



Press and Information

Court of Justice of the European Union
PRESS RELEASE No 23/12
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Judgment in Case C-380/09 P
Melli Bank plc v Council

The Council decision freezing the funds of Melli Bank is upheld

The Court of Justice has dismissed the appeal against the judgment of the General Court which upheld the inclusion of that UK subsidiary of Bank Melli Iran in the list of entities engaged in nuclear proliferation

Melli Bank is a public limited company registered in the United Kingdom, authorised and regulated by the UK Financial Services Authority. It is wholly owned by Bank Melli Iran ('BMI'), an Iranian bank controlled by the Iranian State.

In order to implement a UN Security Council resolution in the context of measures against Iran to prevent nuclear proliferation, the Council adopted a regulation¹ in 2007 providing for the freezing of the funds of entities designated by the Security Council and of entities identified by the Council of the European Union as being engaged in nuclear proliferation, and also for the freezing of the funds of entities which they own or control. The entities concerned appear on a list annexed to the regulation.

On 23 June 2008 the Council adopted a decision² under which BMI and its subsidiaries, including Melli Bank, were included in that list, with the consequence that their funds were frozen. The Council described BMI as 'providing or attempting to provide financial support for companies which are involved in or procure goods for Iran's nuclear and missile programmes' and stated that it 'serves as a facilitator for Iran's sensitive activities'.

Melli Bank brought an action for annulment of that decision before the General Court.

By judgment of 19 July 2009³, the General Court dismissed that action, upholding the decision freezing the funds.

Melli Bank subsequently brought the present appeal against that judgment of the General Court.

By its judgment delivered today, the Court of Justice has dismissed the appeal, holding that the General Court did not make any error of law such that its judgment must be set aside.

Thus, the Court ruled first of all that the General Court did not err in holding that EU law required the Council to freeze the funds of an entity 'owned or controlled' by an entity identified as engaged in nuclear proliferation. Therefore, the reason for the freezing of the funds of Melli Bank – which is wholly owned by BMI, an entity identified as being engaged in nuclear proliferation – need not be the fact that Melli Bank itself engaged in such proliferation.

Also, in the view of the Court of Justice, the General Court was correct in considering that the freezing of Melli Bank's funds was consistent with the principle of proportionality, since it is appropriate and necessary for attaining the legitimate objective of preserving international peace and security. Thus, where the funds of an entity identified as engaged in nuclear proliferation are

¹ Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1)

² Decision 2008/475/EC implementing Article 7(2) of Regulation No 423/2007 (OJ 2008 L 163, p. 29).

³ Joined Cases [T-246/08](#) and [T-332/08](#) *Melli Bank v Council*, see also Press Release No [63/09](#).

frozen there is a not insignificant danger that that entity may exert pressure on the entities it owns or controls in order to circumvent the effect of the measures applying to it. In such circumstances, the freezing of the funds of entities owned or controlled by an entity engaged in nuclear proliferation is necessary and appropriate in order to ensure the effectiveness of the measures adopted against the latter and to ensure that those measures are not circumvented.

The Court also upheld the General Court's finding that no alternative measures exist that are appropriate to attain the same objective.

Similarly, given the prime importance of the preservation of international peace and security, the restrictions of a bank's freedom to carry on economic activity, and of its right to property, occasioned by the fund-freezing measures were not disproportionate to the ends sought.

Furthermore, the Court has found that the General Court did not err in law in holding that the statement of reasons for the contested decision was sufficient in the light of EU law.

Consequently, Melli Bank's appeal has been dismissed.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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