

COUNCIL DECISION 2011/72/CFSP

of 31 January 2011

concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 31 January 2011, the Council reaffirmed its full solidarity and support with Tunisia and its people in their efforts to establish a stable democracy, the rule of law, democratic pluralism and full respect for human rights and fundamental freedoms.
- (2) The Council further decided to adopt restrictive measures against persons responsible for misappropriation of Tunisian State funds and who are thus depriving the Tunisian people of the benefits of the sustainable development of their economy and society and undermining the development of democracy in the country.
- (3) Further action by the Union is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

Article 1

1. All funds and economic resources belonging to, owned, held or controlled by persons responsible for misappropriation of Tunisian State funds, and natural or legal persons or entities associated with them, as listed in the Annex, shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to, or for the benefit of, natural or legal persons or entities listed in the Annex.

3. The competent authority of a Member State may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as it deems appropriate, after having determined that the funds or economic resources concerned are:

- (a) necessary to satisfy the basic needs of the persons listed in the Annex and their dependent family members, including

payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

- (b) intended exclusively for the payment of reasonable professional fees and the reimbursement of incurred expenses associated with the provision of legal services;

- (c) intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources; or

- (d) necessary for extraordinary expenses, provided that the competent authority has notified the competent authority of the other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least 2 weeks prior to the authorisation.

A Member State shall inform the other Member States and the Commission of any authorisation it grants under this paragraph.

4. By way of derogation from paragraph 1, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources, provided that the following conditions are met:

- (a) the funds or economic resources are the subject of a judicial, administrative or arbitral lien established prior to the date on which the natural or legal person, entity or body referred to in Article 1(1) was included in the Annex, or of a judicial, administrative or arbitral judgment rendered prior to that date;

- (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;

- (c) the lien or judgment is not for the benefit of a natural or legal person, entity or body listed in the Annex; and

- (d) recognising the lien or judgement is not contrary to public policy in the Member State concerned.

A Member State shall inform the other Member States and the Commission of any authorisation granted under this paragraph.

5. Paragraph 2 shall not apply to the addition to frozen accounts of:

- (a) interest or other earnings on those accounts; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to this Decision,

provided that any such interest, other earnings and payments remain subject to paragraph 1.

Article 2

1. The Council, acting upon a proposal by a Member State or the High Representative of the Union for Foreign Affairs and Security Policy, shall establish and amend the list in the Annex.

2. The Council shall communicate its decision, including the grounds for the listing, to the person or entity concerned, either directly, if the address is known, or through the publication of a notice, providing such person or entity with an opportunity to present observations.

3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the person or entity concerned accordingly.

Article 3

1. The Annex shall include the grounds for listing the persons and entities.

2. The Annex shall also contain, where available, the information necessary to identify the persons or entities concerned. With regard to persons, such information may include names, including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address if known, and function or profession. With regard to entities, such information may include names, place and date of registration, registration number and place of business.

Article 4

In order to maximise the impact of the abovementioned measures, the Union shall encourage third States to adopt restrictive measures similar to those contained in this Decision.

Article 5

This Decision shall apply for a period of 12 months. It shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.

Article 6

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 31 January 2011.

For the Council

The President

C. ASHTON

ANNEX

LIST OF PERSONS AND ENTITIES REFERRED TO IN ARTICLE 1

	Name	Identifying information	Grounds
1.	Mr Zine el-Abidine Ben Hamda Ben Ali	born 3 September 1936, passports No D005686, expiring 24 December 2011, and No D012100, expiring 15 January 2014	Person subject to judicial investigation by the Tunisian authorities in respect of the misappropriation of property real and movable, the opening of bank accounts and the holding of assets in several countries as part of money-laundering operations.
2.	Mrs Leila Bent Mohammed Trabelsi, (married to) Ben Ali	born 24 October 1956, passports No D005687, expiring 24 December 2011, and No D012101, expiring 15 January 2014	Person subject to judicial investigation by the Tunisian authorities in respect of the misappropriation of property real and movable, the opening of bank accounts and the holding of assets in several countries as part of money-laundering operations.