



Court of Justice of the European Union

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Judgment in Joined Cases C-478/11 P
Gbagbo v Council; C-479/11 P Koné v Council; C-480/11 P Boni-Claverie v
Council; C-481/11 P Djédjé v Council and C-482/11 P N'Guessan v Council

Press and Information

The Court dismisses the appeals of Mr Gbagbo, former President of Côte d'Ivoire, and a number of his political associates against the orders declaring their actions for the annulment of measures adopted against them to be inadmissible

The Court confirms that those actions were brought out of time and dismisses their arguments on the existence of force majeure

In the autumn of 2010 Presidential elections were held in Côte d'Ivoire, following which the UN certified that Mr Alassane Ouattara had won. In that context, the Council of the European Union adopted a series of measures¹ imposing restrictive measures in respect of travel and freezing of funds against persons obstructing the processes of peace and national reconciliation in Côte d'Ivoire, in particular those jeopardising the proper outcome of the electoral process. Among the persons to whom those measures were addressed were Mr Gbagbo, formerly President of Côte d'Ivoire, Mr N'Guessan, formerly Prime Minister, and Mr Djédjé, Mr Koné and Ms Boni-Claverie, who had allegedly taken part in Mr Gbagbo's illegitimate government.

On 7 July 2011 those persons brought actions before the General Court of the European Union for the annulment of several of those Council measures, to the extent that those measures concerned them. By orders of 13 July 2011² the General Court dismissed their actions as being manifestly inadmissible because they were out of time.

On 21 September 2011 Mr Gbagbo, Mr Koné, Ms Boni-Claverie, Mr Djédjé and Mr N'Guessan brought appeals against those orders of the General Court.

First, they claim that the General Court erred in law by holding that, since the contested measures had been published, the time-limit for bringing proceedings was to be calculated from the date of their publication.

The Court of Justice, in today's judgment, states that the measures were published in the *Official Journal of the European Union* (OJEU) but were also 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. 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. Consequently, the period for the bringing of an action for the annulment of those measures must run, for each of those persons and entities to whom the restrictive measures are addressed, from the date of the communication which they must receive, and not from the date of publication of the measures in the OJEU.

¹ In particular, Council Decision 2010/656/CFSP renewing the restrictive measures against Côte d'Ivoire (OJ 2010 L 285, p. 28), as amended by Decisions of 22 December 2010, 11 and 14 January 2011 and 6 April 2011; and 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 (OJ 2005 L 95, p. 1), as amended by regulations of 14 January and 6 April 2011.

² Orders of the General Court in Case [T-348/11](#) *Gbagbo v Council*; in Case [T-349/11](#) *Koné v Council*, in Case [T-350/11](#) *Boni-Claverie v Council*, in Case [T-351/11](#) *Djédjé v Council*, in Case [T-352/11](#) *N'Guessan v Council*.

Mr Gbagbo, Mr Koné, Ms Boni-Claverie, Mr Djédjé and Mr N'Guessan consider that the measures were not properly communicated to them, since they received not direct communication but indirect communication by means of the notices published in the OJEU. The Court however holds that, given that such notices enable the persons concerned to identify the legal remedies available to them in order to challenge their designation and the date when the period for bringing proceedings expires, those persons may not 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 them, it would jeopardise the very objective of a time-limit for bringing proceedings, which is to protect legal certainty by ensuring that EU measures which produce legal effects may not indefinitely be called into question. **It follows that the measures were in fact communicated to them, and that the period for bringing proceedings ran from the date of publication of the notices.**

Accordingly, the General Court erred in law by holding that the periods for bringing proceedings started to run on the date when the measures were published. However, although those periods were to be calculated from the date when the notices were published, those periods had already expired when the actions were brought. Consequently, **the General Court was correct in declaring the actions to be inadmissible, because they were brought outside those periods.**

Secondly, Mr Gbagbo, Mr Koné, Ms Boni-Claverie, Mr Djédjé and Mr N'Guessan claim that the General Court was wrong not to have held that the situation of armed conflict in Côte d'Ivoire constituted force majeure which prevented them from effectively exercising their right to bring proceedings.

The Court dismisses that argument. While it is true that no right is to be prejudiced in consequence of the expiry of a time limit where there is force majeure, the Court considers that the appellants confine themselves to making general reference to the situation of armed conflict in Côte d'Ivoire but fail to present 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 and the personal circumstances pleaded by the appellants prevented them from bringing their actions in good time. Consequently, **the existence of force majeure cannot be established in this case.**

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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

Press contact: Christopher Fretwell 📞 (+352) 4303 3355