



Reports of Cases

Judgment of the General Court (Eighth Chamber) of 30 June 2016 — CW v Council

(Case T-516/13)

(Common Foreign and Security Policy — Restrictive measures directed against certain persons and entities in view of the situation in Tunisia — Freezing of funds — Inclusion of the applicant's name on the basis of new grounds following the annulment of the previous measures freezing funds — Right to property — Proportionality — Factual error — Misuse of powers — Non-contractual liability — Causal link)

1. *Common foreign and security policy — Restrictive measures against certain persons and entities in view of the situation in Tunisia — Freezing of funds of persons involved in the misappropriation of public funds and of natural or legal persons, bodies or organisations associated with them — Misappropriation of public funds — Definition — Independent and uniform interpretation — Broad interpretation (Council Decision 2011/72/CFSP, Art. 1(1)) (see paras 60, 69-72, 76)*
2. *EU law — Interpretation — Methods — Literal, systematic and teleological interpretation — Effectiveness (Council Decision 2011/72/CFSP, Art. 1(1)) (see paras 62, 63, 67, 68, 80, 110, 112, 118, 120, 123, 124)*
3. *Acts of the institutions — Choice of legal basis — Decision concerning the adoption of restrictive measures against certain persons and entities having regard to the situation in Tunisia — Freezing of funds of persons involved in the misappropriation of public funds and of natural or legal persons, bodies or organisations associated with them — Article 29 TEU — Lawfulness (Arts 21 TEU, 23 TEU, 24(1) TEU, 25 TEU, 28 TEU and 29 TEU; Art. 275, second para., TFEU; Council Decision 2011/72/CFSP) (see paras 65, 66)*
4. *European Union — Judicial review of the legality of the acts of the institutions — Restrictive measures against certain persons and entities in view of the situation in Tunisia — Freezing of funds of persons involved in the misappropriation of public funds and of natural or legal persons, bodies or organisations associated with them — Ambit of the review — Proof of the measure well-founded — No obligation on the Council systematically to verify evidence submitted by the authorities of a non-Member country (Charter of Fundamental Rights of the European Union, Art. 47; Council Decisions 2011/72/CFSP and 2013/409/CFSP) (see paras 129-131, 141-143, 148-150)*

5. *Common foreign and security policy — Restrictive measures against certain persons and entities in view of the situation in Tunisia — Freezing of funds of persons involved in the misappropriation of public funds and of natural or legal persons, bodies or organisations associated with them — Restriction of the right to property and the free exercise of an economic activity — No breach of principle of proportionality (Art. 21(2)(b) and (d) TEU; Charter of Fundamental Rights of the European Union, Arts 16, 17(1), and 52(1); Council Decisions 2011/72/CFSP and 2013/409/CFSP) (see paras 162-168, 173, 174, 183, 184, 187, 188)*
6. *Actions for annulment — Grounds — Misuse of powers — Definition (see para. 193)*
7. *Judicial proceedings — Res judicata — Scope — Dismissal, in a first judgment, of a claim for compensation for damage, in the absence of proof of the reality and extent of the alleged damage and the existence of a causal link — New claim seeking compensation for damage caused by the same illegality as that at issue in the dismissing judgment — Inadmissibility (Arts 268 TFEU and 340 TFEU) (see paras 216, 217)*
8. *Non-contractual liability — Conditions — Unlawfulness — Damage — Causal link — One of the conditions not satisfied — Claim for compensation dismissed in its entirety (Art. 340, second para., TFEU) (see paras 220, 225, 242, 243)*
9. *Non-contractual liability — Conditions — Actual and certain damage — Burden of proof (Art. 340, second para., TFEU) (see paras 227, 228)*

Re:

First, application based on Article 264 TFEU and seeking the annulment of Council Implementing Decision 2013/409/CFSP of 30 July 2013 implementing Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2013, L 204, p. 52), in so far as that decision concerns the applicant and, secondly, an application based on Article 268 TFEU and seeking compensation in respect of the harm allegedly suffered by the applicant.

Operative part

The Court:

1. Dismisses the action;

2. Orders CW to bear his own costs and pay those incurred by the Council of the European Union.