ОБЩ СЪД НА ЕВРОПЕЙСКИЯ СЪЮЗ
TRIBUNAL GENERAL DE LA UNIÓN EUROPEA
TRIBUNÁL EVROPSKÉ UNIE
DEN EUROPÆISKE UNIONS RET
GERICHT DER EUROPÄISCHEN UNION
EUROOPA LIIDU ÜLDKOHUS
ΓΕΝΙΚΟ ΔΙΚΑΣΤΗΡΙΟ ΤΗΣ ΕΥΡΩΠΑΪΚΗΣ ΕΝΩΣΗΣ
GENERAL COURT OF THE EUROPEAN UNION
TRIBUNAL DE L'UNION EUROPÉENNE
CÚIRT GHINEARÁLTA AN AONTAIS EORPAIGH
OPĆI SUD EUROPSKE UNIJE
TRIBUNALE DELL'UNIONE EUROPEA
EIROPAS SAVIENĪBAS VISPĀRĒJĀ TIESA
EUROPOS SĄJUNGOS BENDRASIS TEISMAS
AZ EURÓPAI UNIÓ TÖRVÉNYSZÉKE
IL-QORTI ĠENERALI TAL-UNJONI EWROPEA
GERECHT VAN DE EUROPESE UNIE
SĄD UNII EUROPEJSKIEJ
TRIBUNAL GERAL DA UNIÃO EUROPEIA
TRIBUNALUL UNIUNII EUROPENE
VŠEOBECNÝ SÚD EURÓPSKEJ ÚNIE
SPLOŠNO SODIŠČE EVROPSKE UNIJE
EUROOPAN UNIONIN YLEINEN TUOMIOISTUIN
EUROPEISKA UNIONENS TRIBUNAL

CVRIA
LUXEMBOURG

JUDGMENT OF THE GENERAL COURT (Third Chamber)

13 December 2016 *

(Common foreign and security policy — Restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaeda network and the Taliban — Regulation (EC) No 881/2002 — Freezing of the funds and economic resources of a person included on a list drawn up by a United Nations body — Inclusion of that person's name on the list in Annex I to Regulation No 881/2002 — Action for annulment — Reasonable time — Obligation to verify and justify the merits of the grounds relied on — Judicial review)

In Case T-248/13,

Mohammed Al-Ghabra, residing in London (United Kingdom), represented by E. Grieves, Barrister, and J. Carey, Solicitor,

applicant,

v

European Commission, represented initially by M. Konstantinidis, T. Scharf and F. Erlbacher, and subsequently by M. Konstantinidis and F. Erlbacher, acting as Agents,

defendant,

supported by

United Kingdom of Great Britain and Northern Ireland, represented initially by S. Behzadi-Spencer and V. Kaye, subsequently by V. Kaye, subsequently by S. Brandon, and finally by C. Crane, acting as Agents, and also by T. Eicke QC,

and by

* Language of the case: English.

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

interveners,

APPLICATION pursuant to Article 263 TFEU for annulment of (i) Commission Regulation (EC) No 14/2007 of 10 January 2007 amending for the 74th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 (OJ 2007 L 6, p. 6), in so far as it concerns the applicant, and (ii) Commission Decision Ares(2013) 188023 of 6 March 2013 confirming the retention of the applicant's name on the list of persons and entities to whom the provisions of Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan (OJ 2002 L 139, p. 9) apply,

THE GENERAL COURT (Third Chamber),

composed of S. Papasavvas, President, E. Bieliūnas and I.S. Forrester (Rapporteur), Judges,

Registrar: S. Spyropoulos, Administrator,

having regard to the written part of the procedure and further to the hearing on 17 February 2016,

gives the following

Judgment [1]

Background to the dispute

1 On 12 December 2006, the name of the applicant, Mr Mohammed Al-Ghabra, was added, at the request of the United Kingdom of Great Britain and Northern Ireland, to the list drawn up by the Sanctions Committee established by United Nations Security Council Resolution 1267 (1999) of 15 October 1999 on the situation in Afghanistan ('the Sanctions Committee' and 'the Sanctions

[1] Only the paragraphs of this judgment which the Court considers it appropriate to publish are reproduced here.

Committee list' respectively), as a person associated with the Al-Qaida organisation.

2 By Commission Regulation (EC) No 14/2007 of 10 January 2007 amending for the 74th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama Bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 (OJ 2007 L 6, p. 6; 'the contested regulation'), Mr Al-Ghabra's name was accordingly added to the list of persons and entities whose funds and other economic resources were required to be frozen pursuant to Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama Bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan (OJ 2002 L 139, p. 9; 'the list at issue').

3 By letter of 12 June 2007, the United Kingdom Foreign and Commonwealth Office ('the FCO') informed the applicant that the United Kingdom had sought his designation on the Sanctions Committee list. The FCO also provided the applicant with 'a copy of the disclosable portion of the statement of case' underlying that request, adding that 'for reasons of national security and due to the sensitive nature of the information it would be contrary to the public interest to disclose the entire statement [of case]'.

4 By letter of 13 February 2009, the applicant wrote to the Commission of the European Communities to request a review of the addition of his name to the list at issue and to challenge its lawfulness in the light of the judgment of 3 September 2008, Kadi and Al Barakaat International Foundation v Council and Commission (C-402/05 P and C-415/05 P, 'Kadi I', EU:C:2008:461).

5 By letter of 8 May 2009, the Commission informed the applicant that it did not have at its disposal the statement of reasons on the basis of which his name had been added to the Sanctions Committee list ('the statement of reasons'), and added that it would be communicated to him as soon as it was provided by the Sanctions Committee.

6 By letter of 10 May 2010, the Commission sent the applicant the statement of reasons, as provided by the Sanctions Committee, worded as follows:

'Mohammed Al-Ghabra … was [added to the Sanctions Committee list] on 12 December 2006 pursuant to paragraphs 1 and 2 of [United Nations Security Council] resolution 1617 (2005) as being associated with Al-Qaida, Usama bin Laden or the Taliban for "participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the

name of, on behalf of or in support of" and "recruiting for" Al-Qaida ... and Harakat Ul-Mujahidin/HUM. ...

Additional information:

Mohammed Al-Ghabra has been in regular direct contact with senior individuals within Al-Qaida ... In 2002 Mr Al-Ghabra met with Al-Qaida Director of Operations Faraj al-Libi.

Mr Al-Ghabra has played a central role in radicalising young Muslims in the United Kingdom, through direct contact and also through his distribution of extremist media. After radicalising these individuals, he recruited them to the Al-Qaida cause and often facilitated their travel and, through his extensive range of contacts, arranged for them to attend Al-Qaida training camps. Some of these individuals went on to engage in overseas terrorist attack planning from the United Kingdom.

Mr Al-Ghabra has also provided material and logistic support to Al-Qaida and other organisations, including some that also provide logistical support to Al-Qaida. He organised travel to Pakistan for recruits seeking to meet senior Al-Qaida individuals and to undertake specific terrorist training. Several of these individuals returned to the United Kingdom to engage in covert activities on behalf of Al-Qaida. In addition, Mr Al-Ghabra directly aided those engaged in terrorist activity, both in the United Kingdom and elsewhere, by providing funding, logistical and material support. He also facilitated the travel to Iraq of individuals based in the United Kingdom to fight and support other fighters.

Mr Al-Ghabra has had strong links to Harakat Ul-Mujahidin/HUM ... and underwent terrorist training at a HUM training camp. HUM sent Mr Al-Ghabra back to the United Kingdom to raise funds on its behalf.

…'

7 The applicant sent his observations in reply to the Commission by letter of 8 July 2010 contesting the allegations made against him in the statement of reasons and seeking disclosure of the evidence purporting to support those reasons.

8 By letter of 10 September 2010, the Commission acknowledged receipt of that letter and informed the applicant that it would review the inclusion of his name on the list at issue. It also informed him that, pursuant to United Nations Security Council Resolution 1904 (2009), it was open to him to submit a request to the United Nations Ombudsperson to be removed from the Sanctions Committee list.

9 By letter of 18 January 2011, the Commission sent the applicant's observations of 8 July 2010 to the Sanctions Committee and requested additional information concerning the reasons for the inclusion of the applicant's name on the Sanctions Committee list.

10 By letter of 22 March 2011, the applicant sent a chasing letter to the Commission.

11 The Commission responded to the applicant by letter dated 3 May 2011 informing him that it was in the process of reviewing the inclusion of his name on the list at issue and warning him that the review could take several more months, as certain requests for clarification were pending. In the same letter, the Commission repeated its suggestion that the applicant send a de-listing request to the United Nations Ombudsperson.

12 By letter of 28 June 2011, the applicant replied to the Commission stating that the delay in reviewing the case and reaching a final decision was unacceptable given the inconvenience to his private life. He also requested an explanation for the delay.

13 By letter of 26 August 2011, the Sanctions Committee sent the Commission additional information concerning the reasons for the inclusion of the applicant's name on the Sanctions Committee list.

14 By letter of 19 October 2011, the Commission informed the applicant that the review of his inclusion on the list at issue was still ongoing. It also stated that the Sanctions Committee had recently provided some additional, 'more specific' information in relation to the statement of reasons ('the first further set of reasons'), namely:

'Mohammed Al-Ghabra is a prominent UK-based extremist associated with a significant number of extremist individuals. Mr Al-Ghabra has historically been in regular contact with Pakistan-based senior Al-Qaida individuals. In 2002 he met Al-Qaida Director of Operations Faraj Al-Libi, a senior Al-Qaida commander who was detained by Pakistani authorities in 2005 and is currently in US detention. Mr Al-Ghabra stayed at Mr Al-Libi's home address for one week. Mr Al-Ghabra was also in regular contact with numerous UK-based extremists and has been involved in the radicalising of UK-based individuals through the distribution of extremist media.

Mr Al-Ghabra has had strong links to the Kashmiri militant group Harakat Ul Mujahidin (HuM). It is believed that Mr Al-Ghabra undertook jihadi training at an HuM training camp in Aza, Kashmir, in 2002. Whilst at the camp Mr Al-Ghabra learned to use AK47 assault rifles and pistols. It is further believed that he intended to fight in Kashmir but was prevented from doing so by HuM as they needed individuals to return to the UK to raise funds. Whilst in Pakistan, Mr Al-Ghabra also met Haroon Rashid Aswat, who was later arrested and deported to the UK for terrorist-related activities. Mr Aswat remains in detention in the UK, awaiting extradition to the US on terrorism charges. Despite being subject to an asset freeze, Mr Al-Ghabra remains in contact with extremists and continues to engage in extremist activity.

As of December 2009, Mr Al-Ghabra was plotting to conduct terrorist attacks against businesses in the United Kingdom but lacked the resources to conduct the attacks.

…'

15 In the same letter, the Commission stated that this information had been communicated to the applicant in order to give him the opportunity to comment before a decision was taken on the review, and that he had until 11 November 2011 to do so.

16 By letter of 10 November 2011, the applicant replied to the Commission to dispute the additional information put forward against him in the first further set of reasons, which he regarded for the most part as 'similar to that given in the statement of reasons', and requested further details and evidence to substantiate it.

17 By letter of 17 May 2012, the Sanctions Committee sent the Commission further additional information concerning the reasons for the inclusion of the applicant's name on the Sanctions Committee list.

18 By letter of 29 May 2012, the Commission informed the applicant that the review of the inclusion of his name on the list at issue was still ongoing. It also stated that the Sanctions Committee had recently provided some additional 'more specific' information in relation to the statement of reasons ('the second further set of reasons'), namely:

'In August 2006, [Mr] Al-Ghabra was passed a number of items, including martyrdom videos, by an individual anonymised by the UK Court initials, AY, for onward transportation to Al-Qaeda extremists in Pakistan. The martyrdom videos were recorded by individuals who were part of a UK-based network of extremists preparing to carry out multiple attacks on passenger aircraft travelling from the UK. This followed a series of meetings between the two in South Africa in April/May 2006, assessed to have been for the purpose of discussing Islamist extremist matters.

AY was arrested and charged with conspiring to murder and preparing to engage in terrorism but was acquitted after trial, although other members of the network were convicted and sentenced to imprisonment for a variety of offences including conspiracy to murder, conspiracy to cause explosions and preparing to engage in terrorism.

Following his acquittal, AY was made subject to control order restrictions and he remains subject to anti-terrorism measures imposed by the UK Home Secretary under the Terrorism Prevention and Investigation Measures Act 2011, on the basis that there are reasonable grounds to believe he has engaged in terrorist-related activity and that the measures are necessary to prevent him re-engaging in such activity.'

19 In the same letter, the Commission stated that this information had been communicated to the applicant in order to give him the opportunity to comment before a decision was taken on the review, and that he had until 15 June 2012 to do so.

20 By letters of 20 June and 10 July 2012, the applicant replied to the Commission to dispute the additional information put forward against him in the second further set of reasons, stating, in particular, that it lacked any evidential foundation. He also asked the Commission to complete its review, given the extensive delay.

21 By Decision Ares(2013) 188023 of 6 March 2013, sent to the applicant's lawyers on 11 March 2013 ('the contested decision'), the Commission decided, following its review, to retain the applicant's name on the list at issue.

22 The Commission stated, in paragraph 5 of the contested decision, that the information contained in the statement of reasons and the first and second further sets of reasons comprised the 'totality of the reasons' for that decision.

23 The Commission also stated, in paragraph 7 of the contested decision, that, 'after having considered [the applicant's] comments, having consulted the Sanctions Committee and taking into account the objectives of the freezing of funds and economic resources under Regulation (EC) No 881/2002, [it] remain[ed] of the view that [the applicant's] listing [was] justified'. It explained that, 'in particular, in [the applicant's] observations, [he] did not provide reasons for concluding that the allegations gathered against [him] would not be true or indeed any information to support [his] denials'.

24 The Commission also stated, in paragraph 9 of the contested decision, that the test it had applied, with regard to the burden of proof, was that formulated by the Financial Action Task Force (FATF) in the Interpretative Note to FATF Special Recommendation III on Terrorist Financing, namely that 'the designation [of an individual on the list at issue] [should be] supported by reasonable grounds, or a reasonable basis, to suspect or believe that the [individual] is a terrorist, one who finances terrorism or a terrorist organisation'.

Procedure and forms of order sought

25 On 23 April 2013, the applicant submitted an application for legal aid, which was registered as T-248/13 AJ, with a view to bringing the present action.

26 By order of the President of the Second Chamber of the General Court of 10 October 2013, the applicant was granted legal aid and Mr J. Carey and Mr E. Grieves were designated to represent him.

27 By application lodged at the Court Registry on 6 November 2013, the applicant brought the present action.

28 By order of the President of the Third Chamber of the General Court of 20 May 2014, the United Kingdom and the Council of the European Union were granted leave to intervene in support of the form of order sought by the Commission.

29 Acting upon a proposal of the Judge-Rapporteur, the General Court (Third Chamber) decided to open the oral part of the procedure and, by way of measures of organisation of procedure under Article 89 of the Rules of Procedure of the General Court, put questions to the parties in writing, requesting them to reply to one in writing before the hearing, and to the others at the hearing itself.

30 On 29 January 2016, the applicant submitted a further application for legal aid.

31 The parties presented oral argument and answered the written and oral questions put by the Court at the hearing on 17 February 2016.

32 By order of the President of the Third Chamber of the General Court of 20 April 2016, the further application for legal aid was granted in part.

33 The applicant claims that the Court should:

– annul the contested regulation in so far as it concerns him;

– annul the contested decision;

– order the Commission to pay the costs.

34 The Commission contends that the Court should:

– dismiss the action as inadmissible in so far as it seeks annulment of the contested regulation;

– dismiss the action as unfounded as to the remainder;

– order the applicant to pay the costs.

35 The United Kingdom contends that the Court should:

– dismiss the action as inadmissible in so far as it seeks annulment of the contested regulation;

– dismiss the other parts of the action as unfounded.

36 The Council contends that the Court should dismiss the action.

Law

Admissibility

37 The Commission, supported by the United Kingdom and by the Council, claims that the present action for annulment is manifestly out of time and, therefore, inadmissible to the extent that it seeks annulment of the contested regulation in so far as that regulation concerns the applicant.

38 The applicant contests that plea of inadmissibility.

39 As set out in the sixth paragraph of Article 263 TFEU, 'the proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be'.

40 In the present case, it must be held that the application for annulment of the contested regulation is manifestly out of time, irrespective of the event from which the time limit for bringing proceedings started to run. On the one hand, assuming that that time limit started to run upon publication of the contested regulation in the Official Journal of the European Union, it is sufficient to note that the present action for annulment was brought more than six years after that date. On the other hand, if it is assumed that that time limit for bringing an action started to run from the date of the communication which the person concerned must receive, or, in the absence thereof, from the day on which it came to his knowledge (see, to that effect, judgment of 23 April 2013, Gbagbo and Others v Council, C-478/11 P to C-482/11 P, EU:C:2013:258, paragraphs 55 to 59), it should be noted that the contested regulation came to the applicant's knowledge at the latest on 13 February 2009, the date on which he contacted the Commission, through his lawyers, to request that the entry of his name on the list at issue be reviewed and to dispute its lawfulness, although he did not submit the application for legal aid prior to the initiation of the present proceedings until 23 April 2013.

41 Furthermore, the applicant has not proved, or even alleged, the existence of unforeseen circumstances or of force majeure, within the meaning of Article 45 of the Statute of the Court of Justice of the European Union, which would re-establish the right otherwise prejudiced in consequence of the expiry of the time limit for bringing an action for annulment of the contested regulation.

42 The applicant maintains, however, that the Court has 'jurisdiction to annul the contested [regulation]' in that it is 'clearly unlawful' ab initio, since he was not provided with any reasons at the time of his initial listing. Pointing out that the remedies before the General Court must be effective and not illusory, the applicant submits that, until all the reasons on which the Commission relied in his case were provided to him, he was not in a position to defend himself or to bring an action for annulment before the Court.

43 In that regard, it should be borne in mind that neither the right to effective judicial protection nor the right to be heard is undermined by the strict application of EU rules concerning procedural time limits which, according to settled case-law, meets the requirements of legal certainty and the need to avoid all discrimination or arbitrary treatment in the administration of justice (see judgment of 18 June 2015, Ipatau v Council, C-535/14 P, EU:C:2015:407, paragraph 14 and the case-law cited).

44 Furthermore, there was nothing to prevent the applicant from bringing an action for annulment of the contested regulation before being notified of the grounds for his inclusion on the list at issue — such action being founded precisely on that failure to notify.

45 It follows from the foregoing that the present action must be dismissed as inadmissible to the extent that it is directed against the contested regulation in so far as that regulation concerns the applicant.

Substance

46 The applicant relies, in essence, on five pleas in law in support of his application, alleging, first, breach of the 'reasonable time' principle; secondly, infringement of the Commission's obligation meaningfully to evaluate for itself whether the applicant satisfied the relevant criteria for the retention of his name on the list at issue; thirdly, infringement of the rules on the burden and standard of proof; fourthly, errors vitiating the statement of reasons; and, fifthly, breach of the principle of proportionality.

First plea in law, alleging breach of the 'reasonable time' principle

47 The applicant argues that the contested decision is unlawful (i) in so far as the statement of reasons and the first and second further sets of reasons were not communicated to him in full within a reasonable time after the adoption of the contested regulation, and (ii) in so far as the contested decision was not adopted within a reasonable time from receipt of his comments in reply to that communication, thus preventing him from seising the General Court within a reasonable time. In particular, the Commission unduly delayed the process by sending a first, then a second, further set of reasons, contrary to the case-law of the Court of Justice which states that the reasons must be given in full 'as swiftly as possible'.

48 The Commission, supported by the Council, disputes those arguments.

49 Inasmuch as the applicant complains that the Commission did not communicate to him in full the statement of reasons and the first and second further sets of reasons within a reasonable period after the contested regulation was adopted, it is true that it follows notably from paragraphs 348 and 349 of the judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461), that,

when deciding to freeze a person's funds pursuant to Regulation No 881/2002, the EU institution concerned is obliged, in order to respect the rights of the defence, in particular the right to be heard and the right to an effective judicial review, to communicate to the person concerned the evidence used against him or to grant him the right to be informed of that evidence within a reasonable period after that measure was enacted.

50 In the present case, however, it has already been held that the action for annulment of the initial decision to freeze the applicant's funds, in the form of the contested regulation, is inadmissible. Since the only decision that is properly subject to review by the Court is a review decision, taken at the end of a procedure initiated by the request for review made on 13 February 2009, the period prior to that date cannot be taken into account for the purposes of assessing the reasonableness of the time taken to reach that review decision.

51 As regards the period after 13 February 2009, it appears that, in this case, the Commission followed the procedure established following delivery of the judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461), precisely in order to introduce a procedure that would guarantee that the rights of defence of the persons concerned are respected. That procedure was subsequently codified, with effect from 26 December 2009, by Council Regulation (EU) No 1286/2009 of 22 December 2009 amending Regulation No 881/2002 (OJ 2009 L 346, p. 42). As regards the 'historical listings' on the list at issue, namely those, such as the applicant's, made before 3 September 2008, and thus before that judgment was delivered, the procedure is that laid down by Article 7c of Regulation No 881/2002, as amended.

52 As a preliminary point, it must be noted that neither Article 7c of Regulation No 881/2002 nor any other provision of EU law lays down a time limit within which a decision reviewing the inclusion of a person's name on the list at issue must be adopted by the competent EU institution.

53 In that situation, it is apparent from the case-law of the Court of Justice that the 'reasonableness' of the period of time taken by the institution to adopt a measure at issue is to be appraised in the light of all the circumstances specific to each case and, in particular, the importance of the case for the person concerned, its complexity and the conduct of the parties to the case (see, to that effect, judgment of 28 February 2013, Réexamen Arango Jaramillo and Others v EIB, C-334/12 RX-II, EU:C:2013:134, paragraph 28 and the case-law cited).

54 In this instance, it is certainly the case that the Commission, as it points out, communicated to the applicant successive grounds for the inclusion of his name on the list at issue as soon as it had obtained them from the Sanctions Committee.

55 It is also true that the particular circumstances of the case alleged by the Commission and, in particular, (i) the need for the EU authorities to consult the

relevant international actors on the measures to be taken in order to abide by the principles laid down by the Court of Justice in the judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461); (ii) the need for the Commission to obtain the Sanctions Committee's statement of reasons beforehand; (iii) the nature and particular characteristics of the international sanctions regime at issue in the present case; (iv) the particularly sensitive nature of the Sanctions Committee's work; and (v) the large number of requests for review which the Commission had to deal with simultaneously after the judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461), was delivered, partly account for the relatively lengthy process of reviewing decisions to include the persons concerned on the list at issue that followed delivery of the judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461).

56 The fact remains that, in this instance, the period of more than four years between the date of the request for review made on 13 February 2009 and the date on which the contested decision of 6 March 2013 was adopted substantially exceeds what might be regarded as the 'usual' period for completing that review process, even if all the special circumstances mentioned above are taken into account.

57 It must be observed in that regard that, in the judgment of 21 March 2014, Yusef v Commission (T-306/10, EU:T:2014:141, paragraph 102), the Court held that it was 'not acceptable' that, more than four years after delivery of the judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461), the Commission was still not in a position to discharge its obligation to examine Mr Hani El Sayyed Elsebai Yusef's case carefully and impartially, where appropriate in 'effective cooperation' with the Sanctions Committee. It should also be noted that, in the judgment of 8 September 2015, Ministry of Energy of Iran v Council (T-564/12, EU:T:2015:599, paragraphs 71 and 72), which concerned a different international sanctions regime, the Court ruled that the period of more than 15 months taken to respond to the applicant's observations was 'clearly … unreasonable'.

58 That assessment is confirmed by the considerably shorter periods of time taken to carry out the review process in the case of others whose names were included on the list at issue and who had brought an action before the Court, even though the special circumstances outlined in paragraph 55 above applied equally in their case. Thus, it is apparent from the judgment of 14 April 2015, Ayadi v Commission (T-527/09 RENV, not published, EU:T:2015:205), that the statement of reasons concerning Mr Chafiq Ayadi was sent to him on 24 June 2009, that he submitted his observations in response on 23 July 2009 and that the decision to retain his name on the list at issue following a review was adopted on 13 October 2009. It is also apparent from the judgment of 28 October 2015, Al-Faqih and Others v Commission (T-134/11, not published, under appeal, EU:T:2015:812, paragraph 69), that the review of the situation of the applicants concerned was completed in less than six months.

59 That applies a fortiori as regards the applicant's case, since the reasons that led to the inclusion of his name on the Sanctions Committee's summary list, as communicated to him by the Commission on 10 May 2010, were essentially the same as those which had already been communicated to him by the United Kingdom authorities as evidence underlying the United Kingdom's listing request as long ago as 12 June 2007 (see paragraph 3 above).

60 The Commission and the interveners did not invoke any other particular circumstance peculiar to the applicant's case that might explain why the review process took such an abnormally long time in his case.

61 In those circumstances, it must be held that there has been a breach of the 'reasonable time' principle.

62 However, breach of the 'reasonable time' principle justifies annulment of a decision taken at the end of an administrative procedure only in so far as it also entails an infringement of the rights of the defence of the person concerned. Where it has not been established that the undue delay has adversely affected the ability of the persons concerned to defend themselves effectively, failure to comply with the principle that action must be taken within a reasonable time cannot affect the validity of the administrative procedure (see, to that effect, judgment of 8 September 2015, Ministry of Energy of Iran v Council, T-564/12, EU:T:2015:599, paragraphs 73 to 77; see also, to that effect and by analogy, judgments of 21 September 2006, JCB Service v Commission, C-167/04 P, EU:C:2006:594, paragraphs 72 and 73, and of 25 June 2010, Imperial Chemical Industries v Commission, T-66/01, EU:T:2010:255, paragraph 109 and the case-law cited).

63 In the present case, it has not been proved, or even seriously alleged, that the ability of the applicant to defend himself effectively was actually compromised by the excessive duration of the review procedure. The applicant merely sets out purely hypothetical considerations in the reply, arguing that if a full statement of reasons is not disclosed to him until years after the event, it becomes more difficult to mount his defence, because exculpatory evidence 'may' be unavailable or more difficult to obtain, his memory 'will' fade over time, and crucial witnesses 'may' no longer be available or capable of providing useful evidence.

64 As regards the applicant's argument that his rights of defence and his right to effective judicial protection were infringed as a result of the unreasonable delay, in that, in the absence of a reasoned decision, he was unable to bring an action before the General Court, it is sufficient to point out, in rejecting that argument, that the FEU Treaty provides in Article 265 for a legal remedy specifically designed to counter an institution's wrongful failure to act, in the form of an action for failure to act. At any time between 13 February 2009 and 6 March 2013, the applicant could thus have asked the Commission to remove his name from the list at issue and, should the Commission's failure to do so have extended

beyond the two months prescribed in Article 265 TFEU, have brought an action for failure to act (see, to that effect, judgment of 21 March 2014, Yusef v Commission, T-306/10, EU:T:2014:141, paragraphs 62, 63 and 68).

65 Without prejudice to the applicant's right under Article 340 TFEU to seek compensation for the damage, if any, which he might have suffered as a result of the Commission's delay in fulfilling its obligations, the applicant may not therefore rely on that delay to annul the contested decision (see, to that effect and by analogy, judgment of 8 September 2015, Ministry of Energy of Iran v Council, T-564/12, EU:T:2015:599, paragraph 77).

66 It follows from the foregoing that the breach of the 'reasonable time' principle established in this instance is not capable of justifying the annulment of the contested decision, and that the first plea in law must therefore be rejected as being ineffective.

Second plea in law, alleging infringement of the Commission's obligation meaningfully to evaluate for itself whether the applicant satisfied the relevant criteria for the retention of his name on the list at issue

67 The applicant argues that the contested decision is unlawful in that the Commission infringed its obligation meaningfully to evaluate for itself whether the applicant satisfied the relevant criteria for the retention of his name on the list at issue. The plea is divided into four parts.

– First part of the second plea in law

68 By the first part of the second plea in law, the applicant complains, by reference to paragraph 8 of the contested decision, that the Commission failed to try to obtain from the Sanctions Committee or from the designating State evidence in support of the allegations made against him. In those circumstances, the Commission carried out a purely formal and artificial review, merely reproducing the statement of reasons provided by the Sanctions Committee, and its alleged consideration of the applicant's comments was illusory. The applicant relies, to that effect, on the findings made by the General Court in the judgment of 21 March 2015, Yusef v Commission (T-306/10, EU:T:2014:141, paragraphs 103 and 104). According to him, the Commission's view of its role is such that it would never remove a person's name from the list at issue in defiance of the Sanctions Committee's assessment. By simply reproducing the Sanctions Committee list, refusing to request and critically evaluate the supporting material and then passing the decision over to the Court for critical evaluation, the Commission abrogated its primary responsibility to assess for itself the validity of an entry on the list at issue.

69 In order to respond to the applicant's arguments, regard must be had to all the considerations set out by the Court of Justice, in paragraphs 104 to 134 of the judgment of 18 July 2013, Commission and Others v Kadi (C-584/10 P,

C-593/10 P and C-595/10 P, 'Kadi II', EU:C:2013:518), in relation to the obligations on, on the one hand, the competent EU authorities — in this instance the Commission — in a procedure to include the name of an organisation, person or entity on the list at issue or to maintain such listing after re-examination, and, on the other, the Courts of the European Union, in the context of their judicial review of the lawfulness of the administrative decision taken at the end of that procedure.

70 It follows from these considerations that, for the rights of the defence and the right to effective judicial protection to be respected, and also, in this instance, for the principle of good administration to be observed, first, the competent EU authority must (i) disclose to the person concerned the summary of reasons provided by the Sanctions Committee which is the basis for listing or maintaining that person's name on the list at issue, (ii) enable him effectively to make known his observations on that subject, and (iii) examine, carefully and impartially, whether the reasons alleged are well founded, in the light of the observations presented by that person and any exculpatory evidence that may be produced by him (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 135).

71 Secondly, respect for those rights and observance of that principle implies that, in the event of a legal challenge, the Courts of the European Union are to review, in the light of the information and evidence which have been disclosed inter alia whether the reasons relied on in the summary of reasons provided by the Sanctions Committee are sufficiently detailed and specific and, where appropriate, whether the accuracy of the facts relating to the reason concerned has been established (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 136).

72 On the other hand, the fact that the competent EU authority does not make accessible to the person concerned and, subsequently, to the Courts of the European Union information or evidence which is in the sole possession of the Sanctions Committee or the Member of the United Nations (UN) concerned and which relates to the summary of reasons underpinning the decision at issue, cannot, as such, justify a finding that those rights and that principle have been infringed. However, in such a situation, the Courts of the European Union, which are called upon to review whether the reasons contained in the summary provided by the Sanctions Committee are well founded in fact, taking into consideration any observations and exculpatory evidence produced by the person concerned and the response of the competent EU authority to those observations, will not have available to it supplementary information or evidence. Consequently, if it is impossible for the Courts to find that those reasons are well founded, those reasons cannot be relied on as the basis for the contested listing decision (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 137).

73 In view of those reminders and in the light of those principles, the first part of the second plea in law must be rejected as unfounded. In particular, it is apparent from paragraph 107 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), that the Commission must take its decision on the basis of the statement of reasons provided by the Sanctions Committee and that, on the other hand, there is no provision, at that stage, for that committee automatically to make available to the Commission, for the purposes of the Commission's adoption of its decision, any material other than that statement of reasons. It is also apparent from paragraph 108 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), that the Court of Justice examined and validated, or at least was not critical of, the procedure laid down in that respect by Article 7c of Regulation No 881/2002, as amended by Regulation No 1286/2009, which envisages 'exclusively' the communication to the person concerned of the statement of reasons provided by the Sanctions Committee.

74 Admittedly, in paragraphs 114 and 115 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), the Court of Justice made clear that it was for the Commission, in accordance with its obligation to examine, carefully and impartially, whether the alleged reasons were well founded, to assess, having regard inter alia to the content of comments made by the individual concerned, whether it was necessary to seek the assistance of the Sanctions Committee in order to obtain the disclosure of additional information or evidence.

75 That is precisely the procedure which was followed in the present case, as is evident from paragraphs 2 to 4 of the contested decision, the Commission having decided, in that decision, to maintain the applicant's name on the list at issue after having communicated his observations to the Sanctions Committee, having twice sought the committee's assistance to enable it to respond to those observations and having obtained, as a result, disclosure of additional information or evidence, in the form of the first and second further sets of reasons (see, to that effect, judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 115). It is also common ground that the Commission disclosed to the applicant the statement of reasons and the first and second further sets of reasons provided by the Sanctions Committee, these having moreover given rise to further exchanges of observations between the applicant and the Commission.

76 By contrast, the Commission cannot be criticised in the present case, solely on the basis of paragraph 114 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), for having failed, during the administrative procedure that led to the adoption of the contested decision, to obtain from the Sanctions Committee or the designating State information or evidence in support of the allegations made against the applicant and for therefore having carried out a 'purely formal and artificial' review as to whether the alleged

reasons were well founded, in the light of the observations made by the person concerned in relation to the statement of reasons.

77 It should be borne in mind in that regard that, in the case giving rise to the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), and in contrast to the facts of the present case, the Commission had made no further attempt to obtain from the Sanctions Committee or the designating State any information or evidence to substantiate the allegations made against Mr Yassin Abdullah Kadi in the statement of reasons provided by that Sanctions Committee. It is not, however, for that reason that the Court of Justice confirmed the annulment of the regulation at issue, but because, in the context of its own judicial review of the lawfulness of that regulation, it appeared to the Court that none of those allegations was such as to justify the adoption, at EU level, of restrictive measures against Mr Kadi, either because the statement of reasons was insufficient, or because information or evidence that might have substantiated the reason concerned, in the face of detailed rebuttals submitted by the party concerned, was lacking at the judicial stage (see the analysis of those allegations in paragraphs 151 to 162 and the general conclusion in paragraph 163 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518)).

78 On the contrary, the Court of Justice held in the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), that the General Court had erred in law by basing its finding that the rights of the defence and the right to effective judicial protection had been infringed on the failure by the Commission to disclose to Mr Kadi and to the General Court itself the information and evidence underlying the reasons for maintaining Mr Kadi's listing, since the Commission was not in possession of that information and evidence (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraphs 138 and 139).

79 It would therefore be contrary to the principles established by the Court of Justice in the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), to penalise the Commission in the present case on the basis of an alleged failure to fulfil its obligation to examine, carefully and impartially, whether the reasons alleged against the applicant were well founded, or indeed for having failed to obtain from the Sanctions Committee the information or evidence enabling it to discharge its duty to carry out a careful and impartial examination when, in circumstances similar to those of the case that gave rise to that judgment, the Court of Justice did not find the Commission responsible for any infringement of that obligation or, more generally, of the rights of the defence.

80 Furthermore, there is nothing in the file to confirm that, prior to adopting the contested decision, the Commission had failed to examine, carefully and impartially, all the information at its disposal, including the applicant's

observations. As it indicated in paragraph 7 of the contested decision, the Commission remained of the view that the inclusion of the applicant's name on the list at issue was still justified, given in particular the fact that the applicant had not provided any reason to doubt the veracity of the allegations made against him.

81 As regards the argument derived from the judgment of 21 March 2014, Yusef v Commission (T-306/10, EU:T:2014:141), this must be rejected, since the facts and circumstances of that case are not the same as those of this. In the case giving rise to that judgment, it was 'common ground' (see paragraph 94 of that judgment) that the applicant in that case was unable to rely on any of the principles or guarantees set out by the Court of Justice in the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), until the action was brought, and that the failure to act continued at the time when the oral part of the procedure was closed (paragraph 100 of that judgment). Furthermore, according to the statements made at the hearing (paragraph 103 of that judgment), the Commission had continued to regard itself as strictly bound by the findings of the Sanctions Committee and as not having any discretion in that regard, in contradiction with the principles laid down by the Court of Justice in its judgments of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461), and of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraphs 114, 115 and 135). The General Court concluded from this that the way in which the Commission purported, by implementing the review procedure with regard to Mr Yusef's case, to remedy the infringements of the same kind as those found by the Court of Justice in its judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461), was formal and artificial in nature. In the present case, on the other hand, the Commission stated at the hearing that it was prepared to dissociate itself from the Sanctions Committee's findings if these appeared to it to be manifestly erroneous or contradicted by the exculpatory evidence put forward by the person concerned.

82 It follows from all of the foregoing that the first part of the second plea in law must be rejected as unfounded.

– Second part of the second plea in law

…

– Third part of the second plea in law

89 By the third part of the second plea in law, the applicant complains that the Commission failed to consider whether the allegations made against him by the Sanctions Committee were based on information obtained by torture, even though the applicant had referred to that point in his letter of 28 June 2010. The presumption, on which the Commission relied, that the Sanctions Committee does not base its findings on such information is not reasonable. On its internet site, the

UN Ombudsperson recognises, moreover, that the secret services of certain designating States may use information that is tainted in this way. In the present case, the applicant considers it 'possible' that information about him may have been obtained from individuals in custody in the United States or Pakistan, against whom coercive measures amounting to torture may have been used. Thus, he states that Mr Faraj al-Libi was captured in Pakistan on 2 May 2005 by Pakistan's intelligence services, then transferred to the United States, held in secret detention facilities for over a year and finally transferred to Guantánamo. According to a report of the International Committee of the Red Cross (ICRC) of 14 February 2007, 14 individuals detained in Guantánamo, including Mr Al-Libi, described treatment and interrogation techniques amounting to a form of torture.

90 The Commission, supported by the United Kingdom and by the Council, contests that argument.

91 It must be noted in that regard that, in his letter of 28 June 2010, the applicant did not put forward any precise allegation, or any plausible ground, to the effect that certain information in the statement of reasons had been obtained by torture. At most, he asked in that letter for 'confirmation that the European Commission has taken the necessary steps to assure itself that none of the information on which it relies in the statement of reasons was obtained by torture'.

92 The Commission correctly found that, in such circumstances, it is reasonable to rely on a general presumption that the Sanctions Committee does not base its findings on evidence obtained by torture. Contrary to what is maintained by the applicant, the Commission thus applies the same criterion as that used by the UN Ombudsperson, namely to seek first of all to ascertain whether there is 'sufficient information to provide a reasonable and credible basis for the allegation of torture', as is apparent from the UN Ombudsperson's internet site.

93 In the present case, there is nothing in the file that might lend credence to such an allegation, as regards the material used against the applicant. More specifically, there appears to be no information in the file that could be linked to Mr Faraj Al-Libi or to any other person detained in Guantánamo or in Pakistan.

94 The United Kingdom also judiciously points out that significant parts of the evidence produced by the Commission rely on judgments of the United Kingdom courts delivered by Judges who, in accordance with the guidelines laid down by the House of Lords in its judgment in A and Others v Secretary of State for the Home Department (No 2), [2006] 2 A.C. 221, were obliged to consider whether allegations of the use of torture had been made to them.

95 It is, moreover, apparent from the defence lodged by the FCO in the High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court) ('the High Court'), in proceedings brought by the applicant against the FCO's decision refusing his request that the FCO invite the Sanctions Committee to remove his

name from the Sanctions Committee list, that, in the course of those proceedings, the applicant had also speculated as to whether certain evidence used against him was the product of the interrogation of Mr Al-Libi by the Pakistani or United States intelligence services. The FCO stated in those proceedings that none of the allegations against the applicant relied on the product of interrogation of detainees. Since the applicant subsequently withdrew those proceedings, the High Court did not have an opportunity to confirm that point. In the absence of any evidence to the contrary, there is, however, no reason to call in question the FCO's assertion.

96 The third part of the second plea in law would thus appear to be wholly unfounded.

– Fourth part of the second plea in law

…

Third plea in law, alleging infringement of the rules on the appropriate burden and standard of proof

100 The applicant claims that the contested decision is unlawful in that the Commission infringed the rules on the appropriate burden and standard of proof. This plea is in two parts.

– First part of the third plea in law

101 By the first part of the third plea in law, the applicant submits that, as paragraph 7 of the contested decision shows, the Commission inverted the burden of proof and placed it on him, contrary to the case-law of the Court of Justice (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 121), according to which it is the task of the competent EU authority to establish, in the event of challenge, that the reasons relied on against the person concerned are well founded, and not the task of that person to adduce evidence of the negative, that those reasons are not well founded.

102 That line of argument is, however, based on a misunderstanding of the obligations to which, according to the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), the Commission is subject with regard to the burden of proof in the context of a review of the grounds underlying the decision to list a particular person or to retain that person's name on the list at issue.

103 As the Commission correctly states, the 'legal test' which it must apply at the administrative stage of the review of listing decisions, as described in paragraphs 111 to 116 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), has to be distinguished from the

test that applies to the review by the Court, as described in paragraphs 117 to 134 of that judgment.

104 Thus, while the burden of proof undoubtedly lies with the Commission, it does not have to be applied by the Commission at the re-examination stage, but only at the subsequent stage of the judicial review of its decision to maintain the listing after re-examination. That is clear from paragraph 121 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), which is among the general considerations set out by the Court of Justice, in paragraph 117 et seq. of that judgment, in relation to 'court proceedings'.

105 More specifically, and as the Commission also observes, the point of departure of the review it has to carry out, at the request of an interested party, is the findings of the Sanctions Committee as expressed in its summary of reasons, which serve as the basis for the statement of reasons of the EU act. If that statement of reasons is sufficiently detailed and specific, the Commission is not making a mistake in concluding that it can, in principle, call it in question only if the listed person provides specific and detailed evidence that disproves the findings at issue, without prejudice to the burden of proof that will subsequently fall on the Commission when the reasons underlying the decision to list or to retain the listed person's name on the list at issue are reviewed by the Court as to whether they are lawful and well founded.

106 The Commission duly complied with those principles in the present case, as is evident from paragraph 7 of the contested decision, the first part of which is set out in paragraph 23 above. In the next part of that paragraph, the Commission, moreover, did not confine itself to stating that the applicant had failed to provide any reason to doubt the veracity of the allegations made against him. In particular it provided an in-depth factual analysis of some of his denials, and concluded that they lacked relevance or credibility.

107 It follows that the first part of the third plea in law is unfounded.

– Second part of the third plea in law

108 By the second part of the third plea in law, the applicant submits that the reference to the standard of proof applied by the FATF, that of 'reasonable grounds ... to suspect or believe', as set out in paragraph 9 of the contested decision, is irrelevant and in any event incorrect, since the Court of Justice called, in its judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), for a 'sufficiently solid factual basis'. As regards paragraph 149 of that judgment, referred to by the Commission and the United Kingdom, the applicant maintains that it does not call that requirement in question and does not set down the ultimate legal test. The United Kingdom itself abandoned the test of 'reasonable grounds for suspicion' in favour of the more stringent test of

'reasonable grounds for believing' when adopting the Terrorism Prevention and Investigation Measures Act 2011.

109 In the reply, the applicant also emphasises the gravity of the impact of the restrictive measures on designated individuals, which justifies an exacting standard of proof to avoid the risk of infringement of Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter') and of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'). In that context, the applicant maintains that the standard of proof required is practically indistinguishable from that required in criminal matters, despite the proceedings in question not being strictly of a criminal character. He invites the General Court to adopt the approach taken by the Court of Appeal (England & Wales) in Gough & Anor v Chief Constable of Derbyshire [2002] EWCA Civ 351, in which a person was subject to a travel ban because of his alleged propensity to engage in football-related violence.

110 As regards that line of argument, the considerations set out in the context of the examination of the first part of this plea apply mutatis mutandis. It is therefore only at the stage of the Court's review as to whether the reasons underlying a decision to list a person or, after re-examination, to maintain his listing, are lawful and well founded that the question of the requisite standard of proof arises.

111 In that respect, it is for the Court alone to satisfy itself that the contested decision 'is taken on a sufficiently solid factual basis' (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 119), by determining whether the facts alleged in the summary of reasons are 'supported' (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 122) and, therefore, their accuracy 'established' (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 136).

112 In those circumstances, the second part of the present plea may be rejected outright as ineffective, since any error of law by the Commission in the definition of the standard of proof required or in its application is not capable, by itself, of justifying the annulment of the contested decision if that decision otherwise satisfies the evidential requirements set out in the preceding paragraph, which it is for this Court to determine in the context of its examination of the fourth plea in law.

113 In any event, the Commission did not err in referring, in paragraph 9 of the contested decision, to the operational test formulated by the FATF in the Interpretative Note on its Special Recommendation III on Terrorist Financing, namely that the designation or listing of an individual's name on the list at issue and, therefore, the freezing of his funds should be based 'on reasonable grounds, or a reasonable basis, to suspect or believe that such funds or other assets could be

used to finance terrorist activity', since that standard of proof is consistent with the criteria established by the Court of Justice in its judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518).

114 Admittedly, that test is not entirely unambiguous, in so far as 'suspect' and 'believe' are distinct mental steps giving rise to different degrees of conviction.

115 It must, however, be noted that, in its judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), the Court validated the application of the less exacting of those two possible standards of proof, namely that of suspicion, when examining whether a particular ground used against the listed person was well founded.

116 The Court made clear, in paragraph 149 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), that the reasons for inclusion on the list at issue could be based on 'suspicions of involvement in terrorist activities, without prejudice to the determination of whether those suspicions are justified'. In the light of paragraph 162 of that judgment, it must be added that, in order for suspicions of involvement in terrorist activities to be legitimately relied on vis-à-vis an individual, information or evidence must be produced to support those suspicions, which is a matter that must be assessed on a case-by-case basis.

117 While that approach does not call in question the requirement for a 'sufficiently solid factual basis' set out in general terms in paragraph 119 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), it must be acknowledged that that requirement may be met by the application of the 'reasonable grounds for suspicion' test, provided that those grounds are supported by sufficient information or evidence, since the Court of Justice applied that test in paragraphs 149 and 162 of that judgment.

118 As to the fact that the United Kingdom abandoned the test of 'reasonable grounds for suspicion' in favour of the more stringent test of 'reasonable grounds for believing' when adopting the Terrorism Prevention and Investigation Measures Act 2011, that is entirely irrelevant. On the contrary, the 'reasonable grounds for suspicion' test, provided that those grounds are supported by sufficient information or evidence, appears adequate in circumstances such as those envisaged by Regulation No 881/2002, by the FATF recommendations and by the relevant Security Council resolutions, notably Resolution 2161 (2014) of 17 June 2014, in paragraph 11 thereof. That was also the opinion of the Court of Appeal (England & Wales) in Youssef v Secretary of State for Foreign & Commonwealth Affairs [2013] EWCA Civ 1302, [2014] 2 WLR 1082.

119 In the light of the foregoing considerations, the applicant's argument that the standard of proof required in circumstances such as those of the present case is practically indistinguishable from that required in criminal matters, namely

'beyond reasonable doubt', must also be rejected. It has, moreover, consistently been held since the judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461), that restrictive measures such as those at issue in the present case are not of a criminal character. The preventive rather than punitive nature of restrictive measures necessarily has a bearing on the nature, form and degree of the proof that the Commission may be asked to provide (Opinion of Advocate General Bot in Anbouba v Council, C-605/13 P and C-630/13 P, EU:C:2015:2, point 111).

120 As to the arguments set out in that respect in the reply, the Commission, supported by the United Kingdom, correctly counters that the competent English courts have rejected the quasi-criminal test applied in Gough & Anor v Chief Constable of Derbyshire [2002] EWCA Civ 351 with regard to preventive measures such as those at issue in the present case. As regards the implementation of measures decided on at UN level, the correct approach in English law, as established by the Court of Appeal (England & Wales) in Secretary of State for the Home Department v MB [2006] EWCA Civ 1140, [2007] QB 415, and Youssef v Secretary of State for Foreign & Commonwealth Affairs [2013] EWCA Civ 1302, [2014] 2 WLR 1082, is based on a test of 'reasonable suspicion' (that is the existence of material such as to raise suspicions).

121 It follows from all the foregoing considerations that the third plea in law must be rejected.

Fourth plea in law, alleging errors vitiating the statement of reasons

122 This plea in law was considerably amplified following the communication of new information and evidence during the proceedings.

123 In the application, the applicant submitted, in essence, that the contested decision was legally defective in that, first, none of the allegations against him had been proved; secondly, some allegations were insufficiently precise to enable the applicant to challenge them effectively; thirdly, some allegations were so old or vague that they had no rational connection with the relevant criteria; and, fourthly, some allegations were inconsistent with the exculpatory material.

124 In its defence, the Commission, supported by the United Kingdom and the Council, contended that the reasons for including him in the list at issue that were sent to the applicant were sufficiently precise, detailed, specific and concrete for the purposes of the case-law (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraphs 116, 130 and 142 to 149), and that they satisfied the requirement to state reasons (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraphs 102 and 116).

125 The Commission referred, moreover, to certain principles set out by the Court of Justice in the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and

C-595/10 P, EU:C:2013:518, paragraphs 117, 119 to 122), concerning the process of the judicial review of the lawfulness of decisions to list or to maintain, after re-examination, the name of a person on the list at issue, in particular after the verification by the Courts of the European Union of the factual allegations in the summary of reasons underpinning such decisions.

126 Next, the Commission stated that, in the interest of the efficient administration of justice and having regard to the case brought by the applicant, '[it had] decided not to limit itself to defend[ing] the contested decision on the basis of the elements of the administrative procedure [alone] but [had] turned, in the spirit of effective cooperation under Article 220(1) TFEU, to the ... Sanctions Committee as well as, in line with the principle of sincere cooperation under Article 4(3) TEU, to the authorities of the United Kingdom, as the UN Member having proposed the listing of the applicant' on the Sanctions Committee list.

127 As a result of those contacts, the Commission produced, first, as Annex B.4 to the defence, a letter sent to it by the Sanctions Committee on 20 January 2014 informing it that, as part of its annual review of names on its list, that committee had reviewed the applicant's listing and decided that it remained appropriate.

128 Secondly, the Commission produced, as Annex B.5 to the defence, extensive detailed information and evidence sent to it by the United Kingdom authorities, which it decided, in close coordination with those authorities, to submit to the General Court, to allow the General Court to ascertain that the contested decision had been taken on a sufficiently solid factual basis as regards at least some of the reasons for the listing (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518 paragraph 130). The United Kingdom submits that that material includes documents relied on in support of its proposal to the Sanctions Committee that the applicant should be, and should continue to be, included on the Sanctions Committee list.

129 That material consists of a formal written statement ('First Statement') ('the official statement') drawn up for the purposes of the present proceedings and dated 18 March 2014, signed by the Head of the Counter Terrorism Department of the FCO, and a number of documents intended to serve as proof. As is clear from paragraphs 12 to 14 of the official statement, it is based on advice and an assessment by the United Kingdom's Security Service, which is responsible for protecting national security ('the Security Service').

130 In the reply, the applicant objects to the account taken by the General Court of, and its reliance on, the new allegations, particulars and evidence produced in Annex B.5 to the defence, which were not relied on before the contested decision was adopted or taken into account at the time of its adoption. He submits that, according to the principles set out by the Court of Justice in its judgments of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461), and of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518,

paragraph 115), all of that additional material should have been called for by the Commission from the Sanctions Committee or the Member State concerned and disclosed to him 'at the outset' in order to respect his rights of defence and right of access to a court. According to him, the full disclosure of that material is not contingent on the bringing of legal proceedings, but must in any event precede such proceedings in order to ensure that the rights of the defence may be exercised.

131 Furthermore, the applicant maintains that, in the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), the Court of Justice made it clear that it was to be provided with any confidential material relied on and that it would then itself decide what should be revealed to the person concerned, in accordance with the principles laid down in the judgment of 4 June 2013, ZZ (C-300/11, EU:C:2013:36). In the present case, the United Kingdom had sought to bypass all judicial safeguards of the General Court, asking it to rely on its own judgement that the information provided complied with the criteria laid down in the judgment of 4 June 2013, ZZ (C-300/11, EU:C:2013:36). The argument that any State which proposes a designation to the Sanctions Committee ought then to decide what information may be provided to the General Court is, in the applicant's submission, fundamentally flawed.

132 As regards, specifically, the material found at his house during a search, the applicant states that he was acquitted in criminal proceedings brought against him in relation to that material. He maintains that if he had known that the Commission was intending to use the material against him, he could, as before, have sought to respond. Obtaining transcripts or other material from the trial takes considerable time and effort, whereas the United Kingdom Government has the exculpatory transcripts and material on the basis of which the jury acquitted the applicant. He claims that it is unfair, in these circumstances, to expect him to produce exculpatory material at great cost and effort. The applicant maintains that this example demonstrates the need for the disclosure to the General Court, at the request of the Commission, of the exculpatory material in the possession of the United Kingdom.

133 The applicant further submits that the General Court ought not to rely on findings adverse to the applicant made in United Kingdom court proceedings to which the applicant was not a party and against which he was accordingly unable to defend himself. As regards the claim made by the United Kingdom that those court proceedings were compliant with Article 6 of the ECHR and Article 47 of the Charter, the applicant responds that, while that may be true with regard to the individuals concerned, it is not so in his case since he was not even a party to those proceedings.

134 Finally, inasmuch as the United Kingdom refers to court proceedings to which the applicant was a party, notably against the conditions imposed by HM Treasury and against the FCO's decision not to seek his de-listing from the Sanctions

Committee list, the applicant claims that those proceedings are not equivalent to the present proceedings and that they achieve a different remedy.

135 In that regard, and as the Court of Justice emphasised in paragraph 136 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), respect for the fundamental rights of the person concerned, and specifically the rights of the defence and the right to effective judicial protection, implies that, in the event of a legal challenge, the Courts of the European Union are to review, in the light of the information and evidence which have been disclosed, inter alia, whether the reasons relied on in the summary provided by the Sanctions Committee are sufficiently detailed and specific and, where appropriate, whether the accuracy of the facts relating to the reason concerned has been established.

136 In the present case, in accordance with the requirements laid down by the case-law, the particulars contained in the statement of reasons and in the first and second further sets of reasons identify some, at least, of the individual, specific and concrete reasons why the competent authorities consider that the applicant must be subject to restrictive measures (see, to that effect, judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 140).

137 In particular, the grounds and, above all, the first and second further sets of reasons communicated to the applicant are not confined only to making general assertions but contain numerous details and precise particulars relating both to the identity of the persons concerned and to the time, place, context and other circumstances of the relevant conduct.

138 As to the question whether, in the light of the material which has been disclosed, the accuracy of the facts relating to those reasons may be regarded as established, within the meaning of paragraph 136 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), this entails verifying whether those facts are 'sufficiently substantiated' to permit the inference that the contested decision was taken on a 'sufficiently solid factual basis' (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 119), given that the reasons for a listing may be based on 'suspicions of involvement in terrorist activities, without prejudice to the determination of whether those suspicions are justified' (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 149).

139 In the present case, it is true that, when the contested decision was adopted, no information or evidence had been put forward to substantiate the grounds given in that decision with respect to the applicant.

140 As regards the new information and evidence produced in Annex B.5 to the defence and the corresponding appendices thereto, the Commission rightly

responds to the applicant's arguments summarised in paragraph 130 above by contending that he is confusing two different issues, namely, on the one hand, the procedural requirement of a sufficiently specific statement of reasons and its disclosure to the person concerned in the course of the administrative procedure (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraphs 111 to 116), and, on the other hand, the determination, to be made by the Courts of the European Union, that the statement of reasons thus disclosed has a sufficiently solid factual basis, after having requested the competent EU authority, when necessary, to produce information or evidence, confidential or not, relevant to such an examination (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraphs 117 to 120). The new material produced in Annex B.5 to the defence is specifically intended to serve that purpose, and it is consistent with the principles laid down by the Court of Justice in the judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), to take it into account for the purposes of the review of lawfulness to be carried out by this Court.

141 As regards the applicant's argument that the Commission may not rely on new information or evidence to which he has not had an opportunity to respond, suffice it to note that the applicant had the opportunity to respond to that new material in the reply and at the hearing.

142 The applicant's argument, summarised in paragraph 131 above, that it is for the Courts of the European Union to ensure that they are provided with any confidential material relied on and to decide themselves what should be revealed to the person concerned is based on what is clearly a misreading of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518). In paragraph 122 of that judgment, the Court of Justice stated that there was no requirement that the competent EU authority produce before the Courts of the European Union all the information and evidence underlying the reasons alleged in the summary of reasons provided by the Sanctions Committee, given that, if the competent EU authority finds itself unable to comply with the request of the Courts of the European Union (for example because the designating State or the Sanctions Committee refuse to disclose to it the information and evidence in question), it is then the duty of those Courts to base their decision solely on the material which has been disclosed to them, with the consequences contemplated in paragraph 123 of that judgment. As regards the discussion by the Court of Justice, in paragraph 125 et seq. of that judgment, of the application by the Courts of the European Union of special techniques for examining confidential material, this starts from the premiss, as indicated in paragraph 124 of that judgment, that such material has been voluntarily communicated to them beforehand by the competent EU authority, together with a request for confidential treatment vis-à-vis the person concerned. Moreover, even in those circumstances, the Court of Justice has stated, in paragraph 127 of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), referring to paragraph 63 of the judgment of 4 June 2013, ZZ (C-300/11,

EU:C:2013:363), that if that authority does not permit disclosure of all or part of the information or evidence communicated to the Courts of the European Union with a request for confidentiality vis-à-vis the person concerned, those Courts will then undertake an examination of the lawfulness of the contested measure solely on the basis of the material which has been disclosed.

143 It is not necessary to uphold the applicant's argument concerning the material found at his house during a search (see paragraph 132 above), since it was taken into account in the official statement by virtue of the findings made on the basis of that material by the High Court in its absolute discretion. In so far as the applicant points out that he was acquitted in the criminal proceedings brought against him in relation to that material, it is sufficient to note, with reference to the assessment of the second part of the third plea in law, that the standard of proof applicable in the present case is not the criminal standard of proof.

144 As regards the applicant's argument, summarised in paragraph 133 above, that the General Court should not take into account the findings of the United Kingdom courts in proceedings to which he was not a party, the Commission correctly observes that, to the extent that the findings in question serve to show that there are reasonable grounds to suspect, or even to believe, that the applicant is associated with Al-Qaida, and thus to substantiate the allegations in the statement of reasons, they are relevant and may be taken into account by this Court. The Commission is also fully entitled to argue that those findings may be afforded particular weight by this Court, given that they are the findings of a national court with jurisdiction in judicial proceedings conducted in accordance with Article 6 of the ECHR and Article 47 of the Charter.

145 Lastly, as regards the court proceedings in the United Kingdom, invoked by the United Kingdom, to which the applicant was a party, it is entirely irrelevant that those proceedings are not equivalent to the present proceedings and that they sought a different remedy, since they include material capable of substantiating the allegations made against the applicant in the Sanctions Committee's statement of reasons.

146 It follows from all the foregoing considerations that the General Court may have regard to all the new information and evidence contained in Annex B.5 to the defence.

…

177 Following that overview of the official statement and having carefully reviewed all the information and evidence appended to it, this Court is satisfied that some, at least, of the grounds set out in the statement of reasons and the first and second further sets of reasons, as communicated by the Sanctions Committee, are sufficiently supported by that information or evidence as to have a particularly

solid factual basis and to withstand some vague attempts by the applicant to refute them.

178 Account must also be taken of the existence of other legal remedies that were available to the applicant but which he chose not to pursue.

179 First, the United Kingdom has pointed out that the applicant has at no time since his initial inclusion on the Sanctions Committee list sought to approach the Ombudsperson appointed by the United Nations Security Council in accordance with Security Council Resolution 1904 (2009) with a view to launching an in-depth investigation that might lead to the removal of his name from the Sanctions Committee list, even though Security Council Resolution 2161 (2014) (paragraph 48) requests that States 'encourage individuals and entities that are considering challenging or are already in the process of challenging their [inclusion on the Sanctions Committee list] through national and regional courts to seek removal from [that list] by submitting de-listing petitions to the Office of the Ombudsperson'. There is no rational reason for failing to do so, particularly as the applicant claims to have arguments to support the removal of his name from the Sanctions Committee list.

180 Secondly, having issued proceedings in the High Court on 28 January 2013 against the FCO's decision of 1 November 2012 not to make a request on his behalf for his name to be removed from the Sanctions Committee list, the applicant withdrew his claims by a consent order dated 17 October 2013 (Appendix 4 to the official statement), after the High Court had accepted that, in order to justify that decision, the FCO had relied on confidential evidence, accessible only to the court and not to the applicant.

181 While the applicant cannot be criticised for adopting that judicial strategy as such, it is not one that might help to allay the reasonable suspicion falling on the applicant in the light of the information and evidence considered above.

182 In view of all the foregoing, it must be held that at least some of the grounds mentioned in the statement of reasons and in the first and second further sets of reasons are sufficiently detailed and specific, are substantiated and constitute in themselves sufficient basis to support the contested decision (judgment of 18 July 2013, Kadi II, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 130).

183 It follows that some at least of the allegations made against the applicant in the statement of reasons and in the first and second further sets of reasons were such as to justify the adoption, at EU level, of restrictive measures against him.

184 Accordingly, the fourth plea in law must be rejected as unfounded.

Fifth plea in law, alleging breach of the principle of proportionality

185 The applicant submits that the contested decision is unlawful in that the Commission failed to carry out an examination of proportionality, balancing the applicant's fundamental rights with the actual risk he is said to pose now.

186 The Commission, supported by the Council, contests that argument and refers to paragraphs 360 to 363 of the judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461).

187 It is apparent from the judgment of 3 September 2008, Kadi I (C-402/05 P and C-415/05 P, EU:C:2008:461), that, with reference to an objective of general interest as fundamental to the international community as the fight by all means, in accordance with the Charter of the United Nations, against the threats to international peace and security posed by acts of terrorism, the freezing of the funds, financial assets and other economic resources of the persons identified by the Security Council or the Sanctions Committee as being associated with Usama bin Laden, the Al-Qaeda network and the Taliban cannot per se be regarded as inappropriate or disproportionate (see judgment of 3 September 2008, Kadi I, C-402/05 P and C-415/05 P, EU:C:2008:461, paragraph 363 and the case-law cited; see also, to that effect and by analogy, judgment of 15 November 2012, Al-Aqsa v Council and Council and Netherlands v Al-Aqsa, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraphs 120 to 130). It is nevertheless appropriate to ascertain that, when those measures were adopted, the procedural rights of the persons concerned, notably their rights of defence, were respected (see, to that effect, judgment of 3 September 2008, Kadi I, C-402/05 P and C-415/05 P, EU:C:2008:461, paragraphs 367 to 370). In the present case, it is apparent from the examination of the other pleas in the action that the applicant's procedural rights were duly respected in the review of the grounds for the inclusion of his name on the list at issue.

188 Inasmuch as the applicant particularly objects to the fact that the Commission failed itself to weigh up the restrictions of his fundamental rights and the risk he is said to pose, suffice it to note that such a balancing exercise is neither provided for by the applicable legislation nor contemplated by the case-law. On the contrary, the Court of Justice held in paragraph 107 of its judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518), that where, under the relevant Security Council resolutions, the Sanctions Committee had decided to list the name of an individual on its consolidated list, the competent EU authority had, in order to give effect to that decision on behalf of the Member States, to take the decision to include the name of that individual, or to maintain it, on the list at issue on the basis of the summary of reasons provided by the Sanctions Committee. In that context, the only obligations of the competent EU authority are those identified by the Court of Justice in paragraphs 111 and 112 (respect for the rights of the defence), 114 (careful and impartial examination as to whether the alleged reasons are well founded) and 116 (statement of reasons identifying the

individual, specific and concrete reasons why the competent authorities consider that the individual concerned must be subject to restrictive measures) of the judgment of 18 July 2013, Kadi II (C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518). In the present case, it is also apparent from the examination of the other pleas in the action that those obligations were duly complied with in the review of the grounds for the inclusion of the applicant's name on the list at issue.

189 As regards the proportionality of the contested decision in view of the time that has elapsed since the applicant's name was included on the list at issue, it is true that the applicant's funds had been frozen for a little over six years when the contested decision was adopted, that decision being the only one subject to review by the Court in the present proceedings.

190 However, as has been stated above, the retention of the applicant's name on the Sanctions Committee list and, consequently, on the list at issue, following a review, is based not only on the Sanctions Committee's initial statement of reasons but also on various more recent assessments, both by UN bodies and by the competent authorities and courts of the United Kingdom, of the threat which the applicant was continuing to pose to national and international security. Thus, when the contested decision was adopted, less than 18 months had passed since the High Court had upheld the Security Service's assessment that the applicant remained a prominent Islamist extremist based in the United Kingdom with links to a significant number of extremist individuals (see paragraph 175 above).

191 Furthermore, as has already been stated in paragraph 181 above, the Court considers that, by failing to make any approach to the UN Ombudsperson (see paragraph 179 above) and by withdrawing his claims in the High Court (see paragraph 180 above), the applicant's conduct does nothing to allay the reasonable suspicions falling on him in the light of the information and evidence considered above.

192 The applicant has, moreover, put forward no specific information or evidence to demonstrate that he no longer poses a threat to national and international security.

193 In those circumstances, the contested decision cannot be considered disproportionate in view of the time that has elapsed since the applicant's name was included on the list at issue.

194 The fifth plea in law must therefore be rejected as unfounded and, accordingly, the action must be dismissed in its entirety.

Costs

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

the Commission's costs, in accordance with the form of order sought by the Commission.

196 Under Article 138(1) of the Rules of Procedure, the Member States and institutions which have intervened in the proceedings are to bear their own costs.

On those grounds,

THE GENERAL COURT (Third Chamber)

hereby:

1. Dismisses the action as inadmissible in so far as it seeks annulment of Commission Regulation (EC) No 14/2007 of 10 January 2007 amending for the 74th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama Bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001, in so far as it concerns Mr Mohammed Al-Ghabra;

2. Dismisses the action as unfounded as to the remainder;

3. Orders Mr Al-Ghabra to bear his own costs and to pay those incurred by the European Commission;

4. Orders the United Kingdom of Great Britain and Northern Ireland and the Council of the European Union to bear their own costs.

Papasavvas Bieliūnas Forrester

Delivered in open court in Luxembourg on 13 December 2016.

[Signatures]