

### Form of order sought

- Annul paragraph 21, section B of the Annex to Council Decision 2010/644/CFSP <sup>(1)</sup> of 25 October 2010 and paragraph 21 of section B to the Annex VIII of Council Regulation (EU) No 961/2010 <sup>(2)</sup> of 25 October 2010 concerning restrictive measures against Iran and annul the decision contained in the letter of the Council received on 23 November 2010;
- Declare article 20(1)(b) of Council Decision 2010/413/CFSP <sup>(3)</sup> of 26 July 2010 and Articles 16(2) and 26 of Council Regulation No 961/2010 inapplicable to the applicant; and
- Order the Council to pay the applicant's costs for these proceedings.

### Pleas in law and main arguments

By means of its application, the applicant seeks, pursuant to Article 263 TFEU, annulment of paragraph 21 of section B, of the Annex to Council Decision 2010/644/CFSP of 25 October and of paragraph 21 of section B to Annex VIII of Council Regulation (EU) No 961/2010 of 25 October 2010 concerning restrictive measures against Iran and for annulment of Articles 16(2) and 26 of Council Regulation No 961/2010 of 25 October 2010 insofar as they relate to the applicant and for annulment of the decision contained in the letter of the Council to the applicant of 28 October 2010.

In support of its submissions, the applicant puts forward the following pleas in law:

Firstly, the applicant claims that the court has jurisdiction to review paragraph 21, section B of the Annex to Council Decision 2010/644/CFSP and paragraph 21, section B of Annex VIII to Council Regulation No 961/2010, as well as the decision of 28 October 2010 and their conformity with the general principles of European law.

In addition, the specific reasons for the listing of the applicant are wrong and the requirements of Article 20(1)(b) of Council Decision 2010/413/CFSP and of Article 16(2)(a)(b) of Council Regulation No 961/2010 are not met. Those provisions should be held inapplicable to the applicant. The Council made a manifest error in fact and erred in law. Therefore paragraph 21, section B, of the Annex to Council Decision 2010/644/CFSP of 25 October 2010 as well as paragraph 21, section B, of the Annex VIII to Council Regulation No 961/2010 of 25 October 2010 should be annulled.

In support of this application, it is also argued that the 2010 Regulation and the 2010 Decision violate the applicant's rights of defence and, in particular, its right to have a fair hearing since it did not receive any evidence or documents to support the allegations of the Council, and since the allegations made in 2010 Decision and Regulation are very vague, unclear and arguably impossible for the Iran Insurance Company to respond to. Moreover, the applicant was refused an access to the documentation and the right to be heard. This also constitutes a lack of motivation.

Furthermore, Article 24(3) of Council Decision 2010/413/CFSP requires the Council to communicate and notify its decision including the grounds for listing, and article 24(4) of Council Decision 2010/413/CFSP provides for the review of the decision when observations are submitted. The Council violated both provisions. Since Article 24(3) and 24(4) of Council Decision 2010/413/CFSP are also repeated in Article 36(3) and 36(4) of Council Regulation No 961/2010, a violation of the latter is also taking place.

It is also claimed that the Council, in its assessment of the applicant's situation, violated the principle of sound administration.

In addition, the Council, in its assessment of the applicant's situation, violated the principle of legitimate expectations.

The applicant also claims that the Council has violated the applicant's right of property and the principle of proportionality. Article 20(1)(b) of Council Decision 2010/413/CFSP and Article 16(2) of Council Regulation No 961/2010 should be declared inapplicable to the applicant. Furthermore, by indiscriminately prohibiting insurance or reinsurance contracts to all Iranian entities, Article 12 of Council Decision 2010/423/CFSP and Article 26 of Council Regulation No 961/2010 also violate the principle of proportionality. Therefore, these provisions should also be declared inapplicable to the applicant.

Moreover, the applicant claims that Council Regulation No 961/2010 violates Article 215(2) and (3) TFEU, as its legal basis, as well as Article 40 TEU.

Finally, the applicant contends that the 2010 Regulation and the 2010 Decision were adopted in violation of the principle of equality and non-discrimination.

<sup>(1)</sup> Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413/CFSP concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 281, p. 81).

<sup>(2)</sup> 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).

<sup>(3)</sup> Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39).

### Action brought on 7 January 2011 — Post Bank v Council

(Case T-13/11)

(2011/C 63/60)

*Language of the case: English*

### Parties

*Applicant:* Post Bank (Tehran, Iran), (represented by: D. Luff, lawyer)

*Defendant:* Council of the European Union

### Form of order sought

- Annul paragraph 34, section B of the Annex to Council Decision 2010/644/CFSP <sup>(1)</sup> of 25 October 2010 and paragraph 40 of section B to the Annex VIII of Council Regulation (EU) No 961/2010 <sup>(2)</sup> of 25 October 2010 concerning restrictive measures against Iran;
- Declare article 20(1)(b) of Council Decision 2010/413/CFSP <sup>(3)</sup> of 26 July 2010 and Article 16(2) of Council Regulation No 961/2010 inapplicable to the applicant; and
- Order the Council to pay the applicant's costs for these proceedings.

### Pleas in law and main arguments

By means of its application, the applicant seeks, pursuant to Article 263 TFEU, annulment of paragraph 34 of section B, of the Annex to Council Decision 2010/644/CFSP of 25 October and of paragraph 40 of section B to Annex VIII of Council Regulation (EU) No 961/2010 of 25 October 2010 concerning restrictive measures against Iran and for annulment of Article 16(2) of Council Regulation No 961/2010 of 25 October 2010 insofar as they relate to the applicant.

In support of its submissions, the applicant puts forward the following pleas in law:

Firstly, the applicant claims that the court has jurisdiction to review paragraph 34, section B of the Annex to Council Decision 2010/644/CFSP and paragraph 40, section B of Annex VIII to Council Regulation No 961/2010, as well as the decision of 28 October 2010 and their conformity with the general principles of European law.

In addition, the specific reasons for the listing of the applicant are wrong and the requirements of Article 20(1)(b) of Council Decision 2010/413/CFSP and of Articles 16(2)(a)(b) and 16(4) of Council Regulation No 961/2010 are not met. Those provisions should be held inapplicable to the applicant. The Council made a manifest error in fact and erred in law. Therefore paragraph 34, section B, of the Annex to Council Decision 2010/644/CFSP of 25 October 2010 as well as paragraph 40, section B, of the Annex VIII to Council Regulation No 961/2010 of 25 October 2010 should be annulled.

In support of this application, it is also argued that the 2010 Regulation and the 2010 Decision violate the applicant's rights of defence and, in particular, its right to have a fair hearing since it did not receive any evidence or documents to support the allegations of the Council, and since the allegations made in 2010 Decision and Regulation are very vague, unclear and arguably impossible for Post Bank to respond to.

Furthermore, Article 24(3) of Council Decision 2010/413/CFSP requires the Council to communicate and notify its decision including the grounds for listing, and article 24(4) of Council Decision 2010/413/CFSP provides for the review of the decision when observations are submitted. The Council violated both provisions. Since Article 24(3) and 24(4) of Council Decision 2010/413/CFSP are also repeated in Article 36(3) and 36(4) of Council Regulation No 961/2010, a violation of the latter is also taking place.

It is also claimed that the Council, in its assessment of the applicant's situation, violated the principle of sound administration.

In addition, the Council, in its assessment of the applicant's situation, violated the principle of legitimate expectations.

The applicant also claims that the Council has violated the applicant's right of property and the principle of proportionality. Article 20(1)(b) of Council Decision 2010/413/CFSP and Article 16(2) of Council Regulation No 961/2010 should be declared inapplicable to the applicant.

Moreover, the applicant claims that Council Regulation No 961/2010 violates Article 215(2) and (3) TFEU, as its legal basis, as well as Article 40 TEU.

Finally, the applicant contends that the 2010 Regulation and the 2010 Decision were adopted in violation of the principle of equality and non-discrimination.

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<sup>(1)</sup> Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413/CFSP concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 281, p. 81).

<sup>(2)</sup> 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).

<sup>(3)</sup> Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39).