



Press and Information

Court of Justice of the European Union  
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Judgment in Case C-134/19 P  
Bank Refah Kargaran v Council

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**The Court of Justice upholds the judgment of the General Court dismissing Bank Refah Kargaran's action for damages for the harm suffered as a result of the restrictive measures adopted concerning it.**

In 2010 and 2011, the financial funds and resources of an Iranian bank, Bank Refah Kargaran, were frozen in connection with the restrictive measures introduced by the European Union in order to compel the Islamic Republic of Iran to end proliferation-sensitive nuclear activities and the development of nuclear weapon delivery systems. That freezing of funds was effected by the entry of the bank on the list of entities involved in nuclear proliferation set out in the annexes to various decisions successively adopted by the Council pursuant to the Common Foreign and Security Policy (CFSP) under Article 29 TEU. Those CFSP decisions were subsequently implemented by various regulations adopted by the Council on the basis of Article 215 TFEU.

Bank Refah Kargaran obtained, on the ground that the statement of reasons was inadequate, the annulment of all of those measures, in so far as they concerned it.<sup>1</sup> Subsequently, in November 2013, its name was re-entered, on the basis of an amended statement of reasons, on the list set out in the annex to various Council decisions and regulations adopted under Article 29 TEU and Article 215 TFEU, respectively. The General Court did not, however, uphold the bank's action for, inter alia, their annulment in so far as those measures concerned it.

On 25 September 2015, Bank Refah Kargaran brought a new action, this time seeking damages from the European Union for the harm caused, in its view, by the adoption and maintenance of the restrictive measures concerning it which were annulled in the previous judgment of the General Court. In a judgment of 10 December 2018,<sup>2</sup> the General Court, first, declared that it had no jurisdiction to hear and determine an action for damages for the harm allegedly caused by the adoption of CFSP decisions under Article 29 TEU. Second, in so far as the action for damages for the harm allegedly caused by the adoption of regulations under Article 215 TFEU, the General Court dismissed that action as unfounded on the ground that a sufficiently serious breach of a rule of law had not been proven.

It was in those circumstances that Bank Refah Kargaran ('the appellant') brought an appeal before the Court of Justice seeking, in essence, to have the Court of Justice invalidate the assessment by the General Court of the merits of the action for damages and, exercising its power to dispose of the case, rule on the merits by granting the appellant the form of order sought.

**The Court of Justice dismisses the present appeal despite finding that the General Court had erred in law by declaring that it lacked jurisdiction to hear and determine the action for damages for the harm allegedly suffered by the appellant as a result of the CFSP decisions adopted under Article 29 TEU.**

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<sup>1</sup> Judgment of the General Court of 6 September 2013, *Bank Refah Kargaran v Council* ([T-24/11](#)); see Press Release No. [99/13](#).

<sup>2</sup> Judgment of the General Court of 10 December 2018, *Bank Refah Kargaran v Council* ([T-552/15](#)).

In the first place, the Court of Justice examines of its own motion the question whether the Courts of the European Union have jurisdiction to hear and determine an action for damages for harm allegedly caused by restrictive measures in so far as such a question is a matter of public policy. In the present case, the Court of Justice holds, on the one hand, that the General Court was fully entitled to declare that it had jurisdiction to hear and determine the claim for damages for the harm allegedly suffered by the appellant as a result of the restrictive measures taken against it pursuant to regulations based on Article 215 TFEU. On the other hand, the General Court erred in law by declaring that it lacked jurisdiction to hear and determine that action, in so far as the harm allegedly suffered by the appellant resulted from CFSP decisions adopted under Article 29 TEU.

As far as concerns the CFSP, the rules governing the jurisdiction of the Courts of the European Union have, since the entry into force of the Treaty of Lisbon, been characterised by an exclusion in principle tempered by two exceptions, one of which relates to the assessment of the validity of Council decisions adopting restrictive measures. Although that exception does not expressly mention an action for damages, the Court relies on the necessary coherence of the system of judicial protection in order to interpret the scope of its assessment.

From that point of view, the Court points out, first of all, that that system of jurisdiction of the EU Courts in matters relating to the CFSP diverges from the primary task of the EU Courts, namely, to ensure compliance with the rule of law. As such, that special scheme must be interpreted strictly. Furthermore, in so far as an action for damages forms part of an entire system for judicial protection subject to constitutional requirements, it contributes to the effectiveness of that protection and therefore necessitates an assessment capable of preventing any lacuna in judicial protection and thus of ensuring the overall coherence of the system of that protection. In the present case, the Court notes that, despite the relationship established by Article 215 TFEU between the regulations adopted on that basis and CFSP decisions adopted under Article 29 TEU, the restrictive measures adopted in legal acts do not necessarily match, so that a lacuna in judicial protection could result from the EU judicature not having jurisdiction to hear and determine an action for damages in respect of restrictive measures provided for by CFSP decisions. In those circumstances, **the General Court erred in law in holding that an action for damages for the harm allegedly suffered by a natural or legal person as a result of restrictive measures provided for by CFSP decisions fell outside its jurisdiction.**

In the second place, the Court of Justice examines the grounds of appeal put forward by the appellant seeking to invalidate the General Court's assessment of the merits of the action for damages, in so far as it did not find that there had been unlawful conduct capable of giving rise to non-contractual liability on the part of the European Union.

According to the Court of Justice, **first, the General Court was fully entitled to hold that the inadequacy of the statement of reasons for the legal acts imposing restrictive measures concerning the appellant was not in itself such that the European Union could be found liable.**

Having clarified and reaffirmed the scope of that case-law principle, the Court nonetheless points out that the obligation to state reasons, which is merely an essential procedural requirement, must be distinguished from the question whether the reasons are well founded. It follows that the European Union may be found liable where the Council has not substantiated the reasons for the measures adopted, which affects the substantive legality of the measure, provided that a plea to that effect is raised in support of the action for damages.

Second, in that context, **the Court of Justice dismisses the grounds of appeal by which the appellant maintained that the General Court erred in not holding that the Council's failure to comply with its obligation to provide the appellant with the evidence adduced against it, as set out in the judgment annulling the restrictive measures, was such as to give rise to non-contractual liability on the part of the European Union.** It is clear from the judgment annulling the restrictive measures that that line of argument related solely to the plea relating to the obligation to state reasons.

**Ultimately, having found that the error of law vitiating the General Court's assessment of the scope of its jurisdiction did not warrant the annulment of the judgment under appeal, in so far as its operative part was well founded, the Court of Justice dismisses the appeal in its entirety.**

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**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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