Reports of Cases

JUDGMENT OF THE GENERAL COURT (First Chamber)

17 February 2017 [1]

(Common foreign and security policy — Restrictive measures taken against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Plea of illegality — Legal basis — Misuse of powers — Rights of the defence — Legitimate expectations — Legal certainty — Ne bis in idem — Res judicata — Proportionality — Manifest error of assessment — Fundamental rights)

In Joined Cases T-14/14 and T-87/14,

Islamic Republic of Iran Shipping Lines, established in Tehran (Iran), and the other applicants whose names are listed in the Annex, represented by F. Randolph QC, P. Pantelis, Solicitor, M. Lester, Barrister, and M. Taher, Solicitor,

applicants,

v

Council of the European Union, represented by M. Bishop and V. Piessevaux, acting as Agents,

defendant,

supported by

European Commission, represented by D. Gauci and T. Scharf, acting as Agents,

intervener in Case T-87/14

APPLICATION, in Case T-14/14, pursuant to Article 263 TFEU, for annulment of Council Decision 2013/497/CFSP of 10 October 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013 L 272, p. 46), and of Council Regulation (EU) No 971/2013 of 10 October 2013 amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013 L 272, p. 1), in so far as those acts concern the applicants; and, in Case T-87/14, (i) pursuant to Article 277 TFEU, for a declaration that Decision 2013/497 and Regulation No 971/2013 are inapplicable, and (ii) pursuant to Article 263 TFEU, for annulment of Council Decision 2013/685/CFSP of 26 November 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013 L 316, p. 46), and of Council Implementing Regulation (EU) No 1203/2013 of 26 November 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013 L 316, p. 1), in so far as those acts concern the applicants,

THE GENERAL COURT (First Chamber),

composed of H. Kanninen, President, I. Pelikánová (Rapporteur) and E. Buttigieg, Judges,

1 — Language of the case: English.

Registrar: L. Grzegorczyk, Administrator,

having regard to the written part of the procedure and further to the hearing on 12 July 2016,

gives the following

Judgment

Background to the dispute

1 The applicants, Islamic Republic of Iran Shipping Lines ('IRISL'), which is the Islamic Republic of Iran's shipping company, and 10 other entities whose names are listed in the Annex, are Iranian companies, except for IRISL Europe GmbH, which is a German company. They all operate in the shipping sector.

2 The present cases have 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').

3 On 26 July 2010, the applicants' names were entered on the list in Annex II to 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).

4 Consequently, the applicants' names were entered on the list in Annex V to Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1), 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).

5 IRISL's listing in Annex II to Decision 2010/413 was based on the following grounds, which are essentially the same as those stated in Annex V to Regulation No 423/2007:

'IRISL has been involved in the shipment of military-related cargo, including proscribed cargo from Iran. Three such incidents involved clear violations that were reported to the [United Nations] Security Council Iran Sanctions Committee. IRISL's connection to proliferation was such that the [United Nations Security Council] called on states to conduct inspections of IRISL vessels, provided there are reasonable grounds to believe that the vessel is transporting proscribed goods, in [United Nations Security Council Resolutions] 1803 and 1929.'

6 The other applicants were listed because they were companies that were owned or controlled by IRISL or acting on its behalf.

7 Regulation No 423/2007 was repealed by Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran (OJ 2010 L 281, p. 1), and Regulation No 961/2010 was subsequently repealed by Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran (OJ 2012 L 88, p. 1). The applicants' names were included on the list in Annex IX to Regulation No 267/2012 and the grounds for their listing were not amended.

8 By application lodged at the General Court Registry on 8 October 2010, the applicants brought an action for annulment of the listing of their names in Annex II to Decision 2010/413 and in Annex V to Regulation No 423/2007. During the proceedings, they modified their claims to request, in particular, annulment of the listing of their names in Annex IX to Regulation No 267/2012.

9 By judgment of 16 September 2013, *Islamic Republic of Iran Shipping Lines and Others* v *Council* (T-489/10, '*IRISL*', EU:T:2013:453), the General Court upheld the action brought by the applicants.

10 First, the General Court held that the Council of the European Union had not stated to the requisite legal standard the reasons for its assertion that IRISL had, by the actions of which it was accused, assisted a listed person, entity or body in infringing the provisions of the relevant EU legislation and the United Nations Security Council ('Security Council') resolutions applicable, as referred to in Article 20(1)(b) of Decision 2010/413, Article 16(2)(b) of Regulation No 961/2010 and Article 23(2)(b) of Regulation No 267/2012. Secondly, according to the General Court, the Council had not established that, by having transported — on three occasions — military material in breach of the prohibition laid down in paragraph 5 of Security Council Resolution 1747 (2007), IRISL had provided support for nuclear proliferation within the meaning of Article 20(1)(b) of Decision 2010/413, Article 7(2) of Regulation No 423/2007, Article 16(2)(a) of Regulation No 961/2010 and Article 23(2)(a) of Regulation No 267/2012. Thirdly, the General Court held that, even if the applicants other than IRISL were in fact owned or controlled by IRISL or acted on its behalf, that did not justify the adoption and maintenance of the restrictive measures to which they were subject, since IRISL had not been properly identified as providing support for nuclear proliferation.

11 By Council Decision 2013/497/CFSP of 10 October 2013 amending Decision 2010/413 (OJ 2013 L 272, p. 46), the Council replaced Article 20(1)(b) of Decision 2010/413 with the following text, which provides for the funds of the following persons and entities to be frozen:

'persons and entities not covered by Annex I that are engaged in, directly associated with, or providing support for, Iran's proliferation-sensitive nuclear activities or for the development of nuclear weapon delivery systems, including through the involvement in procurement of the prohibited items, goods, equipment, materials and technology, or persons or entities acting on their behalf or at their direction, or entities owned or controlled by them, including through illicit means, or persons and entities that have evaded or violated, or assisted designated persons or entities in evading or violating, the provisions of [Security Council Resolutions] 1737 (2006), ... 1747 (2007), ... 1803 (2008) and ... 1929 (2010) or of this Decision, as well as other members and entities of [the Islamic Revolutionary Guards Corps (IRGC)] and IRISL and entities owned or controlled by them or persons and entities acting on their behalf or persons and entities providing insurance or other essential services to IRGC and IRISL, or to entities owned or controlled by them or acting on their behalf, as listed in Annex II'.

12 Consequently, by Council Regulation (EU) No 971/2013 of 10 October 2013 amending Regulation No 267/2012 (OJ 2013 L 272, p. 1), the Council replaced Article 23(2)(b) and (e) of Regulation No 267/2012 with the following text, which provides for the freezing of funds of the persons, entities and bodies who have been identified as:

'(b) being a natural or legal person, entity or body that has evaded or violated, or assisted a listed person, entity or body to evade or violate, the provisions of this Regulation, Council Decision [2010/413] or [Security Council Resolutions] 1737 (2006), ... 1747 (2007), ... 1803 (2008) and ... 1929 (2010);

…

(e) being a legal person, entity or body owned or controlled by [IRISL], or a natural or legal person, entity or body acting on its behalf, or a natural or legal person, entity or body providing insurance or other essential services to IRISL, or to entities owned or controlled by it or acting on its behalf.'

13 By letter of 22 October 2013, the Council informed IRISL that it considered that IRISL had been involved in the shipment of arms-related materiel from Iran, in violation of paragraph 5 of Security Council Resolution 1747 (2007), and that it therefore met the criterion laid down in Article 20(1)(b)

of Decision 2010/413 and Article 23(2)(b) of Regulation No 267/2012 relating to persons and entities that have evaded or violated certain Security Council resolutions. It therefore informed IRISL of its intention to include its name again on 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 ('the lists at issue').

14 By letters dated either 22 or 30 October 2013, the Council informed each of the other applicants that, for different reasons, it considered that they met the criteria laid down in Article 20(1)(b) of Decision 2010/413 and Article 23(2)(e) of Regulation No 267/2012 relating to entities owned or controlled by IRISL or acting on its behalf or providing essential services to it ('the criteria relating to entities linked to IRISL'). It thus informed them of its intention to include their names again on the lists at issue.

15 By letter of 15 November 2013, IRISL replied to the Council that, following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), its re-listing on the basis of the same factual allegations was unlawful. It emphasised that it had produced evidence that it had never been involved in nuclear proliferation and that it was not a shipper but a carrier, and that, as such, it had no knowledge of, and could not be held liable for, what was transported on board its vessels. It asked the Council to send it the information and documents on which it was basing its re-listing decision.

16 By letters dated either 15 or 19 November 2013, the other applicants each replied to the Council stating the reasons why they considered that, following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), their re-listing was unlawful. They asked the Council to send them the information and evidence on which it was basing its re-listing decision.

17 By Council Decision 2013/685/CFSP of 26 November 2013 amending Decision 2010/413 (OJ 2013 L 316, p. 46), the applicants' names were again included on the list in Annex II to Decision 2010/413.

18 In consequence thereof, by Council Implementing Regulation (EU) No 1203/2013 of 26 November 2013 implementing Regulation No 267/2012 (OJ 2013 L 316, p. 1), the applicants' names were again included on the list in Annex IX to Regulation No 267/2012.

19 The re-listing of IRISL was based on the following grounds:

'IRISL has been involved in the shipment of arms-related materiel from Iran in violation of paragraph 5 of [Security Council] Resolution 1747 (2007). Three clear violations were reported to the UN Security Council Iran Sanctions Committee in 2009.'

20 The inclusion of the other applicants' names on the lists at issue was based on the following grounds:

— Hafize Darya Shipping Co.: '[Hafize Darya Shipping Lines (HDSL)] has taken over as beneficial owner a number of [IRISL's] vessels. Accordingly, HDSL is acting on behalf of IRISL';

— Khazar Sea Shipping Lines Co.: 'Khazar Shipping Lines is owned by IRISL';

— IRISL Europe: 'IRISL Europe GmbH (Hamburg) is owned by IRISL';

— Qeshm Marine Services & Engineering Co., formerly IRISL Marine Services and Engineering Co.: 'IRISL Marine Services and Engineering Company is controlled by IRISL';

— Irano Misr Shipping Co.: 'Irano Misr Shipping Company as agent for IRISL in Egypt provides essential services to IRISL';

— Safiran Payam Darya Shipping Co.: 'Safiran Payam Darya (SAPID) has taken over as beneficial owner a number of [IRISL's] vessels. Accordingly, it is acting on behalf of IRISL';

— Marine Information Technology Development Co., formerly Shipping Computer Services Co.: 'Shipping Computer Services Company is controlled by IRISL';

— Rahbaran Omid Darya Ship Management Co., a.k.a Soroush Sarzamin Asatir (SSA): 'Soroush Saramin Asatir (SSA) operates and manages a number of IRISL vessels. Accordingly, it acts on behalf of IRISL and provides essential services to it';

— Hoopad Darya Shipping Agency, a.k.a South Way Shipping Agency Co. Ltd: 'South Way Shipping Agency Co Ltd manages container terminal operations in Iran and provides fleet personnel services in Bandar Abbas on behalf of IRISL. Accordingly, South Way Shipping Agency Co Ltd is acting on behalf of IRISL';

— Valfajr Shipping Line Co.: 'Valfajr 8th Shipping Line is owned by IRISL'.

21 By letter of 27 November 2013, the Council informed IRISL of its decision to include its name again on the lists at issue and replied to its request for access to the file. It stated that, following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), Decision 2013/497 and Regulation No 971/2013 had introduced a criterion relating to persons and entities that have evaded or violated the provisions of the relevant Security Council resolutions, which permitted the Council to re-list IRISL. The Council rejected IRISL's claim not to have any knowledge of or responsibility for the cargoes carried by its vessels. It added that, since IRISL was owned by the Iranian Government and was the largest Iranian shipping company, there was an obvious risk that its vessels would be used to transport proscribed goods and materials contrary to the relevant Security Council resolutions. It also stated that it was for IRISL to take all possible measures to ensure that its vessels were not used for the transport of prohibited goods, even if such measures went beyond ordinary practice in the shipping sector, and that several clear violations involving IRISL vessels had been reported to the United Nations Iran Sanctions Committee ('the Sanctions Committee').

22 By letters of 27 November 2013, the Council informed each of the other applicants of its decision to include their names again on the lists at issue and replied to their requests for access to the file. The Council stated that, since IRISL satisfied the new criterion introduced by Decision 2013/497 and Regulation No 971/2013 and its name had again been included on the lists at issue on that basis, the re-listing of the other applicants was also justified on the grounds that they were owned or controlled by IRISL or acting on its behalf or providing essential services to it.

Procedure and forms of order sought

23 By applications lodged at the General Court Registry on 6 January and 7 February 2014, the applicants brought the present actions.

24 By document lodged at the General Court Registry on 5 May 2014, the European Commission applied for leave to intervene in support of the form of order sought by the Council in Case T-87/14. By order of 1 July 2014, the President of the First Chamber of the General Court granted leave to intervene. The Commission lodged its statement in intervention on 6 August 2014. The applicants lodged observations on that statement within the period prescribed.

25 Upon hearing the report of the Judge-Rapporteur, the Court (First Chamber) decided to open the oral part of the procedure.

26 In the context of the measures of organisation of procedure provided for in Article 89 of the Rules of Procedure of the General Court, the General Court requested the parties in Cases T-14/14 and T-87/14 to produce documents and to reply to certain questions. The parties complied with that request within the periods prescribed.

27 By order of 27 January 2016, the parties having been heard, the present cases were joined for the purposes of the oral part of the procedure and of the judgment.

28 The parties presented oral argument and answered the questions put to them by the Court at the hearing on 12 July 2016.

29 In Case T-14/14, the applicants claim that the Court should:

— annul Decision 2013/497 and Regulation No 971/2013 in so far as those measures concern them;

— order the Council to pay the costs.

30 In Case T-87/14, the applicants claim that the Court should:

— declare Decision 2013/497 and Regulation No 971/2013 inapplicable, on the basis of Article 277 TFEU;

— annul Decision 2013/685 and Implementing Regulation No 1203/2013 in so far as those measures apply to them;

— order the Council to pay the costs.

31 In Cases T-14/14 and T-87/14, the Council contends that the Court should:

— dismiss the action;

— order the applicants to pay the costs.

32 In Case T-87/14, the Commission contends that the Court should dismiss the action.

Law

1. *Case T-14/14*

33 By their action, the applicants seek annulment of Decision 2013/497 and Regulation No 971/2013 in so far as the criteria contained in those measures for listing persons and entities covered by the restrictive measures refer to IRISL and any entity connected to it. The applicants maintain that the Council was not entitled to include in the listing criteria in Decision 2013/497 and Regulation No 971/2013 the fact of being a legal person, entity or body owned or controlled by IRISL, or a natural or legal person, entity or body acting on its behalf, or a natural or legal person, entity or body providing insurance or other essential services to IRISL or to entities owned or controlled by it or acting on its behalf. They submit that, following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), the Council was not entitled to include or to retain criteria which refer expressly to connections with IRISL, since the General Court had ruled that the designation of IRISL was unlawful and that a connection with IRISL was not sufficient to justify a designation.

34 In accordance with the case-law, the Courts of the European Union may at any time of their own motion consider whether there exists any bar to proceeding with a case, including the extent of their jurisdiction and the conditions for the admissibility of an action (see judgment of 4 June 2014, *Hemmati* v *Council*, T-68/12, not published, EU:T:2014:349, paragraph 29 and the case-law cited).

35 In the present case, the Court must consider of its own motion (i) its jurisdiction to rule on the claim for annulment in part of Decision 2013/497, and (ii) the admissibility of the claim for annulment in part of Regulation No 971/2013.

Application for annulment in part of Decision 2013/497

36 The applicants seek, in essence, annulment of Article 1(2) of Decision 2013/497 in so far as it replaces Article 20(1)(b) of Decision 2010/413.

37 It must be noted that those provisions were adopted on the basis of Article 29 TEU, which is a provision concerning the common foreign and security policy (CFSP) within the meaning of Article 275 TFEU. However, as provided in the second paragraph of Article 275 TFEU, read in conjunction with Article 256(1) TFEU, the General Court has jurisdiction only to rule on proceedings, brought in accordance with the conditions laid down in the fourth paragraph of Article 263 TFEU, reviewing the legality of decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter 2 of Title V of the EU Treaty. As the Court of Justice has stated, as regards measures adopted on the basis of provisions relating to the CFSP, it is the individual nature of those measures which, in accordance with the second paragraph of Article 275 TFEU and the fourth paragraph of Article 263 TFEU, permits access to the Courts of the European Union (judgments of 4 June 2014, *Sina Bank* v *Council*, T-67/12, not published, EU:T:2014:348, paragraph 38, and of 4 June 2014, *Hemmati* v *Council*, T-68/12, not published, EU:T:2014:349, paragraph 31).

38 The restrictive measures provided for in Article 20(1)(b) of Decision 2010/413 are measures of general application because they apply to situations determined objectively and to a category of persons envisaged in a general and abstract manner as being 'persons and entities … as listed in Annex II to Decision 2010/413'. Consequently, that provision cannot be classified as a 'decision providing for restrictive measures against natural or legal persons' within the meaning of the second paragraph of Article 275 TFEU. That outcome is not altered by the fact that the applicants stated that they were challenging that provision only in so far as it concerned them. Nor is it altered by the fact that IRISL's name is mentioned in that provision, since it does not concern IRISL directly but the entities connected to IRISL, defined in a general and abstract manner on the basis of objective criteria. The fact that that provision was applied to the applicants does not alter its legal nature as an act of general application. In the present case, the 'decision providing for restrictive measures against natural or legal persons' within the meaning of the second paragraph of Article 275 TFEU lies in the measure by which the applicants were re-listed in Annex II to Decision 2010/413, as amended by Decision 2013/685, with effect from 27 November 2013 (see, to that effect, judgment of 4 June 2014, *Sina Bank* v *Council*, T-67/12, not published, EU:T:2014:348, paragraph 39).

39 The claim for annulment of Article 1(2) of Decision 2013/497 in so far as it replaces Article 20(1)(b) of Decision 2010/413 does not therefore satisfy the rules governing the jurisdiction of the General Court laid down in the second paragraph of Article 275 TFEU. Accordingly, it must be dismissed as having been brought before a court that has no jurisdiction to hear it.

Application for annulment in part of Regulation No 971/2013

40 As a preliminary point, it should be borne in mind that, in accordance with Article 76(d) of the Rules of Procedure, an application must state the subject matter of the proceedings, which means that the subject matter should be sufficiently precise to enable the defendant to avail itself of its right to defend itself and the Court to understand the purpose of the applicant's claims.

41 It must be noted in that regard that the applicants do not expressly mention in the application which provisions of Regulation No 971/2013 they seek to have annulled.

42 However, it is apparent from the arguments put forward in the application that they seek annulment only of the provisions of Regulation No 971/2013 relating to the listing criteria which mention IRISL and any entity connected with it. Only the provisions laid down in Article 1(c) of Regulation No 971/2013 which replace those of Article 23(2)(e) of Regulation No 267/2012 are expressly mentioned in the application.

43 It must therefore be held, as the Council contends in its defence, that those provisions alone are covered by the applicants' claim for annulment. The applicants do not cite in their application the provisions laid down in Article 1(a) of Regulation No 971/2013, replacing Article 23(2)(b) of Regulation No 267/2012, or even mention the criterion relating to persons that have evaded or violated the provisions of Regulation No 267/2012, Decision 2010/413 or Security Council resolutions. They do not raise any argument aimed at challenging the lawfulness of that criterion.

44 In the reply, the applicants take issue with that interpretation of the application and claim that the criterion referred to in Article 23(2)(b) of Regulation No 267/2012 was also challenged. However, it is apparent from the paragraphs of the application to which the applicants refer that they are seeking to challenge only the re-listing of IRISL and not the lawfulness of the criterion on the basis of which IRISL was re-listed.

45 It is, moreover, settled case-law that, although Article 84(1) of the Rules of Procedure authorises, in certain circumstances, new pleas in law to be introduced in the course of proceedings, the provision cannot in any circumstances be interpreted as authorising an applicant to bring new claims before the Court and thereby to modify the subject matter of the proceedings (see order of 30 April 2015, *EEB* v *Commission*, T-250/14, not published, EU:T:2015:274, paragraph 22 and the case-law cited).

46 It is apparent from this that the new arguments put forward by the applicants for the first time in the reply, according to which the Council unlawfully widened the category of persons that could be listed or re-listed to include those persons or entities that had evaded or violated the relevant Security Council resolutions, must be interpreted as a new application for annulment of Article 23(2)(b) of Regulation No 267/2012 and, accordingly, are inadmissible.

47 It follows from the foregoing that the application for annulment in part of Regulation No 971/2013 must be regarded as relating only to the annulment of Article 1(c) of Regulation No 971/2013 in so far as it replaces Article 23(2)(e) of Regulation No 267/2012.

48 It must be observed that Article 1(c) of Regulation No 971/2013, replacing Article 23(2)(e) of Regulation No 267/2012, was adopted on the basis of Article 215 TFEU which governs the restrictive measures adopted by the Council within the framework of the European Union's external action. As provided in the fourth paragraph of Article 263 TFEU, read in conjunction with Article 256(1) TFEU, the General Court has jurisdiction to rule in actions brought by any natural or legal person, under the conditions laid down in the first and second paragraphs of Article 263 TFEU, against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures.

49 The restrictive measures provided for in Article 23(2)(e) of Regulation No 267/2012 are measures of general application because they apply to situations determined objectively and to a category of persons envisaged in a general and abstract manner as being the persons, entities and bodies listed in Annex IX to that regulation. The application of that provision requires the adoption of an implementing measure or, in other words, of a measure of an individual nature consisting, as is apparent from Article 46(2) of Regulation No 267/2012, of the listing or, after review, the maintenance of the listing of the person, entity or body referred to in Annex IX to that regulation. Consequently, Article 23(2)(e) of Regulation No 267/2012 is not, as such, a measure which the applicants could directly challenge on the basis of the fourth paragraph of Article 263 TFEU. That outcome is not altered by the fact that the applicants stated that they were challenging that provision

only in so far as it concerned them. The fact that that provision was applied to the applicants does not alter its legal nature as an act of general application (see, by analogy, judgment of 4 June 2014, *Sina Bank* v *Council*, T-67/12, not published, EU:T:2014:348, paragraph 42). In the present case, the individual measure, which is directly challengeable by the applicants, is the measure by which the applicants' names were again included in Annex IX to Regulation No 961/2010, with effect from 27 November 2013.

50 The claim for annulment of Article 1(c) of Regulation No 971/2013 amending Article 23(2)(e) of Regulation No 267/2012 does not therefore satisfy the conditions for admissibility laid down in the fourth paragraph of Article 263 TFEU. Accordingly, it must be dismissed as inadmissible.

51 It follows from all of the foregoing that the action in Case T-14/14 must be regarded as having been brought before a court that has no jurisdiction to hear it, in so far as it seeks annulment in part of Decision 2013/497, and as being inadmissible, in so far as it seeks annulment in part of Regulation No 971/2013.

2. *Case T-87/14*

52 By their first head of claim, the applicants raise a plea of illegality on the basis of Article 277 TFEU in respect of Decision 2013/497 and Regulation No 971/2013. By their second head of claim, the applicants seek annulment of Decision 2013/685 and Implementing Regulation No 1203/2013, in so far as those measures concern them.

Plea of illegality

53 The applicants submit that Decision 2013/497 and Regulation No 971/2013, which purport to provide the criteria on the basis of which the applicants' names were entered on the lists at issue, are unlawful and, therefore, must be declared inapplicable on the basis of Article 277 TFEU. They claim that, by adopting Decision 2013/497 and Regulation No 971/2013 following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), the Council amended the criteria in Article 20(1)(b) of Decision 2010/413 and Article 23(2)(b) and (e) of Regulation No 267/2012 with the aim of re-listing them.

54 The applicants maintain that since the General Court ruled in the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453) that none of them provided support for nuclear proliferation, the Council should have removed the criteria referring to IRISL. The criteria which the Council introduced in Decision 2013/497 and Regulation No 971/2013 are, in their submission, disproportionate, contrary to Article 215 TFEU, and had the objective of circumventing that judgment by enabling the Council to re-list them retroactively.

55 According to settled case-law, Article 277 TFEU gives expression to the general principle conferring upon any party to proceedings the right to challenge indirectly, in seeking annulment of a measure against which it can bring an action, the validity of previous acts of the institutions which form the legal basis of the measure which is being challenged, if that party was not entitled under Article 263 TFEU to bring a direct action challenging those acts by which it was thus affected without having been in a position to ask that it be declared void (judgment of 25 April 2013, *Inuit Tapiriit Kanatami and Others* v *Commission*, T-526/10, EU:T:2013:215, paragraph 24). The general measure claimed to be illegal must be applicable, directly or indirectly, to the issue with which the action is concerned and there must be a direct legal connection between the contested individual decision and the general measure in question (see judgment of 10 July 2014, *Moallem Insurance* v *Council*, T-182/13, not published, EU:T:2014:624, paragraph 25 and the case-law cited).

56 In the case of IRISL, its name was included again on the lists at issue on the basis of Article 20(1)(b) of Decision 2010/413 and Article 23(2)(b) of Regulation No 267/2012 because it had infringed the provisions of Security Council Resolution 1747 (2007).

57 In the case of the other applicants, their names were included on the lists at issue on the basis of the criteria relating to entities linked to IRISL.

58 Accordingly, it must be held that the plea of illegality put forward by the applicants is admissible only in so far as it seeks a declaration of inapplicability (i) in the case of IRISL, in respect of Decision 2013/497 and Regulation No 971/2013 to the extent that they introduced into Article 20(1)(b) of Decision 2010/413 and Article 23(2)(b) of Regulation No 267/2012, respectively, a criterion authorising the funds of persons and entities that have evaded or violated Security Council Resolution 1747 (2007) to be frozen ('the criterion relating to non-compliance with Resolution 1747'), and (ii) in the case of the other applicants, in respect of Decision 2013/497 and Regulation No 971/2013 to the extent that they replaced Article 20(1)(b) of Decision 2010/413 and Article 23(2)(e) of Regulation No 267/2012, respectively.

59 In support of their plea of illegality in respect of Decision 2013/497 and Regulation No 971/2013, the applicants put forward, in essence, five pleas, alleging (i) the lack of any legal basis; (ii) infringement of their legitimate expectations and breach of the principles of legal certainty, *ne bis in idem* and *res judicata*; (iii) misuse of power; (iv) infringement of their rights of defence; and (v) infringement of their fundamental rights, notably their right to property and the right to respect for their reputation.

First plea in law, alleging the lack of any legal basis

60 The applicants submit that Decision 2013/497 and Regulation No 971/2013 have no legal basis. In their submission, the Council did not indicate that the amendment of the criteria in 2013 was justified by any objective reason relating to the restrictive measures taken against Iran's nuclear programme. Article 215 TFEU authorises the imposition of restrictive measures only where they are necessary and proportionate to achieving the objectives of the CFSP: to prevent the funding of nuclear proliferation in Iran.

61 It should be noted that the legal basis of Decision 2013/497 is Article 29 TEU and the legal basis of Regulation No 971/2013 is Article 215 TFEU. By that first complaint, the applicants must be considered to be arguing in fact that the amendments introduced by Decision 2013/497 and Regulation No 971/2013 breach the principle of proportionality.

62 With regard to judicial review of compliance with the principle of proportionality, the Court of Justice has held that the EU legislature must be allowed a broad discretion in areas which involve political, economic and social choices on its part, and in which it is called upon to undertake complex assessments. It concluded from this that the legality of a measure adopted in those fields can be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue (judgments of 28 November 2013, *Council* v *Manufacturing Support & Procurement Kala Naft*, C-348/12 P, EU:C:2013:776, paragraph 120, and of 1 March 2016, *National Iranian Oil Company* v *Council*, C-440/14 P, EU:C:2016:128, paragraph 77).

63 It must also be borne in mind that the objective of Decision 2010/413 and Regulation No 267/2012 is to prevent nuclear proliferation and so to bring pressure to bear on the Islamic Republic of Iran to end the activities concerned. That objective forms part of a more general framework of endeavours linked to the maintenance of international peace and security and is, therefore, legitimate (see, to that effect, judgment of 28 November 2013, *Council* v *Manufacturing Support & Procurement Kala Naft*, C-348/12 P, EU:C:2013:776, paragraph 124 and the case-law cited).

64 The criterion that served as a legal basis for IRISL's inclusion on the lists at issue must be distinguished from the criterion relating to the other applicants.

– IRISL

65 It will be recalled that, following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), the Council, by Decision 2013/497 and Regulation No 971/2013, amended the criterion set out in Article 20(1)(b) of Decision 2010/413 and that set out in Article 23(2)(b) of Regulation No 267/2012 so that, in each case, it no longer referred only to persons and entities that have assisted a person or entity in evading or violating the provisions of certain Security Council resolutions, but also to persons and entities that have evaded or violated them.

66 It will also be recalled that IRISL's name was re-listed by means of Decision 2013/685 and Implementing Regulation No 1203/2013 because it had infringed paragraph 5 of Security Council Resolution 1747 (2007).

67 Paragraph 5 of Security Council Resolution 1747 (2007) states that the Security Council 'decides that Iran shall not supply, sell or transfer directly or indirectly from its territory or by its nationals or using its flag vessels or aircraft any arms or related materiel, and that all States shall prohibit the procurement of such items from Iran by their nationals, or using their flag vessels or aircraft, and whether or not originating in the territory of Iran'. In the context of the fight against the proliferation of nuclear weapons, the Security Council, by that resolution, extended the scope of the restrictive measures against Iran by prohibiting the procurement of arms or related materiel from Iran. That resolution is intended to ensure that the Iranian nuclear programme serves exclusively peaceful purposes and to constrain Iran's development of sensitive technologies in support of its nuclear and missile programmes.

68 It should be noted that Security Council Resolution 1747 (2007) is mentioned in recital 2 of Decision 2010/413. The general rules of the European Union providing for the adoption of restrictive measures must be interpreted in the light of the wording and purpose of the Security Council resolutions they implement (judgment of 16 November 2011, *Bank Melli Iran* v *Council*, C-548/09 P, EU:C:2011:735, paragraph 104).

69 Contrary to what is claimed by the applicants, the purpose of the restrictive measures against Iran is not only to prevent the funding of nuclear proliferation in Iran but more generally to bring pressure to bear on Iran to end its proliferation-sensitive nuclear activities or the development of nuclear weapon delivery systems.

70 Providing as it does for the freezing of funds of persons who, in breach of Resolution 1747 (2007), have been engaged in the supply, sale or transfer to Iran of arms or related materiel, the criterion introduced by Decision 2013/497 and Regulation No 971/2013 forms part of a legal framework that is clearly delimited by the objectives pursued by the legislation governing restrictive measures against Iran.

71 Consequently, in accordance with the case-law cited in paragraph 62 above, the criterion relating to non-compliance with Resolution 1747 must be considered appropriate to the objective of combating nuclear proliferation pursued by Decision 2010/413 and Regulation No 267/2012 and thus complies with the principle of proportionality.

72 Furthermore, it must be noted that the General Court has already held that the freezing of the funds and economic resources of an entity that has assisted a listed person, entity or body in evading or violating the provisions of Decision 2010/413, Regulation No 961/2010, Regulation No 267/2012 or Security Council Resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1929 (2010) is linked to the objective of Decision 2010/413 and of Regulation No 267/2012, referred to in paragraph 63 above. It

held that, in those circumstances, the freezing of the funds and economic resources of entities identified as having provided such assistance to a designated entity was necessary and appropriate in order to ensure the effectiveness of the restrictive measures regime established by Decision 2010/413 and Regulation No 267/2012 and to ensure that those measures would not be circumvented (judgment of 6 September 2013, *Europäisch-Iranische Handelsbank* v *Council*, T-434/11, EU:T:2013:405, paragraph 192).

73 The same applies *a fortiori* to the criterion relating to non-compliance with Resolution 1747.

– The other applicants

74 As regards the criteria relating to entities linked to IRISL, it should first of all be noted that the applicants have not put forward any specific argument challenging the proportionality of those criteria in relation to the objectives of the CFSP.

75 As the Court of Justice has already held, where the funds of an entity are frozen, there is a not insignificant danger that that entity may exert pressure on the entities it owns or controls in order to circumvent the effect of the measures applying to it, and so the freezing of the funds of those entities is necessary and appropriate in order to ensure the effectiveness of the measures adopted and to ensure that those measures are not circumvented (judgment of 13 March 2012, *Melli Bank* v *Council*, C-380/09 P, EU:C:2012:137, paragraph 58).

76 It must be held that that danger of circumvention arises also where an entity whose funds are frozen delegates some of its activities to other undertakings or to other entities which, although not owned by that entity, act on its behalf or carry out certain essential activities in its name.

77 It follows from this that the criteria relating to entities linked to IRISL are not arbitrary but were adopted by the Council in the context of the broad discretion conferred on it, and are based on a not insignificant danger that the restrictive measures may be circumvented by an entity whose funds are frozen. Those criteria must be considered to comply with the principle of proportionality.

78 The first plea in law must therefore be rejected.

Second plea in law, alleging infringement of the applicants' legitimate expectations and breach of the principles of legal certainty, *ne bis in idem* and *res judicata*

79 The applicants submit that Decision 2013/497 and Regulation No 971/2013 infringe their legitimate expectations and the principles of legal certainty, *ne bis in idem* and *res judicata*. In their view, following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), the Council was not entitled to include new criteria enabling their names to be entered on the lists at issue.

80 First, it will be recalled that, in that judgment, the General Court annulled the applicants' listing in Annex II to Decision 2010/413 and Annex IX to Regulation No 267/2012 but did not rule on the validity of the criteria in Article 20(1)(b) of Decision 2010/413 and Article 23(2)(a) and (b) of Regulation No 267/2012 as applicable at the material time.

81 Therefore, the applicants are wrong to claim that the Council should have withdrawn the criteria referring to IRISL following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), and that it was not entitled to maintain the criteria relating to entities linked to IRISL.

82 Secondly, in paragraph 64 of that judgment, the General Court ruled that if the Council was of the opinion that the applicable legislation did not enable it to intervene in a sufficiently effective manner in order to combat nuclear proliferation, it was open to the Council to amend it in its role as legislator — subject to a review of lawfulness by the Courts of the European Union — so as to extend the situations in which restrictive measures may be adopted.

83 In addition, although, in the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), the effects of the inclusion of the applicants' names on the lists were maintained until the expiry of the period referred to in 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, namely until the expiry of the period for bringing an appeal referred to in the first paragraph of Article 56 of that Statute, the fact remains that, on the expiry of that period, that listing was deleted retroactively from the legal order and deemed never to have existed (see judgment of 24 May 2016, *Good Luck Shipping* v *Council*, T-423/13 and T-64/14, EU:T:2016:308, paragraph 79 and the case-law cited).

84 The Court may prescribe a period during which the effects of an annulment of a measure will be suspended in order to enable the Council to remedy the infringements identified by adopting, as appropriate, new general criteria for inclusion on the list of persons or entities subject to restrictive measures and new restrictive measures intended to freeze the funds of the entity concerned for the future. However, it must be pointed out that neither those new general listing criteria nor those new restrictive measures enable measures found to be illegal by a judgment of the Court to be rendered lawful (judgment of 24 May 2016, *Good Luck Shipping* v *Council*, T-423/13 and T-64/14, EU:T:2016:308, paragraph 80).

85 It is apparent from this that the applicants cannot maintain that, following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), the Council was not entitled to include new criteria enabling their names to be entered on the lists at issue, particularly as it is apparent on examining the first plea that the criterion relating to non-compliance with Resolution 1747 and the criteria relating to entities linked to IRISL, in Decision 2013/497 and Regulation No 971/2013, accord with the objectives of Decision 2010/413 and Regulation No 267/2012.

86 Thirdly, the applicants are also wrong to claim that the Council amended the criteria in Decision 2013/497 and Regulation No 971/2013 so as to enter their names on the lists retroactively.

87 By the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), the acts that resulted in the applicants' initial listing were deleted retroactively from the legal order, with the result that the applicants' names are deemed never to have been included on those lists in the period prior to that judgment.

88 Decision 2013/497 and Regulation No 971/2013 entered into force on the day of their publication in the *Official Journal of the European Union*, that is on 12 October 2013. Any listing on the basis of the criteria contained in those measures may be made from that date. Suffice it to note that the re-listing of the applicants effected by Decision 2013/685 and Implementing Regulation No 1203/2013 came into force on 27 November 2013. The applicants do not explain how the amendment of the criteria by Decision 2013/497 and Regulation No 971/2013 would have enabled their names to be included retroactively on the lists at issue.

89 As regards the applicants' argument that they were entitled to consider that they would not be re-listed in the absence of new evidence after the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), this is intended to challenge the validity of their inclusion on the lists at issue as a result of Decision 2013/685 and Implementing Regulation No 1203/2013 and will therefore be examined in the context of the second head of claim.

90 It is apparent from the foregoing that, in adopting Decision 2013/497 and Regulation No 971/2013, the Council did not infringe the applicants' legitimate expectations or breach the principles of legal certainty, *ne bis in idem* and *res judicata*. The second plea in law must therefore be rejected.

Third plea in law, alleging misuse of powers

91 The applicants submit that Decision 2013/497 and Regulation No 971/2013 'discriminate' against IRISL without justification or proportionality. Those measures target IRISL by name, with the aim of circumventing the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), and not with the aim of combating Iran's nuclear programme. The Council, they argue, abused its powers by adopting Decision 2013/497 and Regulation No 971/2013 and by imposing the restrictive measures targeting IRISL and the other applicants with the aim of circumventing that judgment.

92 According to the case-law, 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 by the Treaty for dealing with the circumstances of the case (see judgment of 14 October 2009, *Bank Melli Iran* v *Council*, T-390/08, EU:T:2009:401, paragraph 50 and the case-law cited).

93 It is apparent from examination of the first plea that the amendments to the criteria introduced by Decision 2013/497 and Regulation No 971/2013 accord with the objectives of the fight against nuclear proliferation.

94 Furthermore, it is apparent from examination of the second plea that it cannot be inferred from the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453) that that judgment prohibited the adoption or retention of criteria of general application, such as the criterion relating to non-compliance with Resolution 1747 or the criteria relating to entities linked to IRISL. The question whether the applicants' names could legitimately be entered on the lists at issue on the basis of those criteria falls to be considered with the second head of claim.

95 Accordingly, the Council did not abuse its powers in adopting Decision 2013/497 and Regulation No 971/2013, and the third plea in law must be rejected.

Fourth plea in law, alleging infringement of the rights of the defence

96 The applicants submit that Decision 2013/497 and Regulation No 971/2013 infringe their rights of defence, since the Council did not inform them that it intended to include criteria relating directly to IRISL in Decision 2013/497 and Regulation No 971/2013. The Council did not provide them with documents of any kind explaining why including those criteria could be lawful and gave them no chance to respond.

97 It is sufficient to note that the right to be heard in an administrative procedure taken against a specific person, which must be observed, even in the absence of any rules governing the procedure in question, cannot be transposed to the procedure provided for in Article 29 TEU and that provided for in Article 215 TFEU leading, as in the present case, to the adoption of measures of general application (see, by analogy, judgment of 11 September 2002, *Alpharma* v *Council*, T-70/99, EU:T:2002:210, paragraph 388 and the case-law cited).

98 There is no provision that requires the Council to inform any person potentially affected by a new criterion of general application of the adoption of that criterion. The applicants cannot claim that their rights of defence were infringed on account of the adoption of Decision 2013/497 and Regulation No 971/2013.

99 The fourth plea in law must therefore be rejected.

Fifth plea in law, alleging infringement of fundamental rights, notably the right to property and the right to respect for reputation

100 The applicants submit that Decision 2013/497 and Regulation No 971/2013 infringe their fundamental rights, notably their right to property and the right to respect for their reputation, by including in the listing criteria a connection with IRISL and by expressly naming IRISL. Decision 2013/497 and Regulation No 971/2013 suggest that IRISL and entities said to be connected with it have some connection with nuclear proliferation, which the applicants say is entirely unfounded, the Court having held in its judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453) that that was not the case.

101 As regards IRISL, its name was re-listed on the basis of the criterion relating to non-compliance with Resolution 1747. It must be noted, first, that that criterion of general application does not refer to IRISL by name and, secondly, that that criterion is distinct from that set out in Article 20(1)(b) of Decision 2010/413 and in Article 23(2)(a) of Regulation No 267/2012 relating to the provision of 'support for [nuclear proliferation]' and does not require the Council to establish a link, whether direct or indirect, between the activities of the person or entity subject to restrictive measures and nuclear proliferation.

102 As regards the other applicants, their names were re-listed on the basis of the criteria relating to entities linked to IRISL. Those criteria do not imply that the existence of a direct or indirect link has been established between the activities of the person or entity concerned and nuclear proliferation.

103 Consequently, the applicants cannot maintain that the criteria introduced by Decision 2013/497 and Regulation No 971/2013 infringe their fundamental rights by establishing a connection between them and nuclear proliferation.

104 The fifth plea in law must therefore be rejected.

105 It follows from all of the foregoing that the plea of illegality in respect of Decision 2013/497 and Regulation No 971/2013 must be rejected.

Application for annulment of Decision 2013/685 and Implementing Regulation No 1203/2013, in so far as those acts concern the applicants

106 In support of their application for annulment, the applicants put forward five pleas in law, alleging (i) the lack of any legal basis; (ii) manifest errors of assessment by the Council; (iii) infringement of the rights of the defence; (iv) breach of the principles of protection of legitimate expectations, legal certainty, *res judicata*, *ne bis in idem* and non-discrimination; and (v) infringement of their fundamental rights, notably their right to property and the right to respect for their reputation, and breach of the principle of proportionality.

First plea in law, alleging the lack of any legal basis

107 The applicants submit that, since Decision 2013/497 and Regulation No 971/2013 are unlawful for the reasons set out in their plea of illegality and must be declared inapplicable, Decision 2013/685 and Implementing Regulation No 1203/2013 have no legal basis.

108 It is sufficient to find in that regard that, since the plea of illegality in respect of Decision 2013/497 and Regulation No 971/2013 has been rejected, the first plea in law must also be rejected.

Second plea in law, alleging manifest errors of assessment by the Council

109 The applicants submit that the Council made manifest errors of assessment when deciding to re-list IRISL and the other applicants.

110 The effectiveness of the judicial review guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union requires in particular that, as part of the review of the lawfulness of the grounds which are the basis of the decision to include or to maintain the name of a person or entity on the lists of persons subject to restrictive measures, the Courts of the European Union are to ensure that that decision, which affects that person or entity individually, is taken on a sufficiently solid factual basis. That entails a verification of the factual allegations in the summary of reasons underpinning that decision, with the consequence that judicial review cannot be restricted to an assessment of the cogency in the abstract of the reasons relied on, but must concern the question whether those reasons, or, at the very least, one of those reasons, deemed sufficient in itself to support that decision, is substantiated (judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 119).

111 It is the task of the competent EU authority to establish, in the event of challenge, that the reasons relied on against the person concerned are well founded, and not the task of that person to adduce evidence of the negative, namely that those reasons are not well founded. It is necessary that the information or evidence produced should support the reasons relied on against the person concerned. If that material is insufficient to allow a finding that a reason is well founded, the Courts of the European Union are to disregard that reason as a possible basis for the contested decision to list or maintain a listing (judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraphs 121 to 123).

– IRISL

112 First, the applicants maintain that the Council was not entitled to rely on conduct dating from 2009 — namely the incidents relating to an infringement of Security Council Resolution 1747 (2007), on which the Council relied in order to include IRISL's name in the measures annulled by the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453) — for the purpose of re-listing it in 2013. In their submission, the General Court found in that judgment that those incidents did not relate to nuclear proliferation and had not led to the Security Council imposing sanctions on IRISL.

113 Secondly, the applicants submit that IRISL did not infringe any Security Council resolution, as is apparent from the statements made by witnesses which had been sent to the Council before Decision 2013/685 and Implementing Regulation No 1203/2013 were adopted. The Council had not explained why it had rejected that evidence.

114 Thirdly, the applicants ask the Court to disregard the Council's letter of 27 November 2013 in which, they say, the Council adds new grounds for re-listing IRISL which do not appear in Decision 2013/685 or Implementing Regulation No 1203/2013.

115 They claim that, in any event, the contents of that letter are incorrect. First, according to the applicants, IRISL is not owned by the Government of Iran, as the witness statement of its managing director makes clear. Secondly, the fact that the Council 'does not accept' that IRISL has no knowledge of or responsibility for the cargoes which its vessels carry is in effect an assertion of the principle of strict liability that has no legal basis. The applicants state in that regard that, as carrier, IRISL is not responsible for the cargoes which its vessels carry, in accordance with international principles of shipping law. Lastly, IRISL recognises the risk that its vessels might be used to transport proscribed goods and has strict systems in place to avoid that happening, systems which go beyond ordinary practice in the shipping sector.

116 It must be borne in mind that, by Decision 2013/685 and Implementing Regulation No 1203/2013, the Council decided to re-list IRISL on the ground that it '[had] been involved in the shipment of arms-related materiel from Iran in violation of paragraph 5 of [Security Council] Resolution 1747 (2007)' and that 'three clear violations [had been] reported to the UN Security Council Iran Sanctions Committee in 2009'.

117 First of all, it should be noted that the statement of reasons for the re-listing of IRISL relies on the finding of actual infringements in Security Council Resolution 1747 (2007). Therefore, contrary to what the applicants maintain, that finding is necessarily based on facts which pre-date the adoption of the re-listing decision. The Council was therefore entitled to take into account the infringements of that Security Council resolution identified in 2009. It was also entitled to consider in 2013 that events which had taken place in 2009 were sufficiently recent.

118 The Council relied on the report of the Security Council's Sanctions Committee for 2009 ('the Sanctions Committee report'), which stated that it had received three reports of violations of paragraph 5 of Resolution 1747 (2007) which imposed on Iran an export ban on arms and related materiel. That report noted that the three violations reported involved IRISL, which had chartered the vessel transporting the materiel from Iran to another State.

119 The report contains details of those three incidents involving IRISL. In each case, the Sanctions Committee received information from a third country concerning the presence of suspicious cargo, originating in Iran and destined for another State, aboard a vessel chartered by IRISL. During an inspection of the vessel by the authorities of the State which had reported the facts, it was discovered that the cargo contained arms-related materiel. The State concerned indicated that it had unloaded, retained and stored the cargo.

120 It must be noted that the applicants have not raised any argument to challenge the facts reported in the Sanctions Committee report, namely that military material was seized on board vessels chartered by IRISL. They have not put forward any argument or evidence to show that IRISL was not involved in those three incidents.

121 They merely rely on a statement of the Managing Director and Chairman of the Board of Directors of IRISL and on a statement of the General Manager of the Food Bulk Department of IRISL, which they say show that IRISL did not violate the Security Council resolution.

122 According to the case-law, the activity of the Court of Justice and of the General Court is governed by the principle of the unfettered evaluation of evidence, and it is only the reliability of the evidence before the Court which is decisive when it comes to the assessment of its value. In addition, in order to assess the probative value of a document, regard should be had to the credibility of the account it contains and, in particular, to the person from whom the document originates, the circumstances in which it came into being, the person to whom it was addressed and whether, on its face, the document appears to be sound and reliable (see, to that effect, judgment of 27 September 2012, *Shell Petroleum and Others* v *Commission*, T-343/06, EU:T:2012:478, paragraph 161 and the case-law cited).

123 Those two statements have, however, been made by individuals employed by IRISL since 1984 or 1985 who currently have a managerial role, and their evidence cannot therefore be described as being different and from independent of that of IRISL. Those statements were, moreover, made at the request of IRISL in connection with the present action, and are addressed to it.

124 It must therefore be held that those statements have little probative value.

125 Furthermore, as regards the content of those statements, suffice it to note that the statement of the General Manager of the Food Bulk Department of IRISL does not contain any information concerning the three incidents referred to in the Sanctions Committee report.

126 Moreover, in his statement, first, the Managing Director of IRISL asserts that, in its capacity as carrier, IRISL had no knowledge of the nature of the cargo transported in the three vessels involved in the incidents, and that it relied on the description of the cargo given by the shipper. Secondly, he states that there was no evidence that any proliferation-sensitive materiel was found on board those vessels. Thirdly, he notes that the United Nations did not consider there to have been a breach of any Security Council resolution.

127 Those assertions are the same as the arguments put forward by the applicants in the application.

128 It must be noted, however, that the argument that IRISL was unaware of the contents of cargoes transported by its vessels is ineffective. It is sufficient to note that, even if it were accepted that IRISL was not aware that arms or arms-related materiel was being transported in its vessels, the facts reported in the Sanctions Committee report nevertheless establish that, as charterer, it 'has been involved in the shipment of arms-related materiel from Iran'.

129 In addition, contrary to what is maintained by the applicants, the criterion relating to non-compliance with Resolution 1747 does not require that the incidents justifying its application relate to nuclear proliferation. Nor does the application of that criterion require the person to whom that criterion relates to have had sanctions imposed on him by the Security Council.

130 As to the argument that the Council made a mistake in its letter of 27 November 2013 when it stated that IRISL was owned by the Government of Iran, it is ineffective in so far as that consideration is not among the reasons for IRISL's re-listing.

131 Lastly, the applicants' argument that the Council, in its letter of 27 November 2013, was not entitled to assert that there was a risk that IRISL vessels might be used to transport proscribed goods in violation of Security Council resolutions, when the applicants had demonstrated that that risk did not arise, is also ineffective. As the applicants themselves state, that assertion is not included in the statement of reasons for the re-listing decision, which relies on the finding of actual violations of Security Council Resolution 1747 (2007). The assertion is merely a response from the Council to the observations made by IRISL in its letter of 15 November 2013. The applicants cannot therefore claim that the Council disregarded those observations and the witness statements which they had sent to it. Furthermore, that argument contradicts the applicants' assertion in the application that they recognise the existence of that risk and that IRISL took steps to avoid it.

132 Consequently, it must be held that the Council did not err in considering that IRISL had been involved in the shipment of arms-related materiel from Iran and that its re-listing was justified on the basis of the criterion relating to non-compliance with Resolution 1747.

– The other applicants

133 As a preliminary point, the applicants submit that, since the re-listing of IRISL was unlawful, the re-listing of the other applicants because of their connection with IRISL is also unlawful.

134 It is sufficient to find in that regard that, since the Council did not make a mistake in re-listing IRISL, that argument must be rejected.

135 The applicants claim that the Council made a number of factual errors in relation to the reasons for its re-listing of each of the other applicants.

136 In the first place, Khazar Sea Shipping Lines, IRISL Europe and Valfajr Shipping Line were re-listed on the ground that they were owned by IRISL.

137 Suffice it to note that the applicants do not dispute that those three entities are owned by IRISL.

138 The Council thus correctly entered their names on the lists at issue on the basis of the criteria relating to entities linked to IRISL.

139 In the second place, Qeshm Marine Services & Engineering and Marine Information Technology Development were re-listed on the ground that they were controlled by IRISL.

140 The applicants challenge the reason given in relation to those two entities by merely stating that those entities have changed their names.

141 Suffice it to note that that argument is ineffective. The mere change of company name of those two entities does not affect ownership of their shares or the fact that they are subsidiaries of IRISL.

142 The Council thus correctly entered their names on the lists at issue on the basis of the criteria relating to entities linked to IRISL.

143 In the third place, Hafize Darya Shipping and Safiran Payam Darya Shipping were re-listed on the ground that they act on behalf of IRISL, given that they have taken over as beneficial owners a number of IRISL's vessels.

144 The applicants submit that those two entities do not own any vessels and that the Council relied on generalised statements from non-independent sources which did not demonstrate that they were owners of any vessels. In addition, they state that the Council failed to explain what was meant by 'beneficial ownership' or to demonstrate how those two entities fell within that definition.

145 It must be pointed out that the Council stated, in its letters of 22 October 2013 to each of those two entities, that the fact that they had taken over as beneficial owners a number of IRISL's vessels was confirmed by the reports of 12 June 2012 and 5 June 2013 by the United Nations Panel of Experts established pursuant to Security Council Resolution 1929 (2010). In its letters of 27 November 2013 to each of those two entities, the Council explained that the report of 12 June 2012 stated that, following Security Council Resolution 1803 (2008), IRISL had begun transferring vessels to Hafize Darya Shipping and Safiran Payam Darya Shipping which were related to it, and that IRISL and its related companies had carried out a large number of changes to the beneficial and registered ownership of their vessels from 2008 until the adoption of Resolution 1929 (2010). The Council added that the report of 5 June 2013 had stated that vessels whose beneficial owners were IRISL, Hafize Darya Shipping and Safiran Payam Darya Shipping had continuously changed names, flags and registered owners in the period from April 2012 to April 2013.

146 It should be noted that the reports of 12 June 2012 and 5 June 2013 are available on the website of the United Nations Organisation and that the applicants do not deny having been aware of them.

147 The report of 12 June 2012 describes the mechanism for transferring ownership of IRISL vessels to Hafize Darya Shipping and Safiran Payam Darya Shipping following the adoption of Security Council Resolution 1803 (2008), which mentioned IRISL for the first time. The report explains, in particular, that few vessels were directly registered in the name of Hafize Darya Shipping or Safiran Payam Darya Shipping, their vessels being registered in the names of numerous different companies that belonged to them.

148 It is clear from this that the Council used the term 'beneficial owner', as against 'registered owner', to designate an entity which, although not officially registered as the owner of a vessel, is the 'beneficial owner' by means of a company which it owns and which is the registered owner of the vessel.

149 Consequently, the applicants cannot claim that that term is not clear and that they were unable to understand how Hafize Darya Shipping and Safiran Payam Darya Shipping met that description.

150 It must also be noted that the applicants have not put forward any argument or adduced any evidence to challenge the facts presented in the reports of 12 June 2012 and 5 June 2013. They cannot claim that the reports of the United Nations Panel of Experts come from sources that are not independent.

151 The Council thus correctly entered the names of Hafize Darya Shipping and Safiran Payam Darya Shipping on the lists at issue on the basis of the criteria relating to entities linked to IRISL.

152 In the fourth place, Rahbaran Omid Darya Ship Management was re-listed on the grounds that it was acting on behalf of IRISL and providing essential services to it, since it operated and managed a number of IRISL vessels. Hoopad Darya Shipping Agency was re-listed on the ground that it was acting on behalf of IRISL, since it managed container terminal operations in Iran and provided fleet personnel services in Bandar Abbas on behalf of IRISL.

153 In the case of Rahbaran Omid Darya Ship Management, the applicants recognise that it provides certain services in relation to a number of vessels belonging to IRISL, but dispute that those services are 'essential'.

154 In the case of Hoopad Darya Shipping Agency, the applicants admit that it provides container operations in relation to vessels belonging to IRISL and that it acts on IRISL's behalf, but dispute the 'essential' nature of those services.

155 Suffice it to note that, as regards Rahbaran Omid Darya Ship Management and Hoopad Darya Shipping Agency, the applicants either do not dispute or they expressly recognise that those entities are acting on behalf of IRISL.

156 The fact that those entities act on behalf of IRISL is sufficient to justify their re-listing on the basis of the criteria relating to entities linked to IRISL.

157 Consequently, the arguments challenging the 'essential' nature of the services which those entities provided to IRISL are ineffective, particularly in the case of Hoopad Darya Shipping Agency, the grounds for whose re-listing do not include the provision of essential services.

158 As regards the applicants' assertion that those two entities changed their names, the applicants do not explain how that information is relevant to challenging the grounds on which the Council relied in re-listing them.

159 The Council thus correctly entered the names of Rahbaran Omid Darya Ship Management and Hoopad Darya Shipping Agency on the lists at issue on the basis of the criteria relating to entities linked to IRISL.

160 In the fifth place, Irano Misr Shipping was re-listed on the ground that it provided essential services to IRISL, in its capacity as IRISL's agent in Egypt.

161 In the applicants' submission, Irano Misr Shipping acts as agent for IRISL and provides certain services to it, but they dispute that those services are 'essential'.

162 Suffice it to note in that regard that, in its capacity as agent for IRISL in Egypt, Irano Misr Shipping carries out activities which are indispensable to the pursuit of IRISL's transport activities in that country. The applicants cannot therefore deny that, in the context of its activities, it provides essential services to IRISL.

163 Furthermore, in reply to a written question from the General Court, the applicants stated that the services which Irano Misr Shipping provided to IRISL included, in particular, crew changes, berthing of vessels or the issuing of bills of lading, which are services that are essential to the activities of a shipping company.

164 The Council thus correctly entered the name of Irano Misr Shipping on the lists at issue on the basis of the criteria relating to entities linked to IRISL.

165 It follows from the foregoing that the second plea in law must be rejected.

Third plea in law, alleging infringement of the rights of the defence

166 The applicants state that, in the present case, the Council informed them of its intention to re-list them and of the reasons on which it was relying, giving them a short period of time to make observations. However, they claim that the Council infringed their rights of defence.

167 First of all, the Council gave no indication of the material which it took into account until after the re-listing decision was adopted, so that it was too late for the applicants to make observations and for the Council to take them into account. Further, the Council gave no indication of the basis on which the applicants' re-listing was justified in November 2013, and it neither took into account their observations nor explained why it was rejecting them. The applicants add that the fact that their observations do not appear in the documents which the Council examined to support its re-listing decision means that it did not take them into consideration. Lastly, since the Council did not state its reasons for re-listing IRISL until its letter of 27 November 2013, that is after the adoption of Decision 2013/685 and Implementing Regulation No 1203/2013, those reasons are irrelevant. The Council should have allowed IRISL to comment on the allegations set out in that letter and should have included those allegations as reasons for IRISL's re-listing in Decision 2013/685 and Implementing Regulation No 1203/2013.

168 First of all, it may be recalled that, according to settled case-law, observance of the rights of the defence, especially the right to be heard, in all proceedings initiated against an entity which may lead to a measure adversely affecting that entity, is a fundamental principle of EU law which must be guaranteed, even when there are no rules governing the procedure in question (see judgment of 14 October 2009, *Bank Melli Iran* v *Council*, T-390/08, EU:T:2009:401, paragraph 91 and the case-law cited).

169 The principle of respect for the rights of the defence requires that the entity concerned must be informed of the evidence adduced against it to justify the measure adversely affecting it. Moreover, it must be afforded the opportunity effectively to make known its view on that evidence (see judgment of 6 September 2013, *Bank Melli Iran* v *Council*, T-35/10 and T-7/11, EU:T:2013:397, paragraph 82 and the case-law cited).

170 Next, in the context of the adoption of a decision to maintain the name of a person or an entity on a list of persons or entities subject to restrictive measures, the Council must respect the right of that person or entity to be heard beforehand where that institution is including in that decision new evidence against that person or entity, namely evidence which was not included in the initial listing decision (judgment of 18 June 2015, *Ipatau* v *Council*, C-535/14 P, EU:C:2015:407, paragraph 26).

171 Furthermore, it must be observed that, when sufficiently precise information has been communicated, enabling the entity concerned effectively to state its point of view on the evidence adduced against it by the Council, the principle of respect for the rights of the defence does not mean that the Council is obliged spontaneously to grant access to the documents in its file. It is only on the request of the

party concerned that the Council is required to provide access to all non-confidential official documents concerning the measure at issue (see judgment of 6 September 2013, *Bank Melli Iran* v *Council*, T-35/10 and T-7/11, EU:T:2013:397, paragraph 84 and the case-law cited).

172 Lastly, as regards the principle of effective judicial protection, it must be borne in mind that that principle is a general principle of EU law to which expression is now given by Article 47 of the Charter of Fundamental Rights. That principle means that the EU authority which adopts an act imposing restrictive measures against a person or entity is bound to communicate to it the grounds on which the act is based, so far as possible, either when that measure is adopted or, at the very least, as swiftly as possible after it has been adopted in order to enable those persons or entities to exercise their right to bring an action (see, to that effect, judgment of 16 November 2011, *Bank Melli Iran* v *Council*, C-548/09 P, EU:C:2011:735, paragraph 47 and case-law cited).

173 In the present case, it will be recalled that, by letters dated either 22 or 30 October 2013, the Council communicated to the applicants the reasons why it intended to re-list them and the facts on the basis of which, in its view, each of them satisfied the criteria referred to in Article 20(1)(b) of Decision 2010/413 and in Article 23(2)(b) and (e) of Regulation No 267/2012 (see paragraphs 13 and 14 above).

174 By those letters, contrary to the applicants' submissions, the Council communicated to them the reasons and the legal basis for their re-listing before Decision 2013/685 and Implementing Regulation No 1203/2013 were adopted. In those letters, the Council also gave them a period of time to submit their observations.

175 In addition it must be noted, as do the applicants, that their re-listing was based on the same matters of fact as those that supported their original listing, that is, in the case of IRISL, the three incidents linked to the shipment of military material and, in the case of the other applicants, their connections with IRISL.

176 By letters dated either 15 or 19 November 2013 (see paragraphs 15 and 16 above), the applicants set out in detail their observations on the facts relied on by the Council. They were thus able effectively to state their point of view on the evidence adduced against them by the Council.

177 By letters of 27 November 2013, the Council replied specifically to the applicants' observations and rejected the allegations they raised. The applicants are wrong, therefore, to claim that the Council did not take their observations into account or explain the reasons for its rejection of them.

178 The applicants are wrong also to maintain that, since their observations do not appear in the Council's file, that means that the Council did not take them into consideration in adopting its re-listing decision. In addition to the material which the Council had at its disposal vis-à-vis the applicants to support its re-listing decisions and that was in its file, the Council sent the applicants, by letters of 27 November 2013, explanations as to why their observations did not call those decisions into question.

179 Contrary to the applicants' submissions, moreover, the Council's letters of 27 November 2013 do not contain new grounds in support of the re-listing decision that differ from those set out in the letters dated either 22 or 30 October 2013 which were communicated before the re-listing decision. The explanations given by the Council in response to the applicants' observations cannot be treated like new grounds justifying their listing.

180 Lastly, it must be noted that, by letters of 27 November 2013, the Council disclosed to the applicants, in response to their request for access to the file, the documents on which it had relied in re-listing them (see paragraphs 21 and 22 above). In accordance with the case-law cited in paragraph 171 above, the Council was not required to disclose those documents to them spontaneously prior to the re-listing decision.

181 It follows from the foregoing that the Council did not infringe the applicants' rights of defence and that the third plea in law must be rejected.

Fourth plea in law, alleging breach of the principles of protection of legitimate expectations, legal certainty, *res judicata*, *ne bis in idem* and non-discrimination

182 The applicants submit that, following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), they were entitled to expect that their names would not again be included on the lists at issue unless the Council put forward new allegations or evidence. By re-listing them, the Council breached the principles of protection of legitimate expectations, legal certainty, *res judicata*, *ne bis in idem* and non-discrimination.

– Breach of the principle of *res judicata*

183 It should be noted that, according to settled case-law, annulment judgments given by the Courts of the European Union have the force of *res judicata* with absolute effect as soon as they become final. This applies not only to the operative part of the judgment annulling a decision, but also to the grounds which are its essential basis and are inseparable from it (see judgment of 5 September 2014, *Éditions Odile Jacob* v *Commission*, T-471/11, EU:T:2014:739, paragraph 56 and the case-law cited). The judgment annulling the act therefore means that the author of the act annulled must adopt a new act having regard not only to the operative part of the judgment but also to the grounds which led to the judgment and constitute its essential basis, thereby ensuring that the new act is not affected by the same irregularities as those identified in the judgment annulling the original act (see, to that effect, judgment of 6 March 2003, *Interporc* v *Commission*, C-41/00 P, EU:C:2003:125, paragraphs 29 and 30).

184 However, the principle of *res judicata* in respect of a judgment extends only to the matters of fact and law actually or necessarily settled (judgment of 19 February 1991, *Italy* v *Commission*, C-281/89, EU:C:1991:59, paragraph 14). Thus, Article 266 TFEU requires the institution which adopted the act annulled only to take the necessary measures to comply with the judgment annulling its act. The author of the act may, however, rely in its new decision on grounds other than those on which it based its first decision (see, to that effect, judgment of 6 March 2003, *Interporc* v *Commission*, C-41/00 P, EU:C:2003:125, paragraphs 28 to 32).

185 It must be noted that the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453) did not call into question the accuracy of the actions of which IRISL was accused, namely the three incidents involving IRISL linked to the shipment of military material in violation of paragraph 5 of Security Council Resolutions 1747 (2007), or the evidence relating to those actions. The General Court found only that those actions (i) were not sufficient to justify the entry of IRISL's name on the lists at issue on the basis of the criterion relating to persons who have assisted someone in violating the provisions of the relevant Security Council resolution, and (ii) did not constitute support for nuclear proliferation for the purposes of the criterion relating to persons providing support for Iran's nuclear activities.

186 The criterion on the basis of which IRISL's name was re-listed by Decision 2013/685 and Implementing Regulation No 1203/2013 must be distinguished from those applied by the Council in the acts annulled by the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453). Contrary to what is maintained by the applicants, in relying on a new, legally adopted, criterion justifying the imposition of restrictive measures against them, the Council did not therefore circumvent that judgment.

187 As regards the applicants' argument that the Council was not entitled to rely on the same allegations and the same evidence as that relied on in support of their first listing, suffice it to note that, in the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453), the General Court did not rule on the question whether those allegations and that evidence were capable of justifying IRISL's listing on the basis of the new criterion introduced by Decision 2013/497 and Regulation No 971/2013.

188 Lastly, as regards the applicants other than IRISL, the General Court merely held, in paragraph 77 of that judgment, that the fact that they are owned or controlled by IRISL or that they act on its behalf did not justify the adoption or maintenance of restrictive measures to which they were subject, since IRISL had not itself been properly identified as providing support for nuclear proliferation.

189 Since it is apparent from the foregoing that it cannot be inferred from the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453) that the Council was precluded from re-listing IRISL for a reason other than that which was considered in that judgment, the same applies with regard to the other applicants whose re-listing was linked to that of IRISL.

190 Consequently, the complaint alleging breach of the principle of *res judicata* must be rejected.

– Breach of the principles of protection of legitimate expectations and legal certainty

191 It should be noted that the right to rely on the principle of protection of legitimate expectations extends to any person who has been caused by an EU institution to entertain expectations which are justified by precise assurances provided to him. However, if a prudent and alert economic operator could have foreseen the adoption of an EU measure likely to affect his interests, he cannot plead that principle if the measure is adopted (judgments of 22 June 2006, *Belgium and Forum 187* v *Commission*, C-182/03 and C-217/03, EU:C:2006:416, paragraph 147; of 17 September 2009, *Commission* v *Koninklijke FrieslandCampina*, C-519/07 P, EU:C:2009:556, paragraph 84; and of 16 December 2010, *Kahla Thüringen Porzellan* v *Commission*, C-537/08 P, EU:C:2010:769, paragraph 63).

192 Furthermore, as regards the principle of legal certainty, it must be borne in mind that, according to settled case-law, that principle requires that EU legislation must be certain and its application foreseeable by those subject to it (judgments of 22 June 2006, *Belgium and Forum 187* v *Commission*, C-182/03 and C-217/03, EU:C:2006:416, paragraph 69, and of 14 October 2010, *Nuova Agricast and Cofra* v *Commission*, C-67/09 P, EU:C:2010:607, paragraph 77).

193 In the present case, it must be noted, as is evident from paragraph 189 above, that the Council was entitled to decide to re-list the applicants following the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453). In paragraphs 81 to 83 of that judgment, the Court maintained the effects of the decision and regulation by which the applicants' names had originally been entered on the lists at issue until the date of expiry of the period for bringing an appeal, in order to enable the Council to remedy the infringements established by adopting, if appropriate, new restrictive measures with respect to the applicants.

194 The fact, emphasised by the applicants, that the Council did not appeal against the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453) cannot have caused them to entertain a legitimate expectation that their names would not be included on the lists at issue again. The fact that no appeal was brought against that judgment could not in any way be interpreted as the Council declining to re-list the applicants, particularly as the Court expressly stated, in paragraph 64 of that judgment, that it was open to the Council, in its role as legislator, to extend the situations in which restrictive measures could be adopted.

195 It follows from this that the applicants were not entitled to regard the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453) as a guarantee that they would not be re-listed on the basis of different criteria from those that underpinned their original listing.

196 Consequently, the complaint alleging breach of the principles of protection of legitimate expectations and legal certainty must be rejected.

– Breach of the principle *ne bis in idem*

197 The principle *ne bis in idem*, which is a general principle of EU law, compliance with which is ensured by the Courts of the European Union and under which the same person cannot be sanctioned more than once for a single unlawful course of conduct designed to protect the same legal interest (see, to that effect, judgment of 7 January 2004, *Aalborg Portland and Others* v *Commission*, C-204/00 P, C-205/00 P, C-211/00 P, C-213/00 P, C-217/00 P and C-219/00 P, EU:C:2004:6, paragraph 338), is applicable in respect of sanctions for unlawful conduct (judgment of 27 September 2012, *Italy* v *Commission*, T-257/10, not published, EU:T:2012:504, paragraph 41).

198 Suffice it to note that, in accordance with settled case-law, restrictive measures consisting of the freezing of funds are not of a criminal nature (see, to that effect, judgments of 11 July 2007, *Sison* v *Council*, T-47/03, not published, EU:T:2007:207, paragraph 101, and of 7 December 2010, *Fahas* v *Council*, T-49/07, EU:T:2010:499, paragraph 67). Since the assets of the persons concerned have not been confiscated as the proceeds of crime but rather frozen as a precautionary measure, those measures do not constitute criminal sanctions and do not, moreover, imply any accusation of a criminal nature (judgments of 11 July 2007, *Sison* v *Council*, T-47/03, not published, EU:T:2007:207, paragraph 101, and of 9 December 2014, *Peftiev* v *Council*, T-441/11, not published, EU:T:2014:1041, paragraph 87).

199 Accordingly, the applicants cannot rely on breach of that principle and the present complaint must be rejected.

– Breach of the principle of non-discrimination

200 According to the case-law, the principle of equal treatment, which constitutes a fundamental principle of law, prohibits comparable situations from being treated differently or different situations from being treated in the same way, unless such difference in treatment is objectively justified (judgment of 14 October 2009, *Bank Melli Iran* v *Council*, T-390/08, EU:T:2009:401, paragraph 56).

201 It is sufficient to note that the applicants have not put forward any argument to show that that principle was breached by the Council and, therefore, the present complaint must be rejected as inadmissible.

202 It follows from all of the foregoing that the fourth plea in law must be rejected.

Fifth plea in law, alleging infringement of fundamental rights, notably the right to property and the right to respect for reputation, and breach of the principle of proportionality

203 The applicants claim that their re-listing violates, without justification or proportion, their fundamental rights, notably their right to property and to respect for their reputation. Their re-listing by means of Decision 2013/685 and Implementing Regulation No 1203/2013 implies that they support or have some connection with nuclear proliferation, contrary to what was held by the General Court in the judgment of 16 September 2013, *IRISL* (T-489/10, EU:T:2013:453). The Council did not explain, in Decision 2013/685 or Implementing Regulation No 1203/2013, why the decision to re-list them was now justified by any legitimate aim or how it was proportionate to any aim. Decision 2013/685 and

Implementing Regulation No 1203/2013 refer to incidents which took place in 2009 and that have no connection with the aim of stopping Iran's nuclear programme, and do not mention any current reason that would justify the re-listing decision.

204 According to settled case-law, the fundamental rights invoked by the applicants, namely the right to property and the right to respect for reputation, do not enjoy absolute protection under EU law. Consequently, the exercise of those rights may be restricted, provided that those restrictions in fact 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 rights so guaranteed (see, to that effect, judgments of 15 November 2012, *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraph 121, and of 25 June 2015, *Iranian Offshore Engineering & Construction* v *Council*, T-95/14, EU:T:2015:433, paragraph 59).

205 Moreover, according to settled case-law, the principle of proportionality is one of the general principles of EU law and requires that measures implemented through provisions of EU law be appropriate for attaining the legitimate objectives pursued by the legislation at issue and do not go beyond what is necessary to achieve them (judgments of 15 November 2012, *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraph 122, and of 25 June 2015, *Iranian Offshore Engineering & Construction* v *Council*, T-95/14, EU:T:2015:433, paragraph 60).

206 It is certainly the case that the applicants are restricted to a certain degree by the restrictive measures adopted against them, since they may not, inter alia, dispose of any funds that may be situated within the territory of the European Union or held by EU nationals, or transfer their funds to the European Union, except with special authorisation. Likewise, the measures imposed on the applicants may cause their partners and customers to regard them with a certain suspicion or mistrust.

207 However, it is apparent from paragraphs 65 to 77 above that the criteria applied by the Council accord with the aim of combating nuclear proliferation that underpins Decision 2010/413 and Regulation No 267/2012, and, from paragraphs 116 to 164 above, that the Council correctly re-listed the applicants on the basis of those criteria. Accordingly, the restrictions of the applicants' rights which arise from that re-listing must be considered to be justified.

208 Moreover, the disadvantages caused to the applicants by their re-listing are not disproportionate to the aim of maintaining international peace and security that is pursued by Decision 2013/685 and Implementing Regulation No 1203/2013.

209 Lastly, it should be noted that the Council does not claim that the applicants are themselves involved in nuclear proliferation. Hence, since they are not personally associated with behaviour posing a risk to international peace and security, the degree of mistrust towards them is therefore lower.

210 It follows from this that the applicants' re-listing does not disproportionately infringe their right to property or their right to respect for their reputation.

211 The fifth plea in law must therefore be rejected.

212 It follows from all of the foregoing that the action in Case T-87/14 must be dismissed.

Costs

213 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

214 In accordance with Article 138(1) of those rules, the institutions which have intervened in the proceedings are to bear their own costs.

215 As the applicants have been unsuccessful, they must be ordered to bear their own costs and to pay those incurred by the Council, in accordance with the form of order sought by the Council.

216 The Commission shall bear its own costs.

On those grounds,

THE GENERAL COURT (First Chamber)

hereby:

1. Dismisses the actions;

2. Orders Islamic Republic of Iran Shipping Lines and the other applicants whose names are listed in the Annex to bear their own costs and to pay those incurred by the Council of the European Union;

3. Orders the European Commission to bear its own costs.

Kanninen Pelikánová Buttigieg

Delivered in open court in Luxembourg on 17 February 2017.

E. Coulon
Registrar

H. Kanninen
President

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Annex

Hafize Darya Shipping Co., established in Tehran (Iran),

Khazar Sea Shipping Lines Co., established in Anzali Free Zone (Iran),

IRISL Europe GmbH, established in Hamburg (Germany),

Qeshm Marine Services & Engineering Co., established in Qeshm (Iran),

Irano Misr Shipping Co., established in Tehran,

Safiran Payam Darya Shipping Co., established in Tehran,

Marine Information Technology Development Co., established in Tehran,

Rahbaran Omid Darya Ship Management Co., established in Tehran,

Hoopad Darya Shipping Agency, established in Tehran,

Valfajr Shipping Co., established in Tehran.