



[Start printing](#)

Language of document : ECLI:EU:C:2016:219

Case C-193/15 P

Tarif Akhras

v

Council of the European Union

(Appeal — Common foreign and security policy (CFSP) — Restrictive measures against the Syrian Arab Republic — Measures directed against persons and entities benefiting from or supporting the regime — Proof that inclusion on the lists is well founded — Set of indicia — Distortion of the sense of the evidence)

Summary — Judgment of the Court (Third Chamber), 7 April 2016

1. *Appeal – Grounds of appeal – Form of order seeking a substitution of grounds for the judgment – Inadmissibility – Appeal not explicitly referring to anything in the operative part of the judgment under appeal but claiming that it should be partly set aside – Admissibility*

(Rules of Procedure of the Court of Justice, Art. 169(1))

2. *Common foreign and security policy – Specific restrictive measures against certain persons and bodies in view of the situation in Syria – Decision 2011/782/CFSP and Regulation No 36/2012 – Presumption that the heads of the leading businesses of Syria provide support for the Syrian regime – No presumption*

(Council Decision 2011/782/CFSP; Council Regulation No 36/2012)

3. *European Union – Judicial review of the legality of the acts of the institutions – Restrictive measures against Syria – Ambit of the review*

(Charter of Fundamental Rights of the European Union, Art. 47; Council Decision 2011/782/CFSP; Council Regulation No 36/2012)

4. *Common foreign and security policy – Restrictive measures against Syria – Freezing of funds and economic resources – Action for annulment brought by a person benefiting from the Syrian regime subject to a freezing of funds – Burden of proof – Decision based on a set of indicia – Lawfulness – Conditions*

(Council Decision 2011/782/CFSP; Council Regulation No 36/2012)

5. *Appeal – Grounds of appeal – Mistaken assessment of the facts – Inadmissibility – Review by the Court of the assessment of the facts and 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.)

1. An appeal which sought only a substitution of the grounds stated by the General Court for that decision, without requesting that that decision be wholly or partly set aside, would have to be considered, pursuant to Article 169(1) of the Court's Rules of Procedure, to be inadmissible.

Although the forms of order in the appeal do not explicitly refer to anything in the operative part of the judgment under appeal but rather to certain paragraphs in the statement of reasons set out by the General Court in support of that operative part, the appeal is nonetheless admissible since the aim of the appeal is to have the decision of General Court as it appears in the operative part of the judgment under appeal partly set aside and the defects of form that affect the drafting of the forms of order in the appeal do not prevent the Court from carrying out its review of legality.

(see paras 32, 33, 35)

2. See the text of the judgment.

(see paras 52, 53)

3. See the text of the judgment.

(see paras 56, 57)

4. Taking into consideration how difficult it is for the Council to produce evidence because of the state of war that prevails in Syria, the Council discharges the burden of proof that lies on it if it presents to the Courts of the European Union a set of indicia sufficiently specific, precise and consistent to establish that there is a sufficient link between the person subject to a measure freezing his funds and the Syrian regime.

Accordingly, in the light of the context surrounding the evidence on which the Council relies, the General Court was correct to hold that the position of the appellant in Syrian economic life and the important offices held by him, currently or in the past, within the Homs Chamber of Commerce and the Board of the Federation of Syrian Chambers of Commerce, constituted a set of indicia sufficiently specific, precise and consistent to establish that the appellant was providing economic support to the Syrian regime or benefiting from it. It is conceivable that there are other indicia that are sufficiently specific and precise and that are such as to call into question the truth of the claim that the appellant provided economic support to that regime or benefited from it.

As regards the obligation on the General Court to examine the evince not in isolation but in its context, that requirement does not prevent the General Court from examining individually whether the various claims made by an applicant are factually accurate, provided that account is taken, in the examination of each of those claims and in their overall assessment as a set of indicia, of the context represented by the specific situation in Syria.

It follows that, where the General Court has reviewed whether a person's inclusion on the lists of persons subject to restrictive measures is well founded on the basis of a set of indicia relating to his situation, offices and relationships in the context of the Syrian regime that were not rebutted by him, reference in the judgment under appeal to a presumption of support for that regime, although the acts contested before the General Court concerning restrictive measures in view of the situation in Syria do not establish such a presumption, is not such as to affect the lawfulness of the judgment under appeal inasmuch as it is apparent from the General Court's findings that it undertook a review to the requisite legal standard of whether there existed a sufficiently solid factual basis for the inclusion of that person's name in the lists under consideration.

(see paras 61, 62, 65, 79, 80, 82)

5. See the text of the judgment.

(see paras 67, 68)