



Press and Information

General Court of the European Union
PRESS RELEASE No 53/11
Luxembourg, 8 June 2011

Judgment in Case T-86/11
Nadiany Bamba v Council

The General Court annuls the measures freezing the funds of Nadiany Bamba

The Council did not provide a sufficient statement of reasons as to how Nadiany Bamba obstructs the process of peace and reconciliation in Côte d'Ivoire

In autumn 2010, a presidential election took place in Côte d'Ivoire at the end of which the UN certified that Mr Alassan Ouattara was the winner. The European Union also recognised Mr Ouattara's victory and called on the Ivorian civil and military leaders to place themselves under the authority of the democratically elected president, whilst confirming its determination to take targeted sanctions against those who obstructed respect of the sovereign will expressed by the Ivorian people.

Given the gravity of the situation in Côte d'Ivoire, the Council adopted restrictive measures against persons who, inter alia, obstruct the process of peace and national reconciliation and in particular jeopardise the proper outcome of the electoral process. Those restrictive measures concerned inter alia the freezing of the funds of those persons. A list containing the names of those persons was annexed to the measures imposing the restrictive measures.

Ms Nadiany Bamba is an Ivorian national and, according to the information given by the Council during the written procedure, the second wife and one of the principal collaborators of Mr Laurent Gbagbo, former president of the Côte d'Ivoire. Her name was included on the list containing the names of persons subject to restrictive measures.

The decision¹ and the regulation² bringing about that listing state, in their annexes, in respect of the applicant's name: "Director of the Cyclone group which publishes the newspaper "Le Temps": Obstruction of the peace and reconciliation processes through public incitement to hatred and violence and through participation in disinformation campaigns in connection with the 2010 presidential election."

Ms Bamba asked the General Court to annul that decision and that regulation.

At Ms Bamba's request, the General Court decided to deal with the dispute under the expedited procedure, which enabled it to deliver its **judgment in less than four months** from the application being lodged, whilst also taking its decision within an extended composition of five judges.

By its judgment, the General Court recalls first of all that, where the European Union adopts restrictive measures, it is required to communicate to the person concerned the reasons underlying those measures in order that that person may exercise his rights of defence and his right to effective judicial review.

The General Court states in that regard that the statement of reasons for a Council act imposing restrictive measures must refer not only to the statutory conditions of application of that act, but

¹ Council Decision 2011/18/CFSP of 14 January 2011 amending Council Decision 2010/656/CFSP renewing the restrictive measures against Côte d'Ivoire (OJ 2011 L 11, p. 36).

² Council Regulation (EU) No 25/2011 of 14 January 2011 amending Regulation (EC) No 560/2005 imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire (OJ 2011 L 11, p. 1).

also to **the actual and specific reasons** for which the Council considers that the person concerned must be subject to such measures. Nonetheless, the General Court recalls that the Council has a broad discretion as to the matters to be taken into consideration for the purpose of adopting or maintaining a fund-freezing measure. Thus the Council cannot be required to state with greater precision in what way freezing the funds contributes, in concrete terms, to combating obstruction of the peace and national reconciliation process or to provide evidence to show that the person concerned might use his funds to carry out such obstruction in the future.

Next, the General Court finds that, in the present case, the Council merely set out vague and general considerations as reasons for including Ms Bamba on the contested list. The Council does not give the actual and specific reasons for which it considers that Ms Bamba must be the subject of the restrictive measures at issue.

In particular, the indication that she is Director of the Cyclone group which publishes the newspaper "Le Temps" does not amount to sufficient and specific reasoning for the contested measures in her regard. That indication alone does not make it possible to understand in what way Ms Bamba obstructed the peace and reconciliation processes through public incitement to hatred and violence and through participation in disinformation campaigns in connection with the 2010 presidential election. The General Court notes that the Council did not refer to any specific matter for which Ms Bamba could be criticised and which could justify the measures at issue.

In those circumstances, the General Court finds that the statement of reasons for the contested measures is not such as to enable Ms Bamba to contest its invalidity before the Court or to enable the Court to review the merits of the measures. As a consequence, **the General Court annuls the contested measures, to the extent that they relate to Ms Bamba.**

Lastly, the General Court recalls that, by way of derogation from Article 280 TFEU, its decisions declaring a regulation to be void take effect only after the expiry of the time-limit for bringing an appeal before the Court of Justice, that is to say, two months and ten days from notification of the judgment or, if an appeal has been brought, after it is dismissed. The Council may therefore, where appropriate, adopt during that period a new restrictive measure vis-à-vis Ms Bamba to remedy the infringement established in this judgment. In those circumstances, the General Court decides that the effects of the contested decision are also maintained during that period.

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.

NOTE: According to the Statute of the Court of Justice, a decision of the General Court declaring a regulation to be void is to take effect only after the date of expiry of the period allowed for bringing an appeal before the Court of Justice, that is to say, two months and ten days from notification of the judgment or, if an appeal has been brought, after the date of its dismissal.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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