



Reports of Cases

Case T-15/11

Sina Bank
v
Council of the European Union

(Common foreign and security policy — Restrictive measures taken against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Actions for annulment — Duty to state reasons)

Summary — Judgment of the General Court (Fourth Chamber), 11 December 2012

1. *Actions for annulment — Actionable measures — Concept — Measures producing binding legal effects — Purely informative measure — Not included*

(Art. 263 TFEU)

2. *Judicial proceedings — Absolute bar to proceeding — To be considered of the Court's own motion — Discretion — Limits*

(Rules of Procedure of the General Court, Art. 113)

3. *Plea of illegality — Incidental nature — Applicant having the right to bring an annulment action against the measure forming the subject-matter of the plea but not having used it — Not possible to plead illegality as an interlocutory issue*

(Art. 277 TFEU)

4. *Judicial proceedings — Application initiating proceedings — Formal requirements — Brief summary of the pleas in law on which the application is based — Pleas in support of the objection of illegality not set out in the application — Inadmissibility of the plea*

(Arts 263 TFEU and 277 TFEU; Rules of Procedure of the General Court, Art. 44(1)(c))

5. *Acts of the institutions — Statement of reasons — Obligation — Scope — Correction of an error of reasoning during the proceedings before the Court — Not permissible*

(Art. 296 TFEU)

6. *European Union — Common foreign and security policy — Restrictive measures against Iran — Freezing of funds of persons, entities or bodies engaged in or supporting nuclear proliferation — Decision to freeze funds — Obligation to state reasons — Scope*

(Art. 215(2) TFEU; Council Decision 2010/413/CFSP, as amended by Council Decision 2010/644/CFSP, Arts 20(1)(b), and 24(3); Council Regulation No 961/2010, Arts 16(2)(a) and 36(3))

7. *Actions for annulment — Judgment annulling a measure — Effects — Partial annulment of a regulation and a decision on the adoption of restrictive measures against Iran — Annulment of regulation to take effect only as from the date of expiry of the period for bringing an appeal or from the date of dismissal of the appeal — Application of that period to when the annulment of the decision is to take effect*

(Arts 264, second para., TFEU and 280 TFEU; Statute of the Court of Justice, Arts 20, second para., and 53; Statute of the Court of Justice, Arts 56, first para., and 60, second para.; Council Decision 2010/413/CFSP, as amended by Council Decision 2010/644/CFSP; Council Regulation No 961/2010)

1. See the text of the decision.

(see para. 30)

2. See the text of the decision.

(see para. 41)

3. See the text of the decision.

(see para. 43)

4. See the text of the decision.

(see para. 46)

5. See the text of the decision.

(see paras 56, 62, 74)

6. In order correctly to perform its obligation to give reasons for a measure imposing restrictive measures against persons, entities or organisations, the Council must mention the elements of fact and law on which the legal justification of those measures depends and the considerations which led it to take them. It follows that, in principle, the statement of reasons for such a measure must concern not only the legal conditions for applying restrictive measures, but also the specific and concrete reasons why the Council considers, in the exercise of its broad discretion, that the person concerned should be subject to such measures.

In particular, for measures adopted on the basis of Article 20(1)(b) of Decision 2010/413 concerning restrictive measures against Iran and Article 16(2)(a) of Regulation No 961/2010 concerning the adoption of restrictive measures against Iran, the individual and specific reasons which the Council is required to give, pursuant to Article 24(3) of Decision 2010/413 and Article 36(3) of Regulation No 961/2010, are those relating to the inclusion of the persons, entities and organisations concerned on the lists at issue, that is to say to engagement in, direct association with or support for nuclear proliferation or, concerning entities owned or controlled by, or acting on behalf of or under instructions from others, those reasons which caused it to consider that the condition of ownership, control or acting on behalf of or under instructions from others was met.

Thus, a measure freezing funds and economic resources adopted by the Council cannot be regarded as being sufficiently reasoned unless the Council mentions the elements of fact and law which have led it to consider, as the case may be, that the person, entity or organisation concerned has participated in,

been directly associated with, or supported nuclear proliferation, or that that person, entity or organisation was owned or controlled by, or acted on behalf of or under the instructions of, a person, entity or organisation engaged in, being directly associated with, or supporting, nuclear proliferation.

(see paras 66-69)

7. See the text of the decision.

(see paras 84-89)