

APPENDIX

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2019 EU General Court Judgement Annulling Council Decision

3/26/23, 7:44 AM

CURIA - Documents

Judgment of the General Court of 4 September 2019 — Hamas v Council

(Case T-308/18) ¹

(Common foreign and security policy — Restrictive measures taken against persons, groups and entities with a view to combating terrorism — Freezing of funds — Whether an authority of a third State can be classified as a competent authority within the meaning of Common Position 2001/931/CFSP — Factual basis of the decisions to freeze funds — Obligation to state reasons — Error of assessment — Principle of non-interference — Rights of the defence — Right to effective judicial protection — Authentication of Council acts)

Language of the case: French

Parties

Applicant: Hamas (Doha, Qatar) (represented by L. Glock, lawyer)

Defendant: Council of the European Union (represented initially by B. Driessen and A. Sikora-Kalėda, then by B. Driessen and S. Van Overmeire, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/475 of 21 March 2018 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2017/1426 (OJ 2018 L 79, p. 26) and of Council Implementing Regulation (EU) 2018/486 of 21 March 2018 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) 2017/1420 (OJ 2018 L 79, p. 7); and, second, of Council Decision (CFSP) 2018/1084 of 30 July 2018 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2018/475 (OJ 2018 L 194, p. 144) and of Council Implementing Regulation (EU) 2018/1071 of 30 July 2018 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) 2018/468 (OJ 2018 L 194, p. 23).

Operative part of the judgment

The Court:

Annuls Council Decision (CFSP) 2018/475 of 21 March 2018 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2017/1426, Council Implementing Regulation (EU) 2018/486 of 21 March 2018 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) 2017/1420, Council Decision (CFSP) 2018/1084 of 30 July 2018 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and repealing Decision (CFSP) 2018/475 and Council Implementing Regulation (EU) 2018/1071 of 30 July 2018 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) 2018/468 in so far as they concern 'Hamas', including 'Hamas-Izz al-Din al-Qassem';

Orders the Council of the European Union to bear its own costs and pay those incurred by Hamas.

¹ OJ C 259, 23.7.2018.

2021 EU Court of Justice Overturning General Court Decision



Court of Justice of the European Union
PRESS RELEASE No 208/21
Luxembourg, 23 November 2021

Judgment in Case C-833/19 P
Council v Hamas

Press and Information

The Court of Justice upholds the acts of the Council maintaining Hamas on the European list of terrorist organisations

The General Court should not have cancelled Hamas' listing on the ground that the Council had failed to authenticate by means of a signature the statements of individual reasons for those acts

By a judgment of 4 September 2019, *Hamas v Council*,¹ the General Court annulled, in an action for annulment under Article 263 TFEU, four acts of the Council of the European Union adopted in 2018² by which Hamas was maintained on the list annexed to Common Position 2001/931/CFSP. Hamas had been listed as an organisation involved in terrorist acts and was, on that basis, subject to measures freezing its funds and economic resources. Although it rejected seven of the eight pleas in law relied on by Hamas to challenge its listing, the General Court annulled the acts at issue in so far as they concerned that organisation because of the Council's failure to authenticate, by means of a signature, the statements of reasons relating to those acts, those statements of reasons having been set out in separate documents. The General Court referred in that regard to the signature requirement imposed in the first subparagraph of Article 297(2) TFEU and in Article 15 of the Council's Rules of Procedure.³

The Court of Justice, sitting as the Grand Chamber, sets aside the judgment of the General Court of 4 September 2019. It finds that the General Court erred in law in ruling that the statements of reasons relating to the retention of Hamas on the lists annexed to the acts at issue should – in the same way as the acts themselves, which contain a general statement of reasons – have been signed by the President and the Secretary-General of the Council. In addition, those statements of reasons were adopted by the Council simultaneously with those acts, to which they were inseparably attached, and their authenticity has not been validly challenged.

Findings of the Court

The Court recalls, in the first place, that it is apparent from the judgment in *Commission v BASF*,⁴ on which the General Court relied in the judgment under appeal, that a handwritten signature on an act, in particular of the President of the institution which adopted it, constitutes a means of

¹ Judgment of 4 September 2019, *Hamas v Council* (T-308/19).

² Council Decision (CFSP) 2018/475 of 21 March 2018 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2017/1428 (OJ 2018 L 79, p. 26); Council Implementing Regulation (EU) 2018/468 of 21 March 2018 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) 2017/1420 (OJ 2018 L 79, p. 7); Council Decision (CFSP) 2018/1084 of 30 July 2018 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2018/475 (OJ 2018 L 194, p. 144); Council Implementing Regulation (EU) 2018/1071 of 30 July 2018 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) 2018/468 (OJ 2018 L 194, p. 23).

³ According to Article 15 of the Council's Rules of Procedure, headed 'Signing of acts': 'The text of the acts adopted by the Council and that of the acts adopted by the European Parliament and the Council in accordance with the ordinary legislative procedure shall be signed by the President in office at the time of their adoption and by the Secretary-General. The Secretary-General may delegate his or her power to sign to Directors-General of the General Secretariat.' (Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ 2009 L 325, p. 35)).

⁴ Judgment of 15 June 1994, *Commission v BASF and Others* (C-137/92 P).

2006 Quartet Statement of Sanction on Palestine

S031/06

Quartet Statement

London, 30 January 2006

Representatives of the Quartet -- U.N. Secretary General Kofi Annan, Russian Foreign Minister Sergei Lavrov, Austrian Foreign Minister Ursula Plassnik, U.S. Secretary of State Condoleezza Rice, High Representative for European Common Foreign and Security Policy Javier Solana, and European Commissioner for External Relations Benita Ferrero-Waldner -- met today in London to discuss the situation in the Middle East.

The Quartet congratulated the Palestinian people on an electoral process that was free, fair and secure. The Quartet believes that the Palestinian people have the right to expect that a new government will address their aspirations for peace and statehood, and it welcomed President Abbas' affirmation that the Palestinian Authority is committed to the Roadmap, previous agreements and obligations between the parties, and a negotiated two-state solution to the Israeli-Palestinian conflict. It is the view of the Quartet that all members of a future Palestinian government must be committed to nonviolence, recognition of Israel, and acceptance of previous agreements and obligations, including the Roadmap. We urge both parties to respect their existing agreements, including on movement and access.

The Quartet received updates from Quartet Special Envoy James Wolfensohn and U.S. Security Coordinator LTG Keith Dayton at today's meeting. The Quartet called on the Palestinian Authority to ensure law and order, prevent terrorist attacks and dismantle the infrastructure of terror. The Quartet acknowledged the positive role of the Palestinian Authority security forces in helping maintain order during the recent elections. It expressed its view that progress on further consolidation, accountability and reform remains an important task.

Mindful of the needs of the Palestinian people, the Quartet discussed the issue of assistance to the Palestinian Authority. First, the Quartet expressed its concern over the fiscal situation of the Palestinian Authority and urged measures to facilitate the work of the caretaker government to stabilize public finances, taking into consideration established fiscal accountability and reform benchmarks. Second, the Quartet concluded that it was inevitable that future assistance to any new government would be reviewed by donors against that government's commitment to the principles of nonviolence, recognition of Israel, and acceptance of previous agreements and obligations, including the Roadmap. The Quartet calls upon the newly elected PLC to support the formation of a government committed to these principles as well as the rule of law, tolerance, reform and sound fiscal management.

Both parties are reminded of their obligations under the Roadmap to avoid unilateral actions which prejudice final status issues. The Quartet reiterated its view that settlement expansion must stop, reiterated its concern regarding the route of the barrier, and noted Acting Prime Minister Olmert's recent statements that Israel will continue the process of removing unauthorized outposts.

Tony Blair (Britain's Former Prime Minister) Express Regrets on Sanction

Tony Blair: 'We were wrong to boycott Hamas after its election win'

Former prime minister says international community should have tried to pull militant Islamic faction 'into a dialogue' over its refusal to recognise Israel

Donald Macintyre

Sat 14 Oct 2017 20:01 BST

Tony Blair has said for the first time that he and other world leaders were wrong to yield to Israeli pressure to impose an immediate boycott of Hamas after the Islamic faction won Palestinian elections in 2006.

As prime minister at the time, Blair offered strong support for the decision - driven by the George W Bush White House - to halt aid to, and cut off relations with, the newly elected Hamas-led Palestinian Authority unless it agreed to recognise Israel, renounce violence and abide by previous agreements between its Fatah predecessors and Israel. The ultimatum was rejected by Hamas. The elections were judged free and fair by international monitors.

Blair, who became envoy of the Middle East quartet - composed of the US, EU, UN and Russia - after leaving Downing Street, now says the international community should have tried to "pull Hamas into a dialogue". The boycott and Israel's economic blockade of Gaza, which began the following year, are still in force today. A UN report two years ago said the combined effects of the blockade and the three military offensives conducted in Gaza by Israel since 2009 could make the territory "uninhabitable" by 2020. Humanitarian conditions have worsened markedly since the report was written.

Interviewed for my new book *Gaza: Preparing for Dawn*, out later this month, Blair said: "In retrospect I think we should have, right at the very beginning, tried to pull [Hamas] into a dialogue and shifted their positions. I think that's where I would be in retrospect.

"But obviously it was very difficult, the Israelis were very opposed to it. But you know we could have probably worked out a way whereby we did - which in fact we ended up doing anyway, informally."

Blair did not elaborate on subsequent "informal" dealings with Hamas but he appears to be referring to clandestine contacts between MI6 and Hamas representatives during and possibly after the kidnap of BBC journalist Alan Johnston by an extreme fundamentalist group in 2007. The kidnappers eventually released Johnston after heavy pressure from the Hamas de facto government.

<https://www.theguardian.com/world/2017/oct/14/tony-blair-hamas-gaza-boycott-wrong>

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