General Court of the European Union
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Press and Information

Judgments in Case T-383/11 Eyad Makhlouf v Council
and Cases T-563/11 & T-592/11 Issam Anbouba v Council

The General Court dismisses the actions brought by two Syrian nationals challenging their inclusion on the list relating to freezing of funds in the context of restrictive measures taken against Syria

The Council did not err in law and did not infringe the fundamental rights of Mr Eyad Makhlouf, an officer in the Syrian army, and of Mr Issam Anbouba, a leading businessman, by including them on the list.

On 9 May 2011, the Council of the European Union, strongly condemning the violent repression of peaceful protests in Syria and calling on the Syrian authorities to refrain from the use of force, adopted a decision imposing restrictive measures against Syria. One of those restrictive measures consisted of a freezing of the funds and economic resources of certain persons and entities responsible for the violent repression of the civilian population in Syria.

By decision of 23 May 2011, the name of Mr Eyad Makhlouf, an officer of Syrian nationality, with the rank of lieutenant-colonel, was included on the list relating to freezing of funds with the information 'Brother of Rami Makhlouf and General Intelligence Directorate Officer involved in violence against the civilian population'. Since then, the Council has adopted various decisions and regulations updating the list in question. The name of Mr Makhlouf has at all times remained on that list.

In September 2011, the Council decided that the list relating to freezing of funds should also cover persons and entities benefiting from or supporting the regime. In doing so, the Council applied a presumption of support for the Syrian regime against managers of the major Syrian companies.

For that reason, on 2 September 2011, the name of Mr Issam Anbouba was included on the list relating to freezing of funds with the information that he was the president of a major agro-industrial company (Issam Anbouba Establisment for agro-industry) and that he provided economic support to the Syrian regime. During the review of the list by a regulation of May 2012, the grounds for his inclusion were amended as follows: 'Providing financial support for the repressive apparatus and the paramilitary groups exerting violence against the civil population in Syria. Providing property (premises, warehouses) for improvised detention centres. Financial relations with high Syrian officials'.

Mr Makhlouf and Mr Anbouba brought actions before the General Court for annulment of the decisions and regulations which include them on the list.

By its judgments delivered today, the General Court dismisses the actions.

The Court holds that the Council did not infringe those two persons' rights of defence or their right to effective judicial protection by adopting the measures in question. The Court points out that, after the inclusion of each of them on the list, the Council published a notice in the Official Journal informing them of their inclusion and notifying them of the fact that they could submit their observations to the Council. The fact that that notification took place after the first inclusion on the list cannot be regarded in itself as constituting an infringement of the rights of defence. Any prior notification of the grounds would have been liable to jeopardise the effectiveness of the freezing of funds and economic resources, which must, by their very nature, have a surprise effect and apply with immediate effect. In both cases, it is clear from the fact that those two persons brought actions before the Court within the prescribed periods that they were afforded the opportunity to defend themselves effectively against the measures at issue.

The Court finds also that the Council fulfilled its obligation to state reasons. In the contested measures, the Council sets out clearly the general grounds for the adoption of the restrictive measures against Syria. Moreover, in the decision of September 2011, the Council sets out the general background which led it to extend the scope of application of those measures to persons providing support for the Syrian regime. On an individual level, the information provided by the Council at the time of the first inclusion of each of those persons on the list allowed them effectively to contest the merits of those measures.

Next, with regard to Mr Anbouba, the Court takes the view that the Council was entitled legitimately to assume that, as a leading businessman in Syria, he supported the Syrian regime. The Court states that, in the light of the authoritarian nature of the Syrian regime and of the close control that the State exercises over the Syrian economy, the Council was justified in taking the view that the activities of one of the principal Syrian businessmen, operating in numerous sectors, could not have succeeded without enjoying the favours of that regime and in return providing a level of support for that regime. In light of the importance and nature of the objectives pursued by the measures concerned, which consist, in particular, in ending the repression carried out by the Syrian president Bashar Al Assad and his regime against their own population, that assumption appears to be proportionate.

Finally, the Court considers that neither Mr Makhlouf nor Mr Anbouba has put forward evidence capable of proving that the Council committed a manifest error of assessment in concluding that they support the Syrian regime.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The full text of the judgments (T-383/11, T-563/11 and T-592/11) is published on the CURIA website on the day of delivery

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