Reports of Cases

JUDGMENT OF THE GENERAL COURT (Seventh Chamber)

21 July 2016*

(Common foreign and security policy — Restrictive measures adopted against Syria — Freezing of funds — Restriction of admission — Annulment or earlier acts by a judgment of the General Court — New acts including the applicant's name on the lists — Manifest error of assessment — Right to property — Proportionality — Presumption of innocence — Non-contractual liability)

In Case T-790/14,

Samir Hassan, residing in Damascus (Syria), represented by L. Pettiti, lawyer,

applicant,

v

Council of the European Union, represented by S. Kyriakopoulou and G. Étienne, acting as Agents,

defendant,

APPLICATION under Article 263 TFEU seeking (i) the annulment of Council Implementing Decision 2014/678/CFSP of 26 September 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2014 L 283, p. 59), Council Implementing Regulation (EU) No 1013/2014 of 26 September 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2014 L 283, p. 9), Council Decision (CFSP) 2015/837 of 28 May 2015 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2015 L 132, p. 82), and Council Implementing Regulation (EU) 2015/828 of 28 May 2015 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2015 L 132, p. 3), in so far as those acts concern the applicant, and (ii) an application under Article 268 TFEU for damages for harm the applicant allegedly suffered by reason of those acts.

THE GENERAL COURT (Seventh Chamber),

composed of M. van der Woude, President, I. Wiszniewska-Białecka and I. Ulloa Rubio (Rapporteur), Judges,

Registrar: S. Bukšek Tomac, Administrator,

having regard to the written procedure and further to the hearing on 21 April 2016,

gives the following

* Language of the case: French.

Judgment [1] *[omissis]*

Procedure and forms of order sought

27 By an application lodged at the General Court Registry on 4 December 2014, the applicant brought an action for the annulment of Implementing Decision 2014/678 and Implementing Regulation No 1013/2014, in so far as those acts concerned him.

28 By document lodged at the General Court Registry on 31 July 2015, the applicant adapted his claims by seeking in addition the annulment of Decision 2015/837 and Implementing Regulation No 2015/828, in so far as those acts concerned him.

29 The parties presented oral argument and replied to questions put by the Court at the hearing on 21 April 2016.

30 The applicant claims that the Court should:

— annul, in so far as those acts concern him, Implementing Decision 2014/678, Implementing Regulation No 1013/2014, Decision 2015/837 and Implementing Regulation No 2015/828 ('the contested acts');

— grant him EUR 250 000 per month from 1 September 2011 as compensation for the material damage suffered, and a symbolic EUR 1 in respect of non-material damage, and order the Council to pay compensation for future non-pecuniary loss he will suffer;

— order the Council to pay the costs.

31 The Council contends that the Court should:

— dismiss the appeal in its entirety;

— order the applicant to pay the costs.

Law

The application for annulment [omissis]

First plea: manifest error of assessment *[omissis]*

45 Thus, it is clear from that reasoning that the applicant was included on the contested lists for the three grounds set out below on the basis of Article 28(1) of Decision 2013/255 and Article 15(1)(a) of Regulation No 36/2012:

— he is a prominent businessman, close to the key figures of the regime such as Messrs Makhlouf and Anbouba;

— he has been the vice-president of the Bilateral Business Councils for Russia since March 2014;

— he supports the Syrian regime's war effort with cash donations.

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

[omissis]

48 It must be held that the applicant was appointed president, and not vice-president, as the Council states, of the Bilateral Business Councils for Russia, by decision of 14 June 2014 of the Syrian Minister for the Economy and Foreign Trade, although that has no specific impact on the assessment made by the Council in the contested decision.

49 It is clear from the constitution of the Syrian Bilateral Business Councils ('the business councils'), first, that the president of the management board of the business councils ('the Management Board') is the Syrian Minister for the Economy and Foreign Trade. Second, the secretariat of the management board is composed of the Syrian Minister for the Economy and Foreign Trade and the Department for International and Arab Relations. Third, that constitution establishes that the members of the business councils will be proposed either by the Secretariat of the Management Board, or by a member of the business councils and any proposal must be submitted to the Syrian Minister for the Economy and Foreign Trade for final approval. Fourth, the president and vice-president of the Management Board are elected by the Management Board presided over by the Syrian Minister for the Economy and Foreign Trade.

50 It is apparent from the constitution of the business councils that the role of the Syrian Minister for the Economy and Foreign Trade in those councils is central and is not limited to endorsing the choices of the other members, as the applicant submits. The Syrian Minister for the Economy and Foreign Trade presides over the Management Board, is a member of the Secretariat of the Management Board which supervises the operation of the various business councils and is the authority competent to appoint the president and vice-president of the various business councils and to dissolve them. However, even if the Syrian Minister for the Economy and Foreign Trade did nothing more than endorse the choices of the members of those councils, it must be observed that the appointment of the president and vice-president of each business council requires a decision of the government.

51 Furthermore, the evidence submitted by the Council in Document MD 216/14 RELEX and, in particular, the article of 3 March 2014 in *Syria Report* and the article in *Syriandays* show the applicant's role in the Bilateral Business Council for Russia. The first article makes clear the connection between the appointment of members of the Business Councils and the proximity with the regime in place. The second describes the conduct of the first general meeting of the business councils which took place on 29 March 2014 and which was attended by the Syrian Prime Minister, the Minister for the Economy and Foreign trade and all the presidents and vice-presidents of the business councils. The applicant's name is mentioned in both articles.

52 Therefore, it must be observed that the role of the applicant in an economic council like the Bilateral Business Council for Russia, whose purpose is to promote the Syrian economy and the development of its undertakings and commercial and investment activities, may be explained only by a certain proximity with the regime in place and is an uncontested fact which demonstrates a definite connection with the regime of Bachar Al-Assad. That proximity between the applicant and the Syrian regime has enabled the Council to legitimately consider that the applicant benefited from the regime, supported it and was associated with it within the meaning of Article 28(1) of Decision 2013/255 and Article 15(1)(a) of Regulation No 36/2012.

53 In the present case, since the second ground for including the applicant was correctly established by the Council and was a sufficient basis for inclusion, by virtue of the legal criteria laid down by Article 28(1) of Decision 2013/255 and Article 15(1)(a) of Regulation No 36/2012, and since, in accordance with the case-law set out in paragraph 42 above, it suffices if one of the grounds on which the acts are based is valid in order to justify their legality, there is no need to give a ruling on the merits of the two other grounds relied on by the Council in the contested act. The arguments put forward by the applicant with respect to them are irrelevant and must be dismissed.

[omissis]

On those grounds,

THE GENERAL COURT (Seventh Chamber)

hereby:

1. Dismisses the action;

2. Orders Mr Samir Hassan to pay the costs.

Van der Woude Wiszniewska-Białecka Ulloa Rubio

Delivered in open court in Luxembourg on 21 July 2016.

[Signatures]