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

(Case C-158/19 P) (1)

(Appeal – Common foreign and security policy – Restrictive measures taken against the Syrian Arab Republic – Measures directed against influential businessmen and women engaged in activities in Syria – List of persons 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 43-47)

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 Makhoul support the Syrian regime – Whether permissible – Conditions*

(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 78-80)

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 82, 83)

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, Arts 168(1)(d) and 169)

(see para. 85)

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 86, 87)

7. Common foreign and security policy – Specific restrictive measures against certain persons and bodies in view of the situation in Syria – Decision 2013/255/CFSP and Regulation No 36/2012 – Assumption that members of the Assad and Makhoul families support the Syrian regime – Whether permissible – Conditions – Rebuttable presumption – Evidence to the contrary – Absence

(Art. 29 TEU; Council Decision 2013/255/CFSP, as amended by Decision (CFSP) 2015/1836, Art. 27(2)(b) and (3) and 28(2)(b) and (3))

(see paras 90-92)

8. Appeal – Grounds – Mere repetition of the pleas and arguments put forward before the General Court – Inadmissibility

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

(see para. 95)

Operative part

The Court:

1. Dismisses the appeal;
2. Orders Mrs Razan Othman to pay the costs.

1 OJ C 172, 20.5.2019.