



Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

23 April 2013 *

(Appeal — Common foreign and security policy — Restrictive measures adopted against persons and entities — Sixth paragraph of Article 263 TFEU — Period allowed for commencing proceedings — Force majeure — Armed conflict)

In Joined Cases C-478/11 P to C-482/11 P,

Five APPEALS under Article 56 of the Statute of the Court of Justice of the European Union, brought on 21 September 2011,

Laurent Gbagbo (C-478/11 P),

Katinan Justin Koné (C-479/11 P),

Akissi Danièle Boni-Claverie (C-480/11 P),

Alcide Djédjé (C-481/11 P),

Affi Pascal N'Guessan (C-482/11 P),

represented by L. Bourthoumieux, lawyer,

appellants,

the other party to the proceedings being:

Council of the European Union, represented by B. Driessen and M.-M. Joséphidès, acting as Agents,

defendant at first instance,

THE COURT (Grand Chamber),

composed of V. Skouris, President, K. Lenaerts, Vice-President, A. Tizzano, M. Ilešič (Rapporteur), G. Arestis, J. Malenovský, Presidents of Chambers, U. Lohmus, J.-C. Bonichot, A. Arabadjiev, C. Toader, J.-J. Kasel, M. Safjan and D. Šváby, Judges,

Advocate General: P. Cruz Villalón,

Registrar: A. Calot Escobar,

having regard to the written procedure,

* Language of the case: French.

after hearing the Opinion of the Advocate General at the sitting on 19 December 2012,
gives the following

Judgment

- 1 By their appeals, Mr Gbagbo, Mr Koné, Ms Boni-Claverie, Mr Djédjé and Mr N'Guessan request that the Court set aside the orders of the General Court of the European Union of 13 July 2011 in, respectively, Case T-348/11 *Gbagbo v Council*, Case T-349/11 *Koné v Council*, Case T-350/11 *Boni-Claverie v Council*, Case T-351/11 *Djédjé v Council* and Case T-352/11 *N'Guessan v Council* ('the orders under appeal'), whereby the General Court dismissed as being manifestly inadmissible their actions for the annulment of, first, Council Decisions 2011/17/CFSP of 11 January 2011 (OJ 2011 L 11, p. 31), 2011/18/CFSP of 14 January 2011 (OJ 2011 L 11, p. 36) and 2011/221/CFSP of 6 April 2011 (OJ 2011 L 93, p. 20), amending Council Decision 2010/656/CFSP renewing the restrictive measures against Côte d'Ivoire, and, secondly, Council Regulations (EU) No 25/2011 of 14 January 2011 (OJ 2011 L 11, p. 1) and (EU) No 330/2011 of 6 April 2011 (OJ 2011 L 93, p. 10), amending Council 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 ('the contested measures'), in so far as those measures concern them.

Legal context and background to the dispute

- 2 On 15 November 2004 the United Nations Security Council adopted Resolution 1572 (2004) in which it declared, inter alia, that the situation in Côte d'Ivoire continued to pose a threat to international peace and security in the region and decided to impose certain restrictive measures against that country.
- 3 Paragraph 14 of Resolution 1572 (2004) established a committee ('the Sanctions Committee') whose tasks included the designation of persons and entities to be subject to the restrictive measures in respect of travel and freezing of funds, financial assets and economic resources imposed by paragraphs 9 and 11 of that resolution and the regular updating of the list of persons and entities.
- 4 On 13 December 2004 the Council of the European Union, considering that action by the European Community was necessary in order to implement Resolution 1572 (2004), adopted Common Position 2004/852/CFSP concerning restrictive measures against Côte d'Ivoire (OJ 2004 L 368, p. 50).
- 5 On 12 April 2005, since it took the view that a regulation was necessary in order to implement, at Community level, the measures described in Common Position 2004/852, the Council adopted Council Regulation (EC) No 560/2005 of 12 April 2005 imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire (OJ 2005 L 95, p. 1).
- 6 Common Position 2004/852 was extended and amended on several occasions, before being repealed and replaced by Council Decision 2010/656/CFSP of 29 October 2010 renewing the restrictive measures against Côte d'Ivoire (OJ 2010 L 285, p. 28).
- 7 An election for the office of President of the Republic of Côte d'Ivoire was held on 31 October and 28 November 2010.

- 8 On 3 December 2010 the Special Representative of the United Nations Secretary General for Côte d'Ivoire certified the final result of the second round of the presidential election, as declared by the president of the independent electoral commission on 2 December 2010, confirming the victory of Mr Alassane Ouattara in the Presidential election.
- 9 On 13 December 2010 the Council emphasised the importance of the Presidential election held on 31 October and 28 November 2010 for the return of peace and stability in Côte d'Ivoire and declared it to be imperative that the sovereign wish expressed by the Ivorian people should be respected. The Council also noted the conclusions of the Special Representative of the United Nations Secretary General for Côte d'Ivoire as part of his task of certification and congratulated Mr Ouattara on his election as President of the Republic of Côte d'Ivoire.
- 10 On 17 December 2010 the European Council called on all Ivorian leaders, both civilian and military, who had not yet done so, to place themselves under the authority of the democratically elected President, Mr Ouattara. The European Council confirmed the determination of the European Union to take targeted measures against those who might continue to obstruct respect of the sovereign wish expressed by the Ivorian people.
- 11 In order to impose restrictive measures, in respect of travel, against certain persons who, though not designated by the United Nations Security Council or the Sanctions Committee, are obstructing the processes of peace and national reconciliation in Côte d'Ivoire, in particular those who are jeopardising the proper outcome of the electoral process, the Council adopted Council Decision 2010/801/CFSP of 22 December 2010 amending Council Decision 2010/656 (OJ 2010 L 341, p. 45). Those persons are listed in Annex II to Decision 2010/656, as amended by Decision 2010/801.
- 12 Article 4(1) of Decision 2010/656, as amended by Decision 2010/801, reads as follows:
- 'Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of:
- (a) the persons referred to in Annex I and designated by the Sanctions Committee ...;
 - (b) the persons referred to in Annex II who are not included in the list in Annex I and who are obstructing the process of peace and national reconciliation, and in particular who are jeopardising the proper outcome of the electoral process.'
- 13 The names of Mr Gbagbo and Mr N'Guessan were, by means of Decision 2010/801, included in the list in Annex II to Decision 2010/656, as amended by Decision 2010/81.
- 14 On 11 January 2011 the Council adopted Decision 2011/17 in order to enter, in view of the gravity of the situation in Côte d'Ivoire, the names of additional persons in the list in Annex II to Decision 2010/656, as amended by Decision 2010/801.
- 15 Accordingly, the names of Mr Koné and Ms Boni-Claverie were, by means of Decision 2011/17, included in the list in Annex II to Decision 2010/656, as amended by Decision 2010/801.
- 16 On 14 January 2011 the Council adopted Decision 2011/18 in order to impose additional restrictive measures, in particular the freezing of funds.

17 Under Article 5(1) and (2) of Decision 2010/656 as amended by Decision 2011/18:

‘1. All funds and economic resources owned or controlled directly or indirectly by:

- (a) the persons referred to in Annex I designated by the Sanctions Committee ..., or held by entities owned or controlled directly or indirectly by them or by any persons acting on their behalf or at their direction, as designated by the Sanctions Committee,
- (b) the persons or entities referred to in Annex II who are not included in the list in Annex I and who are obstructing the process of peace and national reconciliation, and in particular who are jeopardising the proper outcome of the electoral process, or held by entities owned or controlled directly or indirectly by them or by any persons acting on their behalf or at their direction,

shall be frozen.

2. No funds, financial assets or economic resources shall be made available, directly or indirectly, to or for the benefit of persons or entities referred to in paragraph 1.’

18 In order to ensure consistency with the process for amending and reviewing Annexes I and II to Decision 2010/656, as amended by Decision 2011/18, the Council adopted, on 14 January 2011, Regulation No 25/2011.

19 Article 2 of Regulation No 560/2005, as amended by Regulation No 25/2011, states:

‘1. All funds and economic resources belonging to, owned, held or controlled by the natural or legal persons, entities and bodies listed in Annex I or in Annex IA shall be frozen.

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

3. The participation, knowing and intentional, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to in paragraphs 1 and 2 shall be prohibited.

4. Annex I shall consist of the natural or legal persons, entities and bodies referred to in Article 5(1)(a) of [Decision 2010/656] as amended.

5. Annex IA shall consist of the natural or legal persons, entities and bodies referred to in Article 5(1)(b) of [Decision 2010/656] as amended.’

20 By means of Decision 2011/18 and Regulation No 25/2011 the Council maintained the names of Mr Gbagbo, Mr Koné, Mr N’Guessan and Ms Boni-Claverie in the list in Annex II to Decision 2010/656, as amended by Decision 2011/17, and also entered their names in the list in Annex IA to Regulation No 560/2005, as amended by Regulation No 25/2011.

21 On 30 March 2011 the United Nations Security Council adopted Resolution 1975 (2011), Annex I to which lists a number of persons who had obstructed peace and reconciliation in Côte d’Ivoire, had obstructed the work of the United Nations Operation in Côte d’Ivoire (UNOCI) and other international actors in Côte d’Ivoire and had committed serious violations of human rights and international humanitarian law. Mr Gbagbo, Mr Djédjé and Mr N’Guessan are named in Annex I.

22 On 6 April 2011 the Council adopted Decision 2011/221 and Regulation No 330/2011 whereby it, inter alia, imposed additional restrictive measures and amended the lists of persons and entities in Annexes I and II to Decision 2010/656, as amended by Decision 2011/18, and in Annexes I and IA to Regulation No 560/2005, as amended by Regulation No 25/2011.

- 23 Decision 2011/221 in particular removed the names of Mr Gbagbo and Mr N'Guessan from the list in Annex II to Decision 2010/656, as amended by Decision 2011/18, and added their names to the list in Annex I to Decision 2010/656, as amended.
- 24 Further, Decision 2011/221 added the name of Mr Djédjé to the list in Annex I to Decision 2010/656, as amended by Decision 2011/18.
- 25 Regulation No 330/2011, for its part, removed the names of Mr Gbagbo and Mr N'Guessan from the list in Annex IA to Regulation No 560/2005, as amended by Regulation No 25/2011, and added their names to the list in Annex I to Regulation No 560/2005, as amended.
- 26 Regulation No 330/2011 also added the name of Mr Djédjé to the list in Annex I to Regulation No 560/2005, as amended by Regulation No 25/2011.
- 27 Article 7 of Decision 2010/656, as amended by Decision 2010/801, provides:
- ‘1 Where the Security Council or the Sanctions Committee designates a person or entity, the Council shall include such person or entity in the list in Annex I.
2. Where the Council decides to apply to a person or entity the measures referred to in Article 4(1)(b), it shall amend Annex II accordingly.
3. The Council shall communicate its Decision, including the grounds for 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.
4. Where observations are submitted, or where substantial new evidence is presented, the Council shall review its Decision and inform the person or entity accordingly.’
- 28 Article 11a(3) of Regulation No 560/2005, as amended by Regulation No 25/2011, provides:
- ‘The Council shall communicate its decision, including the grounds for listing, to the natural or legal person, entity or body referred to in paragraphs 1 and 2, either directly, if the address is known, or through the publication of a notice, providing such natural or legal person, entity or body with an opportunity to present observations.’
- 29 The Council published in the *Official Journal of the European Union* of 18 January 2011 and 7 April 2011 notices for the attention of the persons to whom the restrictive measures laid down in the contested measures applied (OJ 2011 C 14, p. 8, and OJ 2011 C 108, pp. 2 and 4). In those notices the Council intimates the existence of those restrictive measures, refers to the relevant texts in relation to the reasons for each listing and draws attention to the possibility of making an application to the competent authorities of the relevant Member State in order to obtain authorisation to use frozen funds for basic needs or to make specific payments. The Council further adds that the persons and entities concerned may submit to it a request for reconsideration. Finally the Council gives notice of the possibility of challenging its decision before the General Court, in accordance with the conditions laid down in the second paragraph of Article 275 TFEU and the fourth and sixth paragraphs of Article 263 TFEU.

The procedure before the General Court and the orders under appeal

- 30 By applications lodged at the Registry of the General Court on 7 July 2011, the appellants sought the annulment of the contested measures in so far as those measures concerned them. In support of their action, they relied on, first, an infringement of the rights of the defence and of the right to an effective remedy and, secondly, an infringement of their rights of property and free movement.
- 31 The appellants further claimed that their actions should be declared to be admissible by the General Court, since the time-limit of two months laid down in Article 263 TFEU for the bringing of an action could not apply to them given the failure to notify them of the contested measures.
- 32 By the orders under appeal, the General Court dismissed the actions as being manifestly inadmissible.
- 33 The General Court first recalled the settled case-law that the time-limit for bringing an action laid down in the sixth paragraph of Article 263 TFEU is a matter of public policy, since it was laid down with a view to ensuring clarity and legal certainty and avoiding discrimination or arbitrary treatment in the administration of justice, and that the courts of the European Union must ascertain of their own motion whether that time-limit has been observed.
- 34 The General Court then found that the contested measures had been published in the *Official Journal of the European Union*:
- on 15 January 2011, as regards Decisions 2011/17 and 2011/18, and Regulation No 25/2011, and
 - on 7 April 2011, as regards Decision 2011/221 and Regulation No 330/2011.
- 35 Consequently, the time-limit of two months for bringing proceedings started to run, in accordance with Article 102(1) of the Rules of Procedure of the General Court, fourteen days after those dates of publication and expired, pursuant to Article 102(2) of those Rules:
- at midnight on 8 April 2011, as regards Decisions 2011/17 and 2011/18 and Regulation No 25/2011, and
 - at midnight on 1 July 2011, as regards Decision 2011/221 and Regulation No 330/2011.
- 36 Given that the applications had been lodged at the Registry of the General Court on 7 July 2011, the General Court concluded that the actions had been brought out of time.
- 37 The General Court rejected the appellants' arguments that the time-limit of two months for bringing proceedings could apply to them on the grounds that the contested measures had not been notified to them. On that subject the General Court stated the following:

'Given the fact that time-limits for bringing proceedings are intended to ensure legal certainty by preventing European Union measures which produce legal effects from being called into question indefinitely, the date of publication, if there is one, is the decisive criterion for determining the starting point of the period prescribed for initiating proceedings (orders of 25 November 2008 in Case C-500/07 *TEA v Commission*, ..., paragraph 23, and in Case C-501/07 P *S.A.B.A.R. v Commission*, ... paragraph 22; order of 9 July 2009 in Case C-498/08 P *Fornaci Laterizi Danesi v Commission*, ... paragraph 22; judgment of 11 November 2010 in Case C-36/09 P *Transportes Evaristo Molina v Commission*, ..., paragraph 37). An applicant cannot plead that he became aware of the contested measure after the date of its publication in order to defer that starting point (orders in *TEA v Commission*, paragraph 23; *S.A.B.A.R. v Commission*, paragraph 22, and *Fornaci Laterizi Danesi v Commission*, paragraph 22). It follows that, since the [contested] measures were published, the time-limit for bringing proceedings must be calculated from the date of their publication (see, as

regards the calculation of the time-limit for bringing an action against a decision imposing restrictive measures from the publication of that decision, the order of 18 November 2005 in Case T-299/04 *Selmani v Council and Commission*, ..., paragraph 61), even if the measures have not been notified [to the appellants]. In that regard, it must also be observed that the Council published ... notices for the attention of persons to whom the restrictive measures provided for in [the contested measures] apply, in which notices the Council, in particular, drew the attention of the persons concerned to the possibility of challenging its decision before the General Court, in accordance with the conditions laid down in the second paragraph of Article 275 TFEU and the fourth and sixth paragraphs of Article 263 TFEU.'

- 38 Lastly, the General Court observed that the appellants had not established or even argued the existence of unforeseeable circumstances or of *force majeure* which would allow the Court to waive the time-limit in question on the basis of the second paragraph of Article 45 of the Statute of the Court of Justice of the European Union.

Forms of order of the parties and procedure before the Court

- 39 The appellants claim that the Court should:

- set aside the orders under appeal and declare their actions at first instance to be admissible;
- refer the cases back the General Court for it to give a ruling on the substance, and
- order the Council to pay the costs.

- 40 The Council contends that the Court should:

- dismiss the appeals, and
- order the appellants to pay the costs.

- 41 By order of the President of the Court of 14 December 2011, Cases C-478/11 P to C-482/11 P were joined for the purposes of the written and oral procedure and the judgment.

- 42 By letter dated 11 May 2012, sent by fax and registered mail, the Registrar of the Court informed the parties that a hearing would be held on 26 June 2012 and asked them to reply in writing no later than by 15 June 2012 to the questions of the Court annexed to the notification of the hearing.

- 43 The Council's reply to the question put to it was received at the Registry of the Court on 14 June 2012. However, the time-limit of 15 June 2012 passed without any reply being received by the Court from the appellants to the question put to them or any reply as regards whether they would attend the hearing.

- 44 A final time-limit was set for the appellants to indicate whether they would attend the hearing. That time-limit of 21 June 2012 having passed without reply from them, the hearing was cancelled.

The appeals

- 45 In support of their appeals, the appellants rely on two grounds. By the first ground of appeal, they claim that the General Court erred in law by not accepting the existence of *force majeure*. By the second ground of appeal, the appellants claim that the General Court was wrong to hold that the time-limit for bringing proceedings and the principle of legal certainty underlying that time-limit

barred their action where the distinguishing features of this case were, first, that there was no notification of the contested measures and, secondly, the inapplicability of the extension of the time-limit on account of distance as set out in the Rules of Procedure of the General Court.

46 The second ground of appeal should be examined first.

The second ground of appeal

Arguments of the parties

- 47 The appellants claim, first, that the General Court disregarded the principle of effective judicial protection and thus erred in law by holding that, since the contested measures had been published, the time-limit for bringing proceedings should be calculated from the date of their publication. According to the appellants, the General Court ought to have taken account of the fact that the contested measures had not, contrary to the provisions of, in particular, Article 7(3) of Decision 2010/656, as amended by Decision 2010/801, been notified, as there had been no individual communication to put the persons affected by the measures in a position to take cognisance of them.
- 48 The appellants consider, secondly, that the General Court should not have applied the provisions of Article 102(2) of its Rules of Procedure on the extension of the time-limit on account of distance to the appellants, residing in a State in Africa, particularly when that State was in a situation of armed conflict.
- 49 The Council contends that the procedural context of the present cases is not the same as that examined by the Court in its judgment of 16 November 2011 in Case C-548/09 P *Bank Melli Iran v Council* [2011] ECR I-11381. In that judgment, the Court based the obligation to communicate individually the reasons for the adoption of restrictive measures on Article 15(3) of Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1). Unlike Regulation No 423/2007, Article 7(3) of Decision 2010/656, as amended by Decision 2010/801, provides for the possibility of communication through the publication of a notice in cases where the address of the person concerned is not known to the Council.
- 50 In this case, the Council contends that it communicated the contested measures to the appellants by means of a published notice, in accordance with Article 7(3) of Decision 2010/656, as amended by Decision 2010/801. The Council argues that it could not have communicated the measures otherwise, since the private addresses of the appellants were not known.
- 51 In any event, according to the Council, the date of publication of the contested measures marked the starting point for the calculation of the period established in Article 263 TFEU. That interpretation follows from the requirements of legal certainty which permeate the rules on procedural time-limits.
- 52 Lastly, the Council states that the appellants' arguments on the extension of the time-limit on account of distance are manifestly unfounded and amount, in essence, to a challenge to the validity of Article 102(2) of the General Court's Rules of Procedure. That provision is however no more than an extension of the period laid down in the sixth paragraph of Article 263 TFEU.

Findings of the Court

- 53 First, it must be stated that the General Court was correct to hold that it is entitled to examine of its own motion whether the time-limit for bringing proceedings has been observed, that being a matter of public policy (see, inter alia, Case 79/70 *Müllers v CES* [1971] ECR 689, paragraph 6, and *Transportes Evaristo Molina v Commission*, paragraph 33).

- 54 It must next be recalled that, according to the sixth paragraph of Article 263 TFEU, ‘proceedings provided for in this article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be’.
- 55 In this case, the contested measures were published in the *Official Journal of the European Union*, Series L, but were also, pursuant to Article 7(3) of Decision 2010/656, as amended by Decision 2010/801, and Article 11a(3) of Regulation No 560/2005, as amended by Regulation No 25/2011, to be communicated to the persons and entities concerned, either directly if their addresses were known, or, if not, through the publication of a notice.
- 56 That situation is a consequence of the particular nature of the contested measures, which at the same time resemble both measures of general application in that they impose on a category of addressees determined in a general and abstract manner a prohibition on, inter alia, making available funds and economic resources to persons and entities named in the lists contained in their annexes and also a bundle of individual decisions affecting those persons and entities (see, to that effect, Joined Cases C-402/05 P and C-415/05 P *Kadi and Al Barakaat International Foundation v Council and Commission* [2008] ECR I-6351, paragraphs 241 to 244).
- 57 It must, moreover, be recalled that, as regards measures adopted on the basis of provisions relating to the Common Foreign and Security Policy, such as the contested measures, it is the individual nature of those measures which, in accordance with the second paragraph of Article 275 TFEU and the fourth paragraph of Article 263 TFEU, permits access to the Courts of the European Union.
- 58 Having regard to those particular features and the consequent rules relating to publication and communication, the sixth paragraph of Article 263 TFEU would not be applied consistently if, when applied to persons and entities who are named in the lists contained in the annexes to those measures, the starting point for the calculation of the period for bringing an action for annulment was, for those persons, fixed as the date of publication of the measure at issue and not as the date when that measure was communicated to them. The purpose of that communication is precisely to ensure that persons to whom the measures are addressed are able to defend their rights in the best possible conditions and to decide, with full knowledge of the relevant facts, whether there is any point in their applying to the Courts of the European Union (*Kadi and Al Barakaat International Foundation v Council and Commission*, paragraph 337).
- 59 It follows that while, admittedly, the entry into force of measures such as the contested measures is effected by their publication, the period for the bringing of an action for the annulment of those measures under the fourth paragraph of Article 263 TFEU runs, for each of those persons and entities, from the date of the communication which they must receive.
- 60 In the present case, contrary to what is claimed by the appellants, the contested measures were communicated to them.
- 61 It is true that those measures were not directly communicated to them at their addresses. As the Council found that it was impossible to undertake direct communication to Mr Gbagbo, Mr Koné, Ms Boni-Claverie, Mr Djédjé and Mr N’Guessan, it had recourse to publication of the notice provided for in Article 7(3) of Decision 2010/656, as amended by Decision 2010/801, and in Article 11a(3) of Regulation No 560/2005, as amended by Regulation No 25/2011. The Council therefore published, in the *Official Journal of the European Union*, Series C, of 18 January 2011 and 7 April 2011, the notices referred to in paragraph 29 of this judgment.
- 62 Given that such notices are capable of enabling the persons concerned to identify the legal remedies available to them in order to challenge their designation in the lists concerned and the date when the period for bringing proceedings expires (Case C-417/11 P *Council v Bamba* [2012] ECR, paragraph 81),

it is important that the appellants should not be able to defer the starting point of the period for bringing proceedings by relying on the fact that there was no direct communication or that they actually became aware of the contested measures at a later date. If such a possibility were, in the absence of *force majeure*, open to the appellants, it would jeopardise the very objective of a time-limit for bringing proceedings, which is to protect legal certainty by ensuring that European Union measures which produce legal effects may not indefinitely be called into question (see, inter alia, Case C-178/95 *Wiljo* [1997] ECR I-585, paragraph 19; Case C-241/01 *National Farmers' Union* [2002] ECR I-9079, paragraph 34, and order of 15 November 2012 in Case C-102/12 P *Städter v ECB*, paragraph 12).

- 63 As regards, lastly, the appellants' argument that the extension of the time-limit on account of distance by ten days as provided for in Article 102(2) of the General Court's Rules of Procedure cannot be applied to them because they are established in a non-Member State, suffice it to observe that that argument is invalidated by the fact that the extension is for a single fixed period. It follows that the fact that the appellants were, during the period for bringing proceedings, in a non-Member State, does not, in itself, mean that they were in a situation which was objectively different, with regard to the application of that time-limit, from the situation of persons and entities established within the European Union who were the subject of restrictive measures of the same kind.
- 64 It follows from all the foregoing that, even though the General Court erred in law by holding that the periods for bringing proceedings started to run on the dates of publication of the contested measures, those periods, which should have been calculated from the dates referred to in paragraph 61 of this judgment, had expired on 7 July 2011, the date when the actions were brought. That being the case, the second ground of appeal must be rejected (see, by analogy, Case C-282/05 P *Holcim (Deutschland) v Commission* [2007] ECR I-2941, paragraph 33).

The first ground of appeal

Arguments of the parties

- 65 The appellants submit that the General Court infringed Article 45 of the Statute of the Court of Justice by not finding that there was *force majeure* for the purposes of that article.
- 66 The appellants claim that the armed conflict which took place in Côte d'Ivoire should be regarded as a case of *force majeure* as far as they are concerned, since, during that period, they had no means of communication whereby they could become aware of the contested measures and therefore could not exercise their right to bring proceedings.
- 67 The Council states that one of the constituent elements of the concept of *force majeure* is the occurrence of an event outside the control of the person who wishes to rely on it, that is to say when something happens which the person concerned can take no action to influence (Case C-334/08 *Commission v Italy* [2010] ECR I-6869, paragraph 47). Yet the post-election crisis in Côte d'Ivoire and the violence associated with that crisis were provoked by the refusal of Mr Gbagbo and his colleagues to surrender power to the elected President. Those circumstances are therefore not outside the control of the appellants.

Findings of the Court

- 68 Under the second paragraph of Article 45 of the Statute of the Court, 'no right shall be prejudiced in consequence of the expiry of a time-limit if the party concerned proves the existence of unforeseeable circumstances or of *force majeure*.'

- 69 It is clear that, as stated by the General Court in the orders under appeal, the appellants did not argue before it that such circumstances existed.
- 70 The Court has however held that an appellant cannot be criticised for relying for the first time at the appeal stage on the existence of *force majeure* where the General Court gave its decision by order on the basis of Article 111 of its Rules of Procedure, did not inform the applicant of its intention to dismiss his action as being out of time and did not ask the applicant to explain the delay in the arrival at the Registry of the original of the application (order of 18 January 2005 in Case C-325/03 P *Zuazaga Meabe v OHIM* [2005] ECR I-403, paragraph 24). The appellants' first ground of appeal on the existence of *force majeure* must therefore be examined.
- 71 In that regard, it must first be recalled that the strict application of procedural rules serves the requirements of legal certainty and the need to avoid any discrimination or arbitrary treatment in the administration of justice (Case C-426/10 P *Bell & Ross v OHIM* [2011] ECR I-8849, paragraph 43 and case-law cited).
- 72 It must next be observed that, in accordance with the sixth paragraph of Article 263 TFEU and Article 45 of the Statute of the Court, it is for the party concerned to establish, first, that abnormal circumstances, unforeseeable and outside his control, made it impossible for him to comply with the time-limit for bringing proceedings laid down in the sixth paragraph of Article 263 TFEU and, secondly, that he could not guard against the consequences of those circumstances by taking appropriate steps without making unreasonable sacrifices (see, to that effect, Case C-314/06 *Société Pipeline Méditerranée et Rhône* [2007] ECR I-12273, paragraph 24 and case-law cited).
- 73 In this case, the appellants make general reference to there being in Côte d'Ivoire a situation of armed conflict, which according to them began in November 2010 and continued at least until April 2011.
- 74 However, none of the appellants has presented, in their appeals before the Court, any material which might enable the Court to understand in what way and for what specific period of time the general situation of armed conflict in Côte d'Ivoire and the personal circumstances relied on by the appellants prevented them from bringing their actions in good time.
- 75 In those circumstances, the first ground of appeal must be rejected.
- 76 Since neither of the grounds relied on by the appellants is well founded, the appeals must be dismissed.

Costs

- 77 Under Article 138(1) of the Court's Rules of Procedure, which applies to the procedure on appeal by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Council has applied for costs and the appellants have been unsuccessful, the appellants must be ordered to pay the costs.

On those grounds, the Court (Grand Chamber) hereby

- 1. Dismisses the appeals;**
- 2. Orders Mr Laurent Gbagbo, Mr Katinan Justin Koné, Ms Akissi Danièle Boni-Claverie, Mr Alcide Djédjé and Mr Affi Pascal N'Guessan to pay the costs.**

[Signatures]