



Press and Information

General Court of the European Union

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Judgment in Case T-168/12

Aguy Clement Georgias, Trinity Engineering (Private) Ltd and Georgiadis Trucking (Private) Ltd v Council and Commission

## **The General Court rejects the claim for damages brought by Mr Georgias, Deputy Minister of the Government of Zimbabwe**

*The Council did not act unlawfully in imposing restrictive measures against that member of the Government of Zimbabwe and has therefore not rendered the European Union liable*

In view of the situation in Zimbabwe and, in particular, the serious violations of human rights committed by the government of that country, the Council, in 2002, imposed restrictive measures (freezing of funds and prohibition of entry into or transit through the territory of the European Union) against members of the Zimbabwean Government.<sup>1</sup> The list of persons subject to the restrictive measures was to be kept under constant review.

In April 2007, Mr Aguy Clement Georgias, a Zimbabwean businessman and the owner of Trinity Engineering and Georgiadis Trucking, was included on the list following his appointment as Deputy Minister for Economic Development by the President of the Republic of Zimbabwe.<sup>2</sup>

On 25 May 2007, Mr Georgias arrived at Heathrow Airport in order to visit family living in England and then, on the following day, take a flight to New York. He was refused leave to enter the United Kingdom or transit through UK airports on his way to New York and was compelled to spend the night detained in the airport and returned to Zimbabwe the following day.

In September 2008, the governing party, Zanu PF, and the opposition party, MDC, signed an agreement ('Global Political Agreement') and in February 2009 a new government, composed of representatives from both parties, was formed. When the lists were revised in 2009 and 2010, the Council did not include the new ministers appointed under the GPA, but did not remove the names of the members of the Government already listed. The Council took the view that there had not been sufficient progress in implementing the GPA and that therefore pressure had to be maintained on the political forces in Zimbabwe.

Consequently, it was only at the time of the revision in February 2011<sup>3</sup> that Mr Georgias' name was removed from the list.

Mr Georgias and the two companies he owns brought a claim for damages before the General Court in order to obtain compensation for the damage caused by his detention at Heathrow, medical expenses incurred because of the deterioration in his state of health (due, it is claimed, to the personal stress caused by the restrictive measures), legal fees and business losses suffered by the two companies.

In today's judgment, **the General Court dismisses the action.**

<sup>1</sup> Common Position 2002/145/CFSP of 18 February 2002 concerning restrictive measures against Zimbabwe (OJ 2002 L 50, p. 1), followed by Council Common Position 2004/161/CFSP of 19 February 2004 renewing restrictive measures against Zimbabwe (OJ 2004 L 50, p. 66).

<sup>2</sup> Council Decision 2007/235/CFSP of 16 April 2007 implementing Common Position 2004/161 (OJ 2007 L 101, p. 14) and Regulation (EC) No 412/2007 of 16 April 2007 amending Regulation No 314/2004 (OJ 2007 L 101, p. 6).

<sup>3</sup> Council Decision 2011/101/CFSP of 15 February 2011 concerning restrictive measures against Zimbabwe (OJ 2011 L 42, p. 6) and Regulation (EU) No 174/2011 of 23 February 2011 amending Regulation No 314/2004 (OJ 2011 L 49, p. 23).

As regards, first of all, **the alleged damage resulting from Mr Georgias' detention at Heathrow**, the General Court holds that **that damage arose directly from a decision of the British authorities** taken in the exercise of their sovereign powers (namely, powers relating to controlling the entry of citizens of non-member countries to British territory). Accordingly, it is only between that decision and the damage claimed by Mr Georgias that there can be said to be a definite and direct causal nexus. Even if the freezing of Mr Georgias' assets led the United Kingdom authorities to take that decision, the alleged damage suffered by him **was not a sufficiently direct consequence of the asset-freezing**.

As regards **the other heads of damage**, the General Court finds that **the imposition and maintenance of the restrictive measures** against Mr Georgias by the Council **were valid**. Therefore, one of the conditions necessary for the EU to incur liability, namely, unlawful conduct on the part of the institution concerned, is not satisfied.

In this connection, the General Court notes that it is very clear from a reading of the legislation in question that the Council intended to freeze the assets of the members of the Government of Zimbabwe on the simple basis of their status as members of the Government. It is the mere status as a member of a government involved in activities that undermine democracy, respect for human rights and the rule of law that justified Mr Georgias' inclusion on the list.

The General Court holds that a Deputy Minister is one of the leaders of a country and that the Council was entitled to take the view that a person who wished to participate in the democratic mechanisms of his country ought not to become a member of a government responsible for serious human rights violations. Even if, after his appointment as Deputy Minister, Mr Georgias provided his support to a number of white farmers threatened with eviction, this fact alone is plainly not sufficient grounds to conclude that he pursued, within the Government of Zimbabwe, a separate policy, clearly opposed to the human rights violations for which that Government was responsible.

Consequently, the General Court finds that, in including Mr Georgias' name merely because of his status as a Deputy Minister of the Government of Zimbabwe, the Council made no error of law or of fact, nor any manifest error of assessment.

As regards the maintenance of the restrictive measures against Mr Georgias after February 2009, the General Court finds that Mr Georgias has provided no specific evidence capable of demonstrating that the Council made a manifest error of assessment in taking the view that there had not been sufficient progress in implementing the GPA.

The assessment of the European External Action Service that Mr Georgias was a 'moderate' politician and was not 'directly' connected with human rights abuses does not suffice to establish such an error. Admittedly, in the light of that factor, it can be concluded that in February 2011, when Mr Georgias' name was removed, the Council considered that recent developments in the situation in Zimbabwe had been sufficiently positive to justify the repeal of the restrictive measures against a number of those identified as 'moderates', including Mr Georgias. However, in the absence of any evidence to the contrary, it cannot be held that the Council made an error of assessment in that it did not decide on such a repeal prior to 2011.

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**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

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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