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Judgment of the Court (Eighth Chamber) of 1 October 2020 – Cham Holding v Council

(Case C-261/19 P)(1)

(Appeal – Common foreign and security policy – Restrictive measures taken against the Syrian Arab Republic – Measures directed against certain persons and entities engaged in activities in Syria – List of persons and entities subject to the freezing of funds and economic resources – Inclusion of the appellant’s name – Action for annulment)

1. *Common foreign and security policy – Restrictive measures against Syria – Freezing of funds of persons, entities or bodies associated with the Syrian regime – Rights of the defence – Notification of inculpatory evidence – Subsequent decision maintaining the name of the applicant on the list of persons covered by those measures – No new grounds – Inculpatory evidence identical to the evidence previously admitted in the initial decision – Infringement of the right to be heard – Absence*

(Charter of Fundamental Rights of the European Union, Art. 41; Council Decisions (CFSP) 2016/850, (CFSP) 2017/917 and (CFSP) 2018/778)

(see paras 44-48)

2. *Appeal – Grounds – Incorrect assessment of the facts – Inadmissibility – Review by the Court of Justice of the assessment of the evidence – Possible only where the clear sense of the evidence has been distorted*

(Art. 256(1) TFEU; Statute of the Court of Justice, Art. 58, first para.)

(see paras 65-67)

3. *Common foreign and security policy – Specific restrictive measures against certain persons and bodies in view of the situation in Syria – Decision 2013/255/CFSP – Assumption that influential businessmen and women engaged in activities in Syria and members of the Assad and Makhlouf families support the Syrian regime – Entity placed under the control of a member of the Assad and Makhlouf families – Inclusion of the entity at issue in order to avoid the restrictive measures adopted being circumvented – Whether permissible*

(Council Decision 2013/255/CFSP, as amended by Decision (CFSP) 2015/1836, Arts 27(2)(a) and (b) and 28(2)(a) and (b))

(see paras 78-83, 92)

4. *Appeal – Grounds – Plea raised for the first time in the context of the appeal – Inadmissibility*

(Rules of Procedure of the Court of Justice, Art. 170(1))

(see paras 85, 86)

5. *Appeal – Grounds – Error of law relied on not identified – Inadmissibility*

(Art. 256(1) TFEU; Statute of the Court of Justice, Art. 58, first para.; Rules of Procedure of the Court of Justice, Art. 168(1)(d) and 169)

(see para. 88)

6. *Common foreign and security policy – Restrictive measures against Syria – Freezing of the funds of persons, entities or organisations associated with the Syrian regime – Breach of principle of proportionality – Absence*

(Council Decision 2013/255/CFSP, as amended by Decision (CFSP) 2015/1836)

(see paras 89, 90)

Operative part

The Court:

1. Dismisses the appeal;
2. Orders Cham Holding Co. SA to pay the costs.

¹ OJ C 187, 3.6.2019.