Reports of Cases

JUDGMENT OF THE GENERAL COURT (Ninth Chamber, Extended Composition)

5 November 2014*

(Common foreign and security policy — Restrictive measures against Syria — Freezing of funds — Functions of the Governor of the Central Bank of Syria — Actions for annulment — Communication of an act imposing restrictive measures — Time-limit for bringing proceedings — Admissibility — Rights of the defence — Fair hearing — Obligation to state reasons — Burden of proof — Right to effective judicial protection — Proportionality — Right to property — Right to private and family life — Application of restrictions on entry to a national of a Member State — Freedom of movement for citizens of the Union)

In Joined Case T-307/12 and T-408/13,

Adib Mayaleh, residing in Damascus (Syria), represented by G. Karouni and C. Dumont, lawyers,

applicant,

v

Council of the European Union, represented by J.-P. Hix and V. Piessevaux, acting as Agents,

defendant,

APPLICATION for annulment in part of, first, Council Implementing Decision 2012/256/CFSP of 14 May 2012 implementing Decision 2011/782/CFSP concerning restrictive measures against Syria (OJ 2012 L 126, p. 9); second, Council Implementing Regulation (EU) No 410/2012 of 14 May 2012 implementing Article 32(1) of Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2012 L 126, p. 3); third, Council Decision 2012/739/CFSP of 29 November 2012 concerning restrictive measures against Syria and repealing Decision 2011/782/CFSP (OJ 2012 L 330, p. 21); fourth, Council Implementing Regulation (EU) No 363/2013 of 22 April 2013 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2013 L 111, p. 1; Corrigendum in OJ 2013 L 127, p. 27); and, fifth, Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14),

THE GENERAL COURT (Ninth Chamber, Extended Composition),

composed of G. Berardis (rapporteur), President, O. Czúcz, I. Pelikánová, A. Popescu and E. Buttigieg, judges,

Registrar: J. Plingers, administrator,

having regard to the written procedure and further to the hearing on 3 April 2014,

delivers the following

* Language of the case: French.

Judgment

Background to the disputes

1 The applicant, Mr Adib Mayaleh, a Syrian national and naturalised French citizen, is the Governor of the Central Bank of Syria. At the time of his naturalisation, his name was Gallicised to André Mayard, which is the only name on his French passport.

2 On 9 May 2011, the Council of the European Union adopted, on the basis of Article 29 TEU, Decision 2011/273/CFSP concerning restrictive measures against Syria (OJ 2011 L 121, p. 11).

3 Article 3(1) of Decision 2011/273 provides that Member States are to take the necessary measures to prevent the entry into, or transit through, their territories of the persons responsible for the violent repression against the civilian population in Syria, and persons associated with them, as listed in the Annex to that decision.

4 Article 4(1) of Decision 2011/273 provides that all funds and economic resources belonging to, owned, held or controlled by persons responsible for the violent repression against the civilian population in Syria, and natural or legal persons, and entities associated with them are to be frozen. The detailed rules applicable to the freezing of those funds and economic resources are defined in the other paragraphs of that article.

5 Pursuant to Article 5(1) of Decision 2011/273, the Council is to establish the list of the persons concerned.

6 On the same date, the Council adopted, on the basis of Article 215(2) TFEU, Regulation (EU) No 442/2011 concerning restrictive measures in view of the situation in Syria (OJ 2011 L 121, p. 1). Article 4(1) of that regulation provides for the freezing of all funds and economic resources belonging to, owned, held or controlled by the natural or legal persons, entities and bodies listed in Annex II to that regulation.

7 Decision 2011/273 was replaced by Council Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria and repealing Decision 2011/273 (OJ 2011 L 319, p. 56).

8 Article 18(1) and Article 19(1) of Decision 2011/782 correspond to Article 3(1) and Article 4(1) of Decision 2011/273 respectively, and also provide that the restrictive measures provided for therein are also to apply to persons and entities benefiting from or supporting the regime.

9 Regulation No 442/2011 was replaced by Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation No 442/2011 (OJ 2012 L 16, p. 1).

10 By Council Implementing Decision 2012/256/CFSP of 14 May 2012 implementing Decision 2011/782 (OJ 2012 L 126, p. 9), the applicant's name was added to the list in Annex I to that decision, with, in the language of the case, the following reasons:

'Adib Mayaleh apporte un soutien économique et financier au régime syrien dans le cadre de ses fonctions de gouverneur de la Banque centrale de Syrie' ('Abdul Mayaleh is responsible for providing economic and financial support to the Syrian regime through his functions as the Governor of the Central Bank of Syria').

11 By Council Implementing Regulation (EU) No 410/2012 of 14 May 2012 implementing Article 32(1) of Regulation No 36/2012 (OJ 2012 L 126, p. 3), the applicant's name was added to the list in Annex II to that regulation, for the same reasons as those set out at paragraph 10 above.

12 Article 21(2) and (3) of Decision 2011/782 provides:

'2. The Council shall communicate its decision on listing, including the grounds therefor, to the person or entity concerned, either directly, if the address is known, or through the publication of a notice, providing such person or entity with an opportunity to present observations.

3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the person or entity concerned accordingly.'

13 Article 32(2) and (3) of Regulation No 36/2012 contains a similar provision.

14 On 15 May 2012, the Council published in the *Official Journal of the European Union* a Notice for the attention of the persons and entities to which restrictive measures provided for in [Decision 2011/782], as implemented by [Decision 2012/256], and [Regulation No 36/2012], as implemented by [Implementing Regulation No 410/2012] apply (OJ 2012 C 139, p. 19).

15 According to that notice, the persons and entities concerned may submit a request to the Council, together with supporting documentation, that the decision to include them in the lists annexed to the acts referred to at paragraph 14 above should be reconsidered.

16 The applicant did not approach the Council following his inclusion on the lists in question. However, by application lodged at the Court Registry on 11 July 2012, he brought an action for annulment of Implementing Regulation No 410/2012 and Implementing Decision 2012/256, in so far as those acts concerned him.

17 By Council Decision 2012/739/CFSP of 29 November 2012 concerning restrictive measures against Syria and repealing Decision 2011/782 (OJ 2012 L 330, p. 21), the restrictive measures applied to the applicant were maintained, his name appearing in Annex I.A to Decision 2012/739, with the following reasons:

'Adib Mayaleh est responsable de la fourniture d'un soutien économique et financier au régime par le biais de ses fonctions de gouverneur de la Banque centrale de Syrie' ('Adib Mayaleh is responsible for providing economic and financial support to the Syrian regime through his functions as the Governor of the Central Bank of Syria').

18 On 30 November 2012, the Council published in the *Official Journal of the European Union* a Notice for the attention of the persons and entities to which restrictive measures provided for in Decision 2012/739 and Regulation No 36/2012 apply (OJ 2012 C 370, p. 6), the content of which essentially coincides with that of the notice referred to at paragraphs 14 and 15 above.

19 By Implementing Regulation (EU) No 363/2013 of 22 April 2013 implementing Regulation No 36/2012 (OJ 2013 L 111, p. 1; corrigendum in OJ 2013 L 127, p. 27), the Council replaced Annex II to Regulation No 36/2012, maintaining the applicant's name in the new annex, for the same reasons as those set out at paragraph 17 above.

20 On 23 April 2013, the Council published in the *Official Journal of the European Union* a Notice for the attention of the persons and entities to which restrictive measures provided for in Decision 2012/739, as implemented by Council Implementing Decision 2013/185/CFSP, and in Regulation No 36/2012, as

implemented by Council Implementing Regulation No 363/2013 apply (OJ 2012 C 115, p. 5), the content of which essentially coincides with that of the notice referred to at paragraphs 14 and 15 above.

21 By Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14), the restrictive measures applied to the applicant were maintained, his name appearing in Annex I.A to that decision, with the same reasons as those set out at paragraph 17 above.

22 On 1 June 2013, the Council published in the *Official Journal of the European Union* a Notice for the attention of the persons and entities to which restrictive measures provided for in Decision 2013/255 and Regulation No 36/2012 apply (OJ 2013 C 155, p. 1), the content of which essentially coincides with that of the notice referred to at paragraphs 14 and 15 above.

Procedure and forms of order sought

23 As stated at paragraph 16 above, by application lodged at the Court Registry on 11 July 2012, the applicant brought an action for annulment of Implementing Regulation No 410/2012 and Implementing Decision 2012/256, in so far as those acts concerned him. That action was registered as Case T-307/12.

24 By a pleading lodged at the Court Registry on 30 January 2013, the applicant sought leave to amend the form of order sought in Case T-307/12 in order that his claim for annulment might also cover Decision 2012/739, in so far as it concerned the applicant ('the request that the action might cover Decision 2012/739').

25 By letter lodged at the Court Registry on 27 February 2013, the Council stated that it had no observations on the request that the action might cover Decision 2012/739.

26 By a pleading lodged at the Court Registry on 30 July 2013, the applicant sought leave to amend the form of order sought in Case T-307/12 so that his claim for annulment might also cover Implementing Regulation No 363/2013 and Decision 2013/255, in so far as those acts concerned him ('the request that the action might cover Implementing Regulation No 363/2013' and 'the request that the action might cover Decision 2013/255', respectively). On the same date the applicant also brought a second action, which was registered as Case T-408/13, whereby he sought annulment of Implementing Regulation No 363/2013 and Decision 2013/255, in so far as those acts concerned him.

27 In Case T-307/12, by letter lodged at the Court Registry on 6 September 2013, the Council stated that it had no observations on either the request that the action might cover Implementing Regulation No 363/2013 or the request that the application might cover Decision 2013/255.

28 In Case T-408/13, the Court (Ninth Chamber), in the context of the measures of organisation of procedure provided for in Article 64 of its Rules of Procedure, asked the Council to state whether Implementing Regulation No 363/2013 and Decision 2013/255 had been communicated directly to the applicant.

29 By letter lodged at the Court Registry on 15 October 2013, the Council produced two letters, dated 13 May and 3 June 2013 respectively, whereby it had communicated to one of the applicant's representatives in Case T-307/12, Mr Karouni, first, Implementing Regulation No 363/2013 and then Decision 2013/255.

30 By letter lodged at the Court Registry on 30 October 2013, the applicant confirmed that his representative had received the abovementioned communications, on 17 May and 6 June 2013 respectively. However, the applicant observed that neither Implementing Regulation No 363/2013 nor Decision 2013/255 had been communicated directly to his address.

31 On the basis of Article 50 of the Rules of Procedure, and after the parties had been heard, Cases T-307/12 and T-408/13 were joined for the purposes of the written procedure, the oral procedure and the final judgment, by order of the President of the Ninth Chamber of the Court of 6 November 2013.

32 On 18 December 2013, the Council lodged the defence in Case T-408/13.

33 By decision of 6 January 2014, the Court (Ninth Chamber) decided that a second exchange of pleadings was unnecessary, on the basis of Article 47(1) of the Rules of Procedure.

34 By letter lodged at the Court Registry on 21 January 2014, the applicant sought leave to submit a reply in Case T-408/13, in order to be able to adopt a position on the plea of inadmissibility raised by the Council in the defence referred to at paragraph 32 above.

35 On 22 January 2014, pursuant to Article 14 of the Rules of Procedure and on a proposal from the Ninth Chamber, the Court decided to refer the present cases to the Ninth Chamber, extended composition.

36 By a pleading lodged at the Court Registry on 22 January 2014, the applicant sought leave to amend the form of order sought in order that the claims for annulment might also cover Council Decision 2013/760/CFSP of 13 December 2013 amending Decision 2013/255 (OJ 2013 L 335, p. 50) and Council Regulation (EU) No 1332/2013 of 13 December 2013 amending Regulation No 36/2012 (JO 2013 L 335, p. 3), in so far as those acts concerned him.

37 By decision of 13 February 2014, the Court (Ninth Chamber, extended composition) rejected the applicant's request referred to at paragraph 34 above.

38 Acting upon a report of the Judge-Rapporteur, the Court (Ninth Chamber, extended composition) decided to open the oral procedure and, in the context of the measures of organisation of procedure provided for in Article 64 of the Rules of Procedure, to request the parties to answer certain questions. Information was also requested from the French Republic, on the basis of the second paragraph of Article 24 of the Statute of the Court of Justice of the European Union.

39 The parties complied with those measures within the prescribed period. Likewise, the French Republic supplied the requested information.

40 The parties presented oral argument and answered the oral questions put to them by the Court at the hearing on 3 April 2014. On that occasion, the applicant stated, first, that the action in Case T-408/13 had been brought as an alternative action, in order to take account of the possibility that the Court should find that the form of order sought in Case T-307/12, as amended by the requests referred to at paragraphs 24 and 26 above, was inadmissible and, second, that it had withdrawn the request to amend the form of order sought referred to at paragraph 36 above. The Council claimed that Implementing Regulation No 363/2013 had been challenged out of time. In the alternative, in the event that the Court should consider that the corrigendum of that implementing regulation published in the Official Journal on 9 May 2013 ('the corrigendum of 9 May 2013') ought to have been communicated to the applicant, the Council asked that the action be declared inadmissible in so far as it related to that implementing regulation and left the question of admissibility to the Court's discretion so far as that corrigendum was concerned. Formal notice of those statements was taken in the minutes of the hearing.

41 In Case T-307/12, the applicant claims that the Court should:

— annul Implementing Decision 2012/256, in so far as it concerns the applicant;

— annul Implementing Regulation No 410/2012, in so far as it concerns the applicant;

— annul Decision 2012/739, in so far as it concerns the applicant;

— annul Implementing Regulation No 363/2013, in so far as it concerns the applicant;

— annul Decision 2013/255, in so far as it concerns the applicant;

— order the Council to pay the costs.

42 In Case T-408/13, the applicant claims that the Court should:

— annul Implementing Regulation No 363/2013, in so far as it concerns the applicant;

— annul Decision 2013/255, in so far as it concerns the applicant;

— order the Council to pay the costs.

43 In Case T-307/12, the Council contends that the Court should:

— dismiss the action;

— order the applicant to pay the costs.

44 In Case T-408/13, the Council contends that the Court should:

— declare the action inadmissible;

— in the alternative, declare the action inadmissible in so far as it relates to Implementing Regulation No 363/2013;

— in the further alternative, dismiss the action as unfounded;

— order the applicant to pay the costs.

Law

A – *The action in Case T-307/12*

1. *The admissibility of the requests to amend the form of order sought*

45 The applicant sought leave to extend the scope of his action in Case T-307/12 in order that it might also cover Decision 2012/739, Implementing Regulation No 363/2013 and Decision 2013/255.

a) The request that the action might cover Decision 2012/739 and Decision 2013/255

46 It should be borne in mind that, as is apparent from paragraphs 17 and 20 above, after the application in Case T-307/12 had been lodged, first, Decision 2011/782, as amended by Implementing Decision 2012/256, was repealed and replaced by Decision 2012/739 and, second, as Decision 2012/739 was no longer applicable, Decision 2013/255 was adopted. The applicant's name is on the lists constituting Annex I to Decision 2012/739 and Decision 2013/255, with the reasons as set out at paragraph 17 above.

47 In that regard, it must be observed that, where in the course of the proceedings the act initially contested is replaced by another act having the same subject-matter, the latter act must be regarded as a new factor which allows the applicant to amend the form of order sought and its pleas. It cannot be accepted that a EU institution or organ were able, in order to counter criticisms in an application against one of its acts, to amend that act or to substitute another for it and to rely in the proceedings on that amendment or substitution in order to deprive the other party of the opportunity of extending the form of order sought and his original pleas in law to the later act or of submitting supplementary pleas against that act (Case 14/81 *Alpha Steel* v *Commission* [1982] ECR 749, paragraph 8, and Joined Cases T-35/10 and T-7/11 *Bank Melli Iran* v *Council* [2013] ECR, paragraph 53).

48 Furthermore, in order to be admissible, a request to amend the form of order sought must be submitted within the two-month period for bringing proceedings provided for in the sixth paragraph of Article 263 TFEU, plus the 10-day period on account of distance provided for in Article 102(2) of the Rules of Procedure and also, where appropriate, the additional 14 days referred to in Article 102(1) of those rules (see paragraph 65 below). This time-limit for bringing an action is mandatory and must be applied by the Courts of the European Union in such a way as to safeguard legal certainty and also the equality of persons before the law. It is thus for the relevant Court to verify, if necessary of its own motion, whether that time-limit has been observed (see *Bank Melli Iran* v *Council*, paragraph 47 above, paragraph 55 and the case-law cited).

49 It must be accepted that the request that the action might cover Decision 2012/739 and the request that the action might cover Decision 2013/255 are admissible. Since those decisions, under which the applicant continues to be affected by the restrictive measures against Syria, were adopted on 29 November 2012 and 31 May 2013 respectively, it must be held that those requests, which were lodged at the Court Registry on 30 January 2013 and 30 July 2013 respectively, were necessarily submitted within the time-limit for bringing an action applicable to each of the decisions in question.

b) The request that the action might cover Implementing Regulation No 363/2013

50 Although in the observations which it lodged at the Court Registry on 6 September 2013 (see paragraph 27 above) the Council did not plead that the request that the action might cover Implementing Regulation No 363/2013 was out of time, it claimed at the hearing common to the two joined cases that the applicant had challenged that act after the time-limit for doing so had expired. In essence, as it had already observed in the defence in Case T-408/13, the Council maintained that the applicant ought to have submitted its request to the Court no later than 29 July 2013, in view, first, of the fact that on 17 May 2013 one of the lawyers who already represented the applicant in Case T-307/12 had acknowledged receipt of the communication of that implementing regulation by the Council to the address of his chambers and, second, of the provisions on the time-limits for bringing proceedings prescribed in the sixth paragraph of Article 263 TFEU and Article 102(2) and the first subparagraph of Article 101(2) of the Rules of Procedure.

51 At the hearing, the applicant maintained that that communication was not valid and that the request that the action might cover Implementing Regulation No 363/2013 was therefore not out of time.

52 The Court must examine whether the Council was under an obligation to communicate Implementing Regulation No 363/2013 to the applicant and, if so, what procedures that communication had to follow.

The obligation to communicate Implementing Regulation No 363/2013 to the applicant

53 As a preliminary point, it should be observed that the principles referred to at paragraphs 47 and 48 above also apply in respect of a request to amend the form of order sought with respect to an act, such as Implementing Regulation No 363/2013, which, without repealing an earlier act, maintains a person's entry on the lists of persons subject to restrictive measures, following a review procedure expressly required by the relevant legislation (see, to that effect, *Bank Melli Iran* v *Council*, paragraph 47 above, paragraph 54).

54 In that regard, it must be borne in mind that, according to the case-law, the principle of effective judicial protection means that the European Union authority which adopts individual restrictive measures against a person or entity, as is the case here, is bound to communicate the grounds on which those measures are based, either when those measures are adopted or, at the very least, as swiftly as possible after their adoption, in order to enable those persons or entities to exercise their right to bring an action (see *Bank Melli Iran* v *Council*, paragraph 47 above, paragraph 56 and the case-law cited).

55 In this instance, that principle is applied in Article 32(1) and (2) of Regulation No 36/2012, which provides that:

'1. Where the Council decides to subject a natural or legal person, entity or body to [restrictive] measures …, it shall amend Annex II or Annex IIa accordingly.

2. The Council shall communicate its decision, including the grounds for listing, to the natural or legal person, entity or body referred to in paragraph 1, either directly, if the address is known, or through the publication of a notice, providing such natural or legal person, entity or body with an opportunity to present observations.'

56 It follows that the time-limit for bringing an action for annulment of an act imposing restrictive measures on a person or entity starts to run only from the date on which that act is notified to the interested party and not from the date of publication of that act, having regard to the fact that that act, as regards the persons on whom those measures are imposed, forms part of a bundle of individual decisions. Likewise, the time-limit for submitting a request to extend the form of order sought and the pleas in law to an act which maintains those measures begins to run only from the date on which that new act is communicated to the person or entity concerned (see, to that effect, *Bank Melli Iran* v *Council*, paragraph 47 above, paragraph 57; see also, to that effect and by analogy, Joined Cases C-478/11 P to C-482/11 P *Gbagbo and Others* v *Council* [2013 ECR, paragraphs 56 to 58).

57 In the present case, Implementing Regulation No 363/2013 is an act whereby the Council maintained the applicant's name on the list annexed to Regulation No 36/2012. The Council was therefore required to communicate such an act to the applicant, independently of whether, in order to maintain his name on that list, the Council had relied on new factors. Contrary to the Council's assertion at the hearing, it does not follow from the judgment in Joined Cases T-174/12 and T-80/13 *Syrian Lebanese Commercial Bank* v *Council* [2014] ECR, paragraph 149, that the obligation to communicate to the person concerned an act maintaining restrictive measures against him applies only where that act is based on new factors by comparison which those that had initially justified the adoption of such measures. In reality, the case-law on which the Council relies relates to whether respect for the rights of defence of a person on whom restrictive measures are imposed requires that that person be heard prior to the adoption of an act which maintains such measures against him. It is in that context that

the case-law has established that the right to be heard prior to the adoption of acts maintaining restrictive measures with respect to persons to whom those measures already apply assumes that the Council has admitted new evidence against those persons (see *Syrian Lebanese Commercial Bank* v *Council*, paragraph 149 and the case-law cited).

58 It follows that the Council was required to communicate Implementing Regulation No 363/2013 to the applicant.

The alternative between the direct communication of Implementing Regulation No 363/2013 to those concerned and the publication of a notice concerning that act in the Official Journal

59 In order to establish the event that caused time to begin to run for the purpose of challenging Implementing Regulation No 363/2013 before the Court, it is appropriate to define the procedures whereby the Council was required to communicate that act to him.

60 It follows from the case-law that Article 32(1) and (2) of Regulation No 36/2012 must be interpreted as meaning that when the Council has the address of a person subject to restrictive measures, where the acts incorporating those measures are not communicated directly, the period with which that person must comply in order to challenge those acts before the Court does not begin to run. Thus, it is only where it is impossible to communicate individually to the person concerned the act by which restrictive measures against him are adopted or maintained that the publication of a notice in the *Official Journal of the European Union* causes that period to begin to run (see, to that effect, *Bank Melli Iran* v *Council*, paragraph 47 above, paragraph 59, and *Syrian Lebanese Commercial Bank* v *Council*, paragraph 57 above, paragraphs 59 and 60; see also, to that effect and by analogy, *Gbagbo and Others* v *Council*, paragraph 56 above, paragraphs 61 and 62).

61 In that regard, it should be observed that the Council may be considered to be unable to communicate individually to a natural or legal person or to an entity an act incorporating restrictive measures relating to that person or entity either when the latter's address is not published and has not been supplied to the Council or when the communication sent to the address which the Council has fails, in spite of the steps which it has taken, with all necessary diligence, in order to effect such communication.

62 In the present case, it is common ground that on 23 April 2013, the date of adoption of Implementing Regulation No 363/2013, the Council had the applicant's address. In fact, the application initiating the proceedings in Case T-307/12, lodged at the Court Registry on 11 July 2012 and notified to the Council on 13 July 2012, contained the applicant's address for service, in accordance with Article 44(1)(a) of the Rules of Procedure, and stated that his address for service was the Central Bank of Syria, whose address was also stated.

63 Accordingly, in principle, it must be precluded that the publication in the Official Journal of the notice concerning, in particular, Implementing Regulation No 363/2013, referred to at paragraph 20 above, may be regarded as the event causing the period with which the applicant was required to comply in order to challenge that act before the Court to begin to run.

64 In the present case, since the Council has not even claimed that it was impossible for it to communicate Implementing Regulation No 363/2013 directly to the applicant (see, to that effect, *Syrian Lebanese Commercial Bank* v *Council*, paragraph 57 above, paragraph 61), the date of publication of that notice could constitute the starting point of the period for bringing proceedings only if such direct communication would have proved to be unsuccessful (see paragraph 61 above). However, that is not the case here.

65 Furthermore, it should be observed that when the Council has the address for service of a person subject to restrictive measures and has validly communicated the acts incorporating those measures to him at that address, no relevance can be ascribed to the fact that the period for bringing proceedings against those acts might be more favourable to that person if it were calculated from the date of publication in the Official Journal of the notice relating to the acts in question, in view, in particular, of the application of Article 102(1) of the Rules of Procedure, which provides for 14 additional days for the calculation of the period for bringing proceedings from publication of an act in the Official Journal (see, to that effect, *Syrian Lebanese Commercial Bank* v *Council*, paragraph 57 above, paragraph 65). Direct communication received by the addressee enables him to take cognisance of the content of the acts concerning him and also of the grounds on which they are based. Accordingly, the date of receipt of such communication causes time to begin to run for the purpose of bringing an action against those acts (see, to that effect and by analogy, orders of 4 June 2012 in Case T-350/09 *ICO Satellite* v *Commission*, not published in the ECR, paragraphs 29 and 33, and of 18 December 2012 in Case T-320/11 *Hungary* v *Commission*, not published in the ECR, paragraphs 19 and 23). It should be borne in mind, moreover, that the purpose of the additional 14-day period provided for in Article 102(1) of the Rules of Procedure is to ensure that interested parties have sufficient time within which to bring an action against the published acts and the acts communicated to those concerned by the publication of a notice (see, to that effect, *Syrian Lebanese Commercial Bank* v *Council*, paragraph 57 above, paragraphs 64 and 65). Where an act was communicated directly to the person concerned, on the other hand, there is no reason why he should be afforded such a period.

66 Since it follows from the foregoing, first, that the Council was required to communicate Regulation No 363/2013 directly to the applicant and, second, that if such communication was not validly made, the period with which the applicant was required to comply in order to challenge that act before the Court never began to run, it must be established whether the Council fulfilled that obligation.

The procedures whereby Implementing Regulation No 363/2013 was communicated to the applicant

67 It is common ground, first, that the Council did not communicate Implementing Regulation No 363/2013 to the applicant's address for service at the Central Bank of Syria and, second, that one of the lawyers representing the applicant in Case T-307/12 received on 17 May 2013 a letter from the Council dated 13 May 2013, to which Implementing Regulation No 363/2013 was annexed ('the letter received on 17 May 2013').

68 The applicant claims that the letter received on 17 May 2013 is not a valid communication, on the ground that the Council, first, did not communicate to him the corrigendum of 9 May 2013 (see paragraph 40 above); second, inserted that letter in a single envelope, which also contained communications relating to other clients of his representatives' chambers; and, third, did not use the applicant's address for service at the Central Bank of Syria.

69 As regards the applicant's first argument, it should be observed that Implementing Regulation No 363/2013 was indeed the subject of the corrigendum of 9 May 2013 and that it is not apparent from the file that that corrigendum was annexed to the letter received on 17 May 2013. However, the parties are agreed that the corrigendum of 9 May 2013 was intended only to correct the way in which the names of the persons on the lists annexed to the implementing regulation in question had been written in Arabic.

70 In that regard, it should be observed, first of all, that Implementing Regulation No 363/2013, both in the original version and in the version resulting from the corrigendum of 9 May 2013, states the names of the persons on the lists annexed to that regulation in roman characters, while the reference in Arabic appears only in brackets. Next, the acts incorporating restrictive measures against Syria

adopted before that implementing regulation contained only the version in roman characters of the persons concerned, which did not prevent the applicant from taking cognisance of them and from challenging them before the Court. Last, Arabic is not an official language of the European Union.

71 In those circumstances, it must be considered that the corrigendum of 9 May 2013 had no impact on the effects which Implementing Regulation No 363/2013 produced vis-à-vis the applicant (see, to that effect and by analogy, Case C-30/93 *AC-ATEL Electronics* [1994] ECR I-2305, paragraph 24). Accordingly, the fact that Implementing Regulation No 363/2013, but not the corrigendum of 9 May 2013, was annexed to the letter received on 17 May 2013 does not support the conclusion that the communication in question was invalid, and the applicant's first argument must therefore be rejected.

72 Neither is the applicant's second argument well founded. It is sufficient to observe that, in the letter received on 17 May 2013, it was clearly stated, under the heading 'subject-matter' of the letter, that it concerned the applicant. It is thus clear that the expression 'your client', in what is admittedly the standardised text of that letter, refers not to just any client of the chambers of the applicant's representatives but to the applicant. In addition, the letter bears a number of the register of the Secretariat General of the Council, which in principle enables it to be distinguished from the other letters in the single envelope received by the applicant's representative.

73 As regards the applicant's third argument, it should be borne in mind that the sixth paragraph of Article 263 TFEU refers to 'notification [of the act] to the [applicant]', and not to notification of the act to his representative.

74 It follows that where an act must be notified in order for the period for bringing proceedings to begin to run, it must in principle be sent to the addressee of the act, and not to the lawyers representing him. According to the case-law, notification to an applicant's representative amounts to notification to the addressee only where such a form of notification is expressly provided for in the legislation or by agreement between the parties (see, to that effect, order of 8 July 2009 in Case T-545/08 *Thoss* v *Court of Auditors*, not published in the ECR, paragraphs 41 and 42, and judgment of 11 July 2013 in Joined Cases T-104/07 and T-339/08 *BVGD* v *Commission*, not published in the ECR, paragraph 146).

75 In the present case, it is also necessary to take account of the applicable legislation, namely Article 32(1) and (2) of Regulation No 36/2012 (see paragraph 55 above), and to note that it makes no express reference to the possibility that the notification referred to in the case-law referred to in the preceding paragraph might take the form of communication of an act to a lawyer representing the person at whom the measure is directed.

76 It follows that, by communicating Implementing Regulation No 363/2013 to one of the lawyers representing the applicant in Case T-307/12, the Council did not comply with the letter of that legislation, which it had imposed upon itself.

77 It should be observed, moreover, that there is nothing in the file to substantiate the conclusion that there was an agreement between the parties, within the meaning of the case-law referred to at paragraph 74 above, that would allow the Council to communicate Implementing Regulation No 363/2013 to that representative. In that respect, it should be observed that the applicant was never in contact with the Council, either directly or through his lawyers, so that the existence of such an agreement could have been the consequence only of the documents exchanged before the Court in the context of the present actions. However, those documents do not permit the view that such an agreement was concluded.

78 In those circumstances, it must be held that, as the Council did not properly communicate Implementing Regulation No 363/2013 to the applicant, the latter was not barred, on 30 July 2013, from submitting the request that the action might cover that act. Thus, the plea of inadmissibility raised by the Council in respect of that request must be rejected.

79 Consequently, in the examination of the substance of the action in Case T-307/12, the applicant must be considered to be entitled to seek annulment of Decision 2011/782, as amended by Implementing Decision 2012/256, of Regulation No 36/2012 (as amended by Implementing Regulation No 410/2012, Decision 2012/739 of Implementing Regulation No 363/2013 and of Decision 2013/255) (together 'the contested acts'), in so far as those acts concern him.

2. *Substance*

80 In support of his action, the applicant relies, in essence, on four pleas in law, alleging:

— first, breach of the rights of the defence, of the right to a fair hearing and of the right to effective judicial protection;

— second, breach of the obligation to state reasons;

— third, the absence of proof of a sufficient link between him and the situation giving rise to the adoption of restrictive measures against Syria and also breach of the principle of proportionality;

— fourth, breach of the principle of proportionality, of the right to property, of the right to private and family life and of the right to freedom to come and go and also breach of the national and EU rules reserved for citizens of the Member States and of the Union.

81 It is appropriate to examine first of all the second plea, then the first plea, and then the other pleas.

a) Second plea, alleging breach of the obligation to state reasons

82 The applicant claims that the contested acts do not state the actual and specific reasons why the Council, in the exercise of its discretion, considered that he should be subject to the restrictive measures against Syria. The reasons stated in the acts are vague and general and merely describe the applicant's professional functions, instead of providing objective evidence on which it might be concluded that he participates, through his actual conduct, in the actions alleged against the Central Bank of Syria and connected with the repression of the civilian population.

83 Nor were any additional reasons communicated to him following the adoption of the contested acts.

84 The Council disputes the applicant's arguments.

85 It should be borne in mind that the purpose of the obligation to state the reasons for an act adversely affecting a person, as provided for in the second paragraph of Article 296 TFEU, is, first, to provide the person concerned with sufficient information to make it possible to determine whether the act is well founded or whether it is vitiated by an error permitting its validity to be contested before the Courts of the European Union and, second, to enable those Courts to review the lawfulness of the act. The obligation to state reasons thus imposed constitutes an essential principle of EU law which may be derogated from only for compelling reasons. The statement of reasons must therefore in principle be notified to the person concerned at the same time as the act adversely affecting him, for failure to state the reasons cannot be remedied by the fact that the person concerned learns the reasons for the act during the proceedings before the Courts of the European Union (see, to that effect, Case C-417/11 P *Council* v *Bamba* [2012] ECR, paragraph 49, and Case T-390/08 *Bank Melli Iran* v *Council* [2009] ECR II-3967, paragraph 80).

86 Consequently, unless there are compelling reasons touching on the security of the European Union or of its Member States or the conduct of their international relations which prevent the disclosure of certain information, the Council is required to inform the person or entity covered by restrictive

measures of the actual and specific reasons why it considers that those measures had to be adopted. It must thus state the matters of fact and law which constitute the legal basis of the measures concerned and the considerations which led it to adopt them (see, to that effect, Case T-390/08 *Bank Melli Iran* v *Council*, paragraph 85 above, paragraph 81).

87 Furthermore, the statement of reasons must be appropriate to the act at issue and to the context in which it was adopted. The requirements to be satisfied by the statement of reasons depend on the circumstances of each case, in particular the content of the act in question, the nature of the reasons given and the interest which the addressees of the act, or other parties to whom it is of direct and individual concern, may have in obtaining explanations. It is not necessary for the statement of reasons to specify all the relevant matters of fact and law, since the question whether the statement of reasons is sufficient must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question. In particular, the reasons given for an act adversely affecting a person are sufficient if it was adopted in circumstances known to that person which enable him to understand the scope of the measure concerning him (*Council* v *Bamba*, paragraph 85 above, paragraphs 53 and 54, and Case T-390/08 *Bank Melli Iran* v *Council*, paragraph 85 above, paragraph 82).

88 In the present case, the reasons supplied by the Council since the applicant was included on the lists of restrictive measures against Syria have always been, in essence, that he performs the functions of governor of the Central Bank of Syria.

89 In that regard, it should be noted that, contrary to applicant's assertion in answer to a question put by the Court, the slight differences in wording, in the language of the case, between the reasons stated in Implementing Decision 2012/256 and Implementing Regulation No 410/2012 (see paragraphs 10 and 11 above), on the one hand, and those stated in Decision 2012/739 and Implementing Regulation No 363/2013 and Decision 2013/255 (see paragraphs 17 and 21 above), on the other hand, have no impact on the substance of the reasons supplied by the Council.

90 In effect, the fact that the applicant is considered to provide economic and financial support to the Syrian regime in the context of his functions as governor is tantamount asserting that he is responsible for providing such support through those functions. In either case it is the applicant's functions that, in the Council's opinion, are of such a kind that they involve a role of supplying economic and financial support to the Syrian regime.

91 As the Council observes, the explanation for the amendments to which the applicant refers lies not in a change in the meaning of the reasons initially relied on against him, but in the desire to ensure greater consistency, from a purely literal viewpoint, between the different language versions of the contested acts.

92 It should be borne in mind, moreover, that, according to settled case-law, the need for a uniform interpretation of European Union acts makes it impossible in case of doubt for the text of a provision to be considered in isolation but requires, on the contrary, that it should be interpreted and applied in the light of the versions drawn up in the other official languages (see Case C-412/10 *Homawoo* [2011] ECR I-11603, paragraph 28 and the case-law cited). In a number of the language versions of the contested acts, including, in particular, the English version, the reasons relied on against the applicant were not altered. That confirms, should confirmation be necessary, that the substance of those reasons remained the same.

93 That having been made clear, it should be observed that a reading of the reasons on which the contested acts were based enabled the applicant to understand that he had been included on the lists of persons subject to the restrictive measures against Syria because of his professional functions.

94 Confirmation that the applicant did indeed understand that the Council had relied on his professional functions may be found in the fact that, in the context of the present action, he put forward a plea — the third plea — specifically disputing the possibility that the Council should adopt restrictive measures against him on the sole basis of those functions.

95 Furthermore, as the reasons for the Council's choice were clearly stated in the contested acts, the Court is in a position to assess the merits of those reasons.

96 In that regard, it must be borne in mind that the obligation to state reasons on which an act is based is an essential procedural requirement, to be distinguished from the question whether the reasons given are correct, which goes to the substantive legality of the contested act. The reasoning on which an act is based consists in a formal statement of the grounds on which that act is based. If those grounds are vitiated by errors, the latter will vitiate the substantive legality of the act, but not the statement of reasons in it, which may be adequate even though it sets out reasons which are incorrect (see, to that effect, Case C-413/06 P *Bertelsmann and Sony Corporation of America* v *Impala* [2008] ECR I-4951, paragraph 181, and *Council* v *Bamba*, paragraph 85 above, paragraph 60).

97 In the light of the foregoing considerations, the plea alleging breach of the obligation to state reasons must be rejected, while the merits of the reasons relied on by the Council against the applicant must be assessed in the context of the third plea.

b) First plea, alleging breach of the rights of the defence, of the right to a fair hearing and of the right to effective judicial protection

98 The applicant claims that he was included on the list of persons subject to the restrictive measures against Syria, which are penal in nature, without having first been informed of the reasons for his inclusion and having been heard in that respect. The requirement that those measures should have a surprise effect did not preclude a hearing being held before they were adopted.

99 Furthermore, in the applicant's submission, the Council failed to fulfil its obligation to communicate the contested acts, including the reasons for his inclusion, to him, although it could not be unaware of his address for service. The publication of a notice in the Official Journal did not give him the 'actual possibility' of submitting observations. In fact, the review procedure mentioned by such notices does not enable the applicant to put forward his point of view effectively and does not provide sufficient guarantees. It is therefore irrelevant that he did not submit a request for a review.

100 Last, the applicant claims that he was unable to exercise his right to effective judicial protection, as the Council did not communicate to him the reasons why he was covered by the restrictive measures against Syria.

101 The Council disputes the applicant's arguments.

102 It should be borne in mind that the fundamental right to observance of the rights of the defence during a procedure preceding the adoption of a restrictive measure is expressly affirmed in Article 41(2)(a) of the Charter of Fundamental Rights of the European Union, which is recognised by Article 6(1) TEU as having the same legal value as the Treaties (Case C-27/09 P *France* v *People's Mojahedin Organization of Iran* [2011] ECR I-13427, paragraph 66).

103 It should also be borne in mind that, according to settled case-law, the principle of effective judicial protection is a general principle of EU law stemming from the constitutional traditions common to the Member States, which has been enshrined in Articles 6 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950, this principle having, moreover, been reaffirmed by Article 47 of the Charter of Fundamental Rights (Case

C-432/05 *Unibet* [2007] ECR I-2271, paragraph 37, and Joined Cases C-402/05 P and C-415/05 P *Kadi and Al Barakaat International Foundation* v *Council and Commission* [2008] ECR I-6351, '*Kadi*', paragraph 335).

104 In addition, according to settled case-law, the effectiveness of judicial review, which must apply in particular to the lawfulness of the grounds on which a European Union authority relied in order to include a person or an entity on the lists of addressees of the restrictive measures adopted by that authority, means that that authority is bound to communicate those grounds to the person or entity concerned, so far as possible, either when that inclusion is decided on or, at the very least, as swiftly as possible after that decision is taken, in order to enable those addresses to exercise, within the periods prescribed, their right to bring an action (see, to that effect, *Kadi*, paragraph 103 above, paragraph 336).

105 Observance of that obligation to communicate the grounds is necessary both to enable the persons to whom restrictive measures are addressed to defend their rights in the best possible conditions and to decide, with full knowledge of the relevant facts, whether there is any point in their applying to the Courts of the European Union (see, to that effect, Case 222/86 *Heylens and Others* [1987] ECR 4097, paragraph 15), and to put those Courts fully in a position in which they may carry out the review of the lawfulness of the Community act in question, which is their duty under the Treaty (*Kadi*, paragraph 103 above, paragraph 337).

106 In accordance with the requirements laid down in that case-law, Article 21(2) and (3) of Decision 2011/782, Article 32(2) and (3) of Regulation No 36/2012, Article 27(2) and (3) of Decision 2012/739 and Article 30(2) and (3) of Decision 2013/255 provide that the Council is to communicate its decision to the natural or legal person, entity or body concerned, including the reasons for his or its inclusion on the list, either directly, if the address is known, or through the publication of a notice, providing such person or entity with an opportunity to present observations. Where observations are submitted, or where substantial new evidence is presented, the Council is to review its decision and inform the natural or legal person, entity or body accordingly.

107 In addition, it should be borne in mind, first, that it follows from Article 25 of Decision 2011/782, Article 31 of Decision 2012/739 and Article 34 of Decision 2013/255 that those decisions are to be kept under constant review and, second, that, according to Article 32(4) of Regulation No 36/2012, the lists annexed to that regulation are to be reviewed at regular intervals.

108 In the present case, following the adoption of Implementing Regulation No 410/2012 and Implementing Decision 2012/256, the notice referred to at paragraphs 14 and 15 above was published, thus providing the applicant with the opportunity to submit observations to the Council.

109 The fact that that communication was made after the applicant was first included on the list of persons covered by the restrictive measures at issue cannot in itself be regarded as a breach of the rights of the defence.

110 In that regard, it should be borne in mind that, according to the case-law, respect for the rights of the defence and, in particular, the right to be heard, with regard to restrictive measures, does not require that the European Union authorities, before first including a person or an entity on the list imposing restrictive measures, communicate the reasons for that listing to the person or entity concerned (see, to that effect, *Kadi*, point 103 above, paragraph 338).

111 In fact, such prior communication would be liable to jeopardise the effectiveness of the measures relating to the freezing of funds and economic resources imposed by those authorities (see, to that effect, *Kadi*, point 103 above, paragraph 339).

112 In order to attain their objective, such measures must, by their very nature, take advantage of a surprise affect and apply with immediate effect (see, to that effect, *Kadi*, paragraph 103 above, paragraph 340).

113 Thus, the Council was not required to hear the applicant before first placing him on the lists of persons covered by the restrictive measures against Syria.

114 However, in the context of the adoption of Decision 2012/739, Implementing Regulation No 363/2013 and Decision 2013/255, which are subsequent acts that maintained the applicant's name on the lists of names of persons subject to restrictive measures, the argument that the measures must have a surprise effect cannot in principle be legitimately relied on (Case T-383/11 *Makhlouf* v *Council* [2013] ECR, paragraph 42, and *Syrian Lebanese Commercial Bank* v *Council*, paragraph 57 above, paragraph 148; see also, to that effect and by analogy, *France* v *People's Mojahedin Organization of Iran*, paragraph 102 above, paragraph 62).

115 None the less, it follows from the case-law that the right to be heard prior to the adoption of acts maintaining restrictive measures in respect of persons already covered by them presupposes that the Council has admitted new evidence against those persons (*Makhlouf* v *Council*, paragraph 114 above, paragraph 43, and *Syrian Lebanese Commercial Bank* v *Council*, paragraph 57 above, paragraph 149; see also, to that effect and by analogy, *France* v *People's Mojahedin Organization of Iran*, paragraph 102 above, paragraph 63).

116 In the present case, it should be observed that when the Council maintained the applicant's name on the lists of persons covered by the restrictive measures against Syria, it did not admit new evidence that had not already been communicated to the applicant following the adoption of the acts first placing him on the lists at issue. As stated at paragraphs 88 to 92 above, the applicant's listing and the fact that his listing was maintained are based on his functions as Governor of the Central Bank of Syria.

117 It should be observed, moreover, that, in the light of the provisions referred to at paragraphs 106 and 107 above, the applicant had the opportunity to submit his observations to the Council on his own initiative, without a fresh invitation being expressly formulated prior to the adoption of each subsequent act, in the absence of new evidence admitted with respect to him.

118 The applicant did not avail himself of that opportunity.

119 In such circumstances, it must be considered that the applicant had the opportunity over several months to submit his observations to the Council and to challenge the merits of the reasons, as indicated with sufficient clarity in the contested acts (see paragraphs 93 to 95 above), that resulted in his being included and maintained on the lists of persons covered by the restrictive measures.

120 As regards the fact that the Council did not give the applicant a hearing, it should be stated that neither the legislation in question nor the general principle of respect for the rights of the defence gives those concerned the right to such a hearing (see Case T-7/11 *Bank Melli Iran* v *Council*, paragraph 47 above, paragraph 105 and the case-law cited), whether when they are first listed or when their names are maintained on the lists at issue.

121 As regards the applicant's argument relating to the lack of individual communication of the contested acts, it may, admittedly, be considered that the Council had the applicant's business address at the Central Bank of Syria, at least from 13 July 2012, the date on which it was notified of the application initiating the proceedings in Case T-307/12, which contains the information that the applicant's address for service is at that bank, whose address is given (see paragraph 61 above).

122 None the less, it should be noted that while the absence of individual communication of the contested acts has an impact on the point at which time starts running for the purpose of the bringing of an action, it does not in itself justify the annulment of the acts at issue. In that regard, the applicant does not put forward any arguments that would demonstrate that, in the present case, the failure to communicate those acts individually to his address in Syria resulted in a breach of his rights that would justify the annulment of those acts in so far as they concern him (see, to that effect, *Bank Melli Iran* v *Council*, paragraph 47 above, paragraphs 112 and 113).

123 In the light of the foregoing considerations, it must be concluded that there was no breach of the applicant's rights of defence and his right to effective judicial protection either when he was included or when he was maintained on the lists of persons covered by the restrictive measures against Syria and that the present plea must therefore be rejected.

c) Third plea, alleging absence of evidence of a sufficient link between the applicant and the situation giving rise to the adoption of restrictive measures against Syria, and breach of the principle of proportionality

124 In order to examine the applicant's third plea, alleging absence of evidence of a sufficient link between him and the situation giving rise to the adoption of restrictive measures, and also breach of the principle of proportionality, the Court must rule, first of all, on the extent of the review which it must carry out; next, on whether the Council could rely exclusively on the applicant's professional functions; and, last, on the other arguments raised by the applicant in that context.

The extent of the review carried by the Court

125 The applicant maintains that the Court cannot confine itself to ascertaining in the abstract the cogency of the grounds relied on by the Council, but must be satisfied that the Council relied on accurate and specific information and evidence, which is not so in the present case. The Court should undertake the same type of review as that exercised in relation to restrictive measures aimed at alleged terrorist activities.

126 The Council claims that, in view of the broad discretion which it enjoys when adopting restrictive measures against a third country, the Court cannot call in question the appropriateness of subjecting the applicant to those measures, owing to his functions as Governor of the Central Bank of Syria, save in the event of a manifest error. The Court's review must go to the material accuracy of the facts relied on by the Council with respect to the functions carried out by the applicant.

127 It should be borne in mind that, according to the case-law, as regards the general rules defining the procedures for giving effect to the restrictive measures, the Council has a broad discretion as to what to take into consideration for the purpose of adopting economic and financial sanctions on the basis of Article 215 TFEU, consistent with a decision adopted on the basis of Chapter 2 of Title V of the EU Treaty, in particular Article 29 TEU. Because the Courts of the European Union may not substitute their assessment of the evidence, facts and circumstances justifying the adoption of such measures for that of the Council, the review carried out by those Courts must be restricted to checking that the rules governing procedure and the statement of reasons have been complied with, that the facts are materially accurate and that there has been no manifest error of assessment of the facts or misuse of power. That limited review applies, especially, to the assessment of the considerations of appropriateness on which such measures are based (Case T-390/08 *Bank Melli Iran* v *Council*, paragraph 85 above, paragraph 36, and Case T-130/11 *Gossio* v *Council* [2013] ECR, paragraph 57).

128 As for the review of the lawfulness of a decision to include the name of a person or an entity on the lists annexed to acts incorporating the adoption of restrictive measures, the Courts of the European Union must satisfy themselves that that decision, which assumes individual scope for that person, has

a sufficiently solid factual basis. That involves assessing the facts alleged in the statement of reasons on which the decision is based, 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 whether those reasons, or, at the very least, one of those reasons, deemed sufficient in itself to support that decision, is substantiated. In the event of challenge, it is for the Council to show that the reasons taken into consideration vis-à-vis the person concerned are well founded, and not for that person to adduce negative evidence showing that those reasons are not well founded (see, to that effect, T-390/08 *Bank Melli Iran* v *Council*, paragraph 85 above, paragraph 37, and judgment of 5 December 2012 in Case T-421/11 *Qualitest* v *Council*, not published in the ECR, paragraph 55; see also, to that effect and by analogy, Joined Cases C-584/10 P, C-593/10 P and C-595/10 P *Commission and Others* v *Kadi* [2013] ECR, paragraphs 119 and 121).

129 Furthermore, the question of the evidence of the alleged conduct, which concerns the substantive legality of the act in question, involves assessing the truth of the facts set out in that act and the characterisation of those facts as evidence justifying the use of restrictive measures against the person concerned (*Council* v *Bamba*, paragraph 85 above, paragraph 60).

130 It is in the light of those considerations that the Court will examine the merits of the arguments raised by the applicant in the context of the present plea.

The possibility for the Council to rely exclusively on the applicant's professional functions

131 The applicant takes issue with the fact that the contested acts contain no evidence showing the existence of a link between, on the one hand, his person, his conduct and his activities and, on the other, the objectives of the restrictive measures against Syria. In the absence of any evidence of his involvement in the repression of the civilian population and of any causal link between his conduct and that repression, the mere fact that he is the Governor of the Central Bank of Syria does not justify the adoption of restrictive measures against him, which therefore breach the principle of proportionality. The press articles produced by the Council before the Court are not sufficient evidence to show that the applicant provides support to the Syrian regime in that repression.

132 In particular, in the applicant's submission, by including him on the lists at issue, the Council sought in reality to impose a more severe sanction on the Central Bank of Syria, which was already covered by the restrictive measures. In that regard, the applicant observes that the Council has made provision for derogations from the application of the restrictive measures to the bank, which is tantamount to recognising the fundamental role which it plays in financing all sectors of the country's economy. It is inconsistent and disproportionate that the Council should adopt restrictive measures against the Governor of the Central Bank of Syria while acknowledging the need that the Bank should be able to function normally. In effect, such functioning presupposes that there is a Governor at the head of the institution.

133 Nor does the fact that individual sanctions are imposed on the applicant have any impact on the activities of the Central Bank of Syria, or on the activities of the Syrian regime, having regard in particular to the functioning of that institution, which is not comparable to that of a private undertaking.

134 The Council disputes the applicant's arguments.

135 First of all, it should be borne in mind that, as the restrictive measures adopted in Decision 2011/273 did not make it possible to put an end to the Syrian regime's repression against the civilian population, the Council considered that those measures should be applied not only to persons responsible for that repression but also to persons benefiting from or supporting the regime and persons associated with

them. Those provisions are found, respectively, in Article 18(1) and Article 19(1) of Decision 2011/782, Article 24(1) and Article 25(1) of Decision 2012/739 and Article 27(1) and 28(1) of Decision 2013/255.

136 Second, it should be observed that, although the concept of 'support for the regime' is not defined in those provisions, there is no ground on which to conclude that only persons supporting the Syrian regime for the precise purpose of enabling it to pursue its repressive activities against the civilian population might be covered by restrictive measures. Since it would have been impossible for the Council to ascertain the purposes for which the resources provided to that regime were used, it was necessary to adopt measures applicable to any form of support.

137 Third, in the light of the extract from the Central Bank of Syria's website produced by the Council, the content of which was not called in question by the applicant, it is common ground that that bank has as its task, in particular, to serve as banker to the Government of that country. Consequently, it cannot be denied that the Bank provides financial support to the Syrian regime.

138 Fourth, it should be stated that, while it is true that, according to the case-law, it is for the competent European Union authority to establish, in the event of challenge, that the reasons relied on against the person concerned are well founded, and not for that person to adduce evidence of the negative, that those reasons are not well founded (*Commission and Others* v *Kadi*, paragraph 128 above, paragraph 121), in the present case the applicant has never disputed the fact, relied on by the Council as the reason for his listing, that he is the Governor of the Central Bank of Syria.

139 In that regard, first, although the applicant had the opportunity to make representations to the Council in application of the provisions referred to at paragraph 106 above, he did not claim before the Council that, although he was the Governor of the Central Bank of Syria, he did not support the Syrian regime.

140 Second, before the Court, the applicant confined himself to mere assertions to the effect that he carried out only functions of an administrative or technical nature and had no real influence over the management of the Central Bank of Syria, which is a State body.

141 In answer to those arguments, the Council produced, in annexes to the defence, two press articles from which it is apparent, in particular, that the applicant was in a position to take significant decisions relating to the monetary policy of Syria.

142 It should be stated that those articles confirm that the applicant, as Governor, exercises fundamental functions within the Central Bank of Syria, which cannot be characterised as merely administrative or technical.

143 Furthermore, it should be observed that a person exercising functions which confer on him the power to manage an entity covered by restrictive measures may, as a general rule, himself be considered to be involved in the activities that justified the adoption of the restrictive measures covering the entity in question (see, to that effect, judgment of 12 December 2013 in Case T-58/12 *Nabipour and Others* v *Council*, not published in the ECR, paragraph 110).

144 The applicant himself acknowledges that the Governor of the Central Bank of Syria is at the head of that bank.

145 In that regard, the fact, raised by the applicant at the hearing, that the Central Bank of Syria is subject to political control by the minister responsible for economic and financial affairs does not indicate that the applicant, as the most senior authority within the bank, is not involved in providing financial resources to the Syrian regime. On the contrary, it tends to demonstrate the existence of close links between the management of the financial resources of that regime and the professional functions carried out by the applicant.

146 Fifth, it is necessary to establish whether the Council observed the principle of proportionality, which, according to settled case-law, 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 must not go beyond what is necessary to achieve them (Case C-176/09 *Luxembourg* v *Parliament and Council* [2011] ECR I-3727, paragraph 61, and Joined Cases C-539/10 P and C-550/10 P *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa* [2012] ECR, paragraph 122).

147 In that regard, first of all, it should be borne in mind that, as is apparent from the preamble to Decision 2011/273, the Council initiated restrictive measures against a third country, namely Syria, in response to the violent repression by the authorities of that country against the civilian population. The same concern underlies the contested acts, which follow directly from Decision 2011/273. Next, it should be stated that, although the restrictive measures at issue were aimed only at those in charge of the Syrian regime, and not also the persons supporting that regime, the attainment of the objectives pursued by the Council could have been frustrated, as those in charge of the regime could easily obtain the support, in particular the financial support, which they needed in order to continue that repression, through other persons holding senior managerial posts within the principal institutions of the Syrian State. Last, it is necessary to take into account the importance for the European Union of the objective of maintaining peace and international security and also of protecting the civilian population.

148 It follows that the Council was able, without committing a breach of the principle of proportionality, to rely on the applicant's functions in order to consider that he was in a position of power and influence with respect to the financial support of the Syrian regime supplied by the Central Bank of Syria. Consequently, the Council was also entitled to consider that the adoption of restrictive measures against the applicant was likely to contribute to putting pressure on that regime that might put an end to, or attenuate, the repression against the civilian population. The question whether the contested acts entail for the applicant limitations of his rights that are compatible with that principle will be examined in the context of the fourth plea.

149 Sixth, it should be observed that no relevance can be attributed to the fact that when the Council decided to adopt restrictive measures against the Central Bank of Syria it inserted specific provisions in the acts then in force by Council Decision 2012/122/CFSP of 27 February 2012 amending Decision 2011/782 (OJ 2012 L 54, p. 14) and by Council Regulation (EU) No 168/2012 of 27 February 2012 amending Regulation No 36/2012 (OJ 2012 L 54, p. 1), in order to provide for derogations.

150 In that regard, it should be observed that, as the Council correctly submits, those derogations relate in essence to the transfer of funds in favour of financial institutions coming within the jurisdiction of the Member States which are intended to finance trade authorised by them, on the ground, in particular, that they have been able to establish that the funds in question would not be received by a person or entity covered by the restrictive measures against Syria.

151 Furthermore, by Council Regulation (EU) No 867/2012 of 24 September 2012 amending Regulation No 36/2012 (OJ 2012 L 257, p. 1), the conditions required for the application of those derogations were made more restrictive.

152 The Court observes, as does the Council, and contrary to the applicant's contention, that the purpose of those derogations was not to enable the Central Bank of Syria to function normally, but solely to avoid penalising persons and entities not covered by the restrictive measures and trade not prohibited between the Member States and Syria.

153 Since the restrictive measures affecting the applicant personally are not as such capable of harming persons and entities not covered by those measures or trade that is not prohibited, the existence of the abovementioned derogations with respect to the Central Bank of Syria does not give rise to contradictions that would call in question the adoption of restrictive measures with respect to the applicant or permit a finding of a breach of the principle of proportionality.

154 In the light of the foregoing considerations, it must be concluded that the Council did not err in adopting restrictive measures with respect to the applicant on the sole ground that he was the Governor of the Central Bank of Syria.

The applicant's other arguments

– The alleged need to initiate investigations or proceedings against the applicant before including him on the lists of persons covered by restrictive measures

155 The applicant claims that no investigation or proceeding was carried out against him before his name was included and maintained on the lists at issue.

156 The Council disputes the applicant's argument.

157 It should be observed that the applicant relies on the judgment in Case T-348/07 *Al-Aqsa* v *Council* [2010] ECR II-4575, which was set aside by the judgment in *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, paragraph 146 above, and which, moreover, dealt with restrictive measures adopted pursuant to Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism (OJ 2001 L 344, p. 93), which establishes conditions different from those contained in the contested acts in order for a person to be covered by restrictive measures.

158 Article 1(4) of that common position provides that the list of persons concerned is to be 'drawn up on the basis of precise information or material in the relevant file which indicates that a decision has been taken by a competent authority in respect of the persons, groups and entities concerned, irrespective of whether it concerns the instigation of investigations or prosecution for a terrorist act, an attempt to perpetrate, participate in or facilitate such an act based on serious or credible evidence or clues, or condemnation for such deeds'.

159 However, it should be observed that in the present case the contested acts contain no provision comparable to that cited at paragraph 158 above.

160 It follows that the present argument must be rejected.

– The level of the applicant's person financial resources and his alleged lack of involvement in politics and in the repression against the civilian population

161 The applicant claims, first, that his personal financial resources are modest and, second, that there is no proof of his involvement in any political or military activities, still less of his involvement in the repression against the civilian population.

162 The Council disputes the applicant's arguments.

163 It should be observed that it is clear from the contested acts, and the Council confirmed in its written submissions to the Court, that the applicant was covered by the restrictive measures at issue only because of the support which he provides to the Syrian regime in the exercise of his functions as Governor of the Central Bank of Syria. The examination carried out at paragraphs 125 to 160 above shows that that ground is well founded and sufficient.

164 Accordingly, the applicant's present arguments must be rejected as inoperative.

165 In any event, it should be observed that there is nothing in the contested acts to support the conclusion that the adoption of restrictive measures with respect to a person is conditional on the amount of the resources which that person has at his disposal.

166 In the light of all of the considerations set out in relation to the third plea, that plea must be rejected in its entirety.

d) Fourth plea, alleging breach of the principle of proportionality, of the right to property, of the right to private and family life and of the right to come and go freely and also breach of the national and EU rules reserved for citizens of the Member States and of the Union

167 In the applicant's submission, the freezing of his funds as a result of the contested acts constitutes a disproportionate interference with his right to property, protected in particular by Article 17(1) of the Charter of Fundamental Rights, since it prevents him from freely enjoying his possessions, although he was not given a hearing and although that limitation of his right is not necessary or appropriate in order to attain the objectives pursued by the Council. In spite of their temporary precautionary nature and the fact that they are applicable only to economic resources in the European Union, the restrictive measures imposed on him deprive him of his right to property, since he is unable to use it.

168 For similar reasons, the restrictions imposed by the measures at issue on his freedom to come and go constitute a disproportionate interference with his right to a private and family life, recognised in particular in Article 7 of the Charter of Fundamental Rights.

169 Next, the applicant claims that he has dual Syrian and French nationality and that he must therefore benefit from the rights conferred on citizens of the Union. The applicant's link with France is confirmed by the fact that his family lives there. Although the applicant acknowledges that Article 18(2) of Decision 2011/782 does not require that Member States refuse their own nationals access to their territory, he maintains that that provision gives rise to an ambiguous situation which is not consistent with the provisions of international law and French law that absolutely prohibit such refusal of access. In addition, the applicant submits that a number of provisions of EU law guarantee that every citizen of the Union has the right to move and reside freely on the territory of the Member States.

170 Last, the applicant observes that the possibilities, provided for in the contested acts, to derogate from the restrictions of his rights are not sufficient, since they entail a supplementary request made *ex post facto*, when the very substance of the rights in question has been impaired, and that the grant of those derogations depends on the discretion of the Council and the Member States.

171 The Council disputes the applicant's arguments.

Preliminary observations

172 It should be borne in mind that the right to property is among the general principles of EU law and is enshrined in Article 17 of the Charter of Fundamental Rights. As regards the right to respect for private and family life, it is enshrined in Article 7 of the Charter of Fundamental Rights (see, to that effect, Joined Cases C-356/11 and C-357/11 *O. and Others* [2012] ECR, paragraph 76).

173 According to settled case-law, those fundamental rights do not enjoy absolute protection in EU law, but must be viewed in relation to their function in society (see, to that effect, *Kadi*, paragraph 103 above, paragraph 355). 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 thus so guaranteed (see, to that effect, Case C-84/95 *Bosphorus* [1996] ECR I-3953, paragraph 21, and *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, paragraph 146 above, paragraph 121).

174 As regards the principle of proportionality, it is appropriate, first, to refer to the case-law cited at paragraph 146 above and, second, to bear in mind that, according to Article 52(1) of the Charter of Fundamental Rights, any limitation of the exercise of the rights and freedoms recognised by that Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be applied only if they are necessary and genuinely meet objectives of general interest recognised by the European Union or the need to protect the rights and freedoms of others (Case C-12/11 *McDonagh* [2013] ECR, paragraph 61).

Breach of the right to property

175 It should be observed that measures relating to the freezing of the funds, financial assets and other economic resources of the persons identified as supporting the Syrian regime imposed by the contested acts are temporary precautionary measures and are not supposed to deprive the persons concerned of their property (see, to that effect and by analogy, *Kadi*, point 103 above, paragraph 358). However, the measures in question undeniably entail a restriction of the exercise of the right to property (see, to that effect and by analogy, *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, paragraph 146 above, paragraph 120).

176 Those measures are 'provided for by law' (see, by analogy, Eur. Court H.R., *Lavents v. Lithuania*, 28 November 2002, No. 58442/00, § 135), since they are set out in acts of general application (see, to that effect, *Gbagbo and Others* v *Council*, paragraph 56 above, paragraph 56; see also, by analogy, Joined Cases C-92/09 and C-93/09 *Volker und Markus Schecke and Eifert* [2010] ECR I-11063, paragraph 66) and have a clear legal basis in European Law and since they are also formulated in sufficiently precise terms as regards their scope and the reasons showing why they apply to the applicant (see paragraphs 88 to 94 above).

177 As regards the appropriateness of the measures at issue, with reference to an objective of general interest as fundamental to the international community as the protection of civilian populations and the maintenance of peace and international security, those measures cannot be regarded as inappropriate (see, to that effect, *Kadi*, paragraph 103 above, paragraph 363, and *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, paragraph 146 above, paragraph 123).

178 As regards the necessity of the measures, it should be noted that the alternative and less restrictive measures, such as a system of prior authorisation or an obligation to justify, a posteriori, how the funds transferred were used, are not as effective in achieving the goal pursued, namely the application of pressure on those supporting the Syrian regime, having regard in particular to the possibility of circumventing the restrictions imposed (see, by analogy, *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, paragraph 146 above, paragraph 125).

179 In addition, it must be borne in mind that Article 19(3) to (7) of Decision 2011/782, Article 25(3) to (11) of Decision 2012/739, Article 28(3) to (11) of Decision 2013/255 and Articles 16 to 18 of Regulation No 36/2012 provide for the possibility, first, to authorise the use of frozen funds to satisfy basic needs or meet certain commitments and, second, to grant specific authorisations for the release of certain funds, financial assets or other economic resources.

180 Last, it should be observed that the maintenance of the applicant's name on the lists annexed to the contested acts is subject to periodic review so as to ensure that the persons who, and entities which, no longer meet the criteria for listing are removed from the lists (see, by analogy, *Kadi*, paragraph 103 above, paragraph 365, and *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, paragraph 146 above, paragraph 129).

181 Thus, it must be concluded that the measures relating to the freezing of the applicant's funds, financial assets and other economic resources respect the principle of proportionality and are therefore compatible with his right to property.

Breach of the right to private and family life, the freedom to come and go and also the national and EU rules reserved for citizens of the Member States and of the Union

182 It is appropriate when examining the arguments which the applicant raises against the restrictions on access to the territories of the Member State to distinguish the territory of the French Republic, of which the applicant is a national, and the territories of the other Member States.

– The restriction on access to French territory

183 It should be borne in mind that, in Article 18(1) of Decision 2011/782, Article 24(1) of Decision 2012/739 and Article 27(1) of Decision 2013/255 ('the provisions on restrictions on entry'), the Council provided as follows:

'Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of the persons responsible for the violent repression against the civilian population in Syria, persons benefiting from or supporting the regime, and persons associated with them, as listed in Annex I.'

184 However, a special provision was inserted in the decisions referred to in the preceding paragraph in the case of nationals of the Member States.

185 According to Article 18(2) of Decision 2011/782, Article 24(2) of Decision 2012/739 and Article 27(2) of Decision 2013/255 ('the provisions relating to nationals'):

'Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.'

186 That provision thus recognises that the Member States have exclusive competence as regards the application of the restrictions at issue to their own nationals. It follows that, in the case of a person who, like the applicant, in addition to having Syrian nationality, has French nationality, EU law does not require the French authorities to deny him access to the territory of the French Republic.

187 In answer to a request for information sent to it by the Court (see paragraphs 38 and 39 above), the French Republic stated that it regarded the provisions relating to nationals as a safeguard clause which allowed it to ensure that its citizens had the right to enter the national territory, a right which, in its view, followed in particular from the constitutional value of freedom to come and go and from Article 3 of Protocol No 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms. The French Republic also explained that, by the simple fact of having a French passport, which identified him as a French national called André Mayard, the applicant was able to travel to France, even if that passport had now expired.

188 Likewise, in its written answer to a question put by the Court, the Council confirmed that the application of the provisions relating to nationals was a matter for the Member States, which were not even required to inform the Council that they were applying those provisions.

189 In those circumstances, and since the applicant has not challenged either the information supplied by the French Republic or the Council's answer, it must be held that his complaint relating to the alleged impossibility of travelling to France, where his family lives, is factually incorrect and must therefore be rejected. The same applies to the alleged interference with the applicant's private and family life, since it follows from the foregoing that the contested acts do not affect the possibility which the applicant has to visit his family in France.

– Restriction of freedom of movement within the European Union

190 It should be observed that, in spite of the provisions relating to nationals, a citizen of a Member State, and therefore also of the Union, whose name is on the lists of persons covered by the provisions on restrictions on entry comes within the scope of those provisions so far as Member States other than that of which he is a national are concerned.

191 That results from the fact that when the provisions on restrictions on entry are addressed to Member States other than the State of which a person covered by the restrictive measures at issue is a national, they are not subject to any specific derogation for citizens of the Union. Therefore, even with respect to those citizens, those Member States are required to apply the restrictions in question in relation to their respective territories. The provisions relating to nationals apply only to the territory of the Member State of which such a person is a national.

192 The Court must consider whether the situation created by the provisions on restrictions on entry with respect to citizens of the Union is compatible with the rights of those citizens.

193 On that point, it should be recalled that, according to Article 21(1) TFEU:

'Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect.'

194 Furthermore, according to the case-law, the right to freedom of movement for citizens of the Union is not unconditional (Case C-33/07 *Jipa* [2008] ECR I-5157, paragraph 21, and Case C-434/10 *Aladzhov* [2011] ECR I-11659, paragraph 28).

195 It should be noted that the reservation expressed in the second part of Article 21(1) TFEU (see paragraph 193 above) refers to the Treaties, in the plural, which also includes the EU Treaty; and the restrictions on entry, which appear in decisions adopted on the basis of Article 29 TEU, are clearly provisions adopted in application of the EU Treaty.

196 Consequently, it must be held that, by adopting acts coming within the common foreign and security policy, the Council was in principle entitled to limit the right to freedom of movement within the European Union which the applicant derives from his status as a citizen of the Union. However, it is appropriate to ascertain whether the Council acted in accordance with the principle of proportionality, as defined in the case-law referred to at paragraphs 146 and 174 above.

197 In that regard, first, it should be observed that the considerations set out at paragraphs 177, 178 and 180 above regarding the appropriate, necessary and temporary nature of the measures relating to the freezing of funds are applicable by analogy to the provisions on restrictions on entry. Second, it should be borne in mind that, in accordance with Article 18(6) of Decision 2011/782, Article 24(6) of Decision 2012/739 and Article 27(6) of Decision 2013/255, the competent authority of a Member State may authorise entry to its territory, in particular, on the grounds of urgent humanitarian need.

198 As regards the argument which the applicant seeks to derive from Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77), it should be observed that the provisions on restrictions on entry, in that they apply to citizens of the Union, must be regarded as constituting a *lex specialis* by reference to that directive, so that those provisions prevail over that directive in situations which they specifically seek to regulate (see, to that effect and by analogy, Case C-444/00 *Mayer Parry Recycling* [2003] ECR I-6163, paragraph 57, and Case T-371/03 *Le Voci* v *Council* [2005] ECR-SC I-A-209 and II-957, paragraph 122).

199 That *lex specialis*, moreover, merely reflects, at a common level and in a particular context, restrictions on freedom of movement which the Member States individually may apply to certain persons, in accordance with Article 27 of Decision 2004/38. That directive does not confer on citizens of the Union an unconditional right to freedom of movement in the Union, but allows Member States to restrict that freedom on grounds, in particular, of public policy or public security, in accordance with the principle of proportionality (see, to that effect, *Jipa*, paragraph 194 above, paragraphs 22 and 29).

200 In the light of all of the foregoing considerations, the fourth plea must also be rejected, as must, accordingly, the action in Case T-307/12 in its entirety.

B – *The action in Case T-408/13*

201 As the Court observed at paragraph 40 above, the applicant stated at the hearing, in essence, that the action in Case T-408/13 should be considered to have been brought as an alternative action, in order to take account of the possibility that the Court should find that the action in Case T-307/12 is at least in part inadmissible.

202 Since it follows from paragraphs 45 to 79 above that the action in Case T-307/12 is wholly admissible, there is no need to give judgment on the action in Case T-408/13.

Costs

203 Under Article 87(2) 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. Furthermore, under Article 87(6) of those rules, where a case does not proceed to judgment the costs are in the discretion of the Court.

204 In Case T-307/12, since the applicant has been unsuccessful, he must be ordered to pay the costs in accordance with the form of order sought by the Council.

205 In Case T-408/13, the Court considers on a fair assessment of the circumstances that the applicant should also be ordered to pay the costs. The Court found that there was no need to adjudicate on the action in that case on the ground that it had been brought purely on a subsidiary basis, in order to take account of the possibility that the action in T-307/12 would be held inadmissible, although no plea of inadmissibility had been raised by the Council at the time when the action in Case T-408/13 was brought.

On those grounds,

THE GENERAL COURT (Ninth Chamber, extended composition)

hereby:

1. Dismisses the action in Case T-307/12;

2. Declares that there is no need to give judgment on the action in Case T-408/13;

3. Orders Mr Adib Mayaleh to pay the costs.

Berardis Czúcz Pelikánová

Popescu Buttigieg

Delivered in open court in Luxembourg on 5 November 2014.

[Signatures]

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