3); Council Decision 2010/413, Art. 24(3)) (see paras 62-64, 89)*
4. *EU law — Principles — Rights of defence — Right to effective judicial protection — Restrictive measures against Iran — Freezing of funds of persons, entities or bodies engaged in or supporting nuclear proliferation — Obligation to disclose incriminating evidence — Scope — Infringement — Partial annulment of the contested measures (Charter of Fundamental Rights of the European Union, Art. 47; Council Regulations No 423/2007, No 961/2010 and No 267/2012; Council Decision 2010/413) (see paras 65-67, 69, 97, 107-110)*
5. *EU law — Principles — Rights of defence — Restrictive measures against Iran — Freezing of funds of persons, entities or bodies engaged in or supporting nuclear proliferation — Right of access to documents — Right subject to request for access being made to the Council (Council Regulations No 423/2007, No 961/2010 and No 267/2012; Council Decision 2010/413) (see para. 68)*

**Re:**

APPLICATION for annulment 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), 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), Council Decision 2011/783/CFSP of 1 December 2011 amending Decision 2010/413 (OJ 2011 L 319, p. 71), Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation No 961/2010 (OJ 2011 L 319, p. 11) and Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation No 961/2010 (OJ 2012 L 88, p. 1) in so far as those measures concern the applicant and, further, an application for a declaration of the inapplicability to the applicant of Article 7(2)(d) of Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1), Article 16(2)(a) of Regulation No 961/2010 and Article 23(2) of Regulation No 267/2012.

**Operative part**

The Court:

1. Annuls the following measures in so far as they concern Bank Saderat plc:
  - point 7 of Table B of Annex II to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP;
  - point 5 of Table B of the Annex to 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;
  - point 7 of Table I.B of the Annex to Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413;
  - point 7 of Table B of Annex VIII to Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation No 423/2007.
2. Orders the effects of annulment of Decision 2010/413 and Decision 2010/644 to be limited to the period preceding the entry into force of Council Decision 2011/783/CFSP of 1 December 2011 amending Decision 2010/413.

3. Declares that there is no need to adjudicate on the claim by Bank Saderat that Regulation No 961/2010 and Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011, implementing Regulation No 961/2010, should be annulled with immediate effect.
4. Dismisses the action as to the remainder.
5. Orders each party to bear its own costs.