



Press and Information

Court of Justice of the European Union

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Judgment in Case C-330/15

Johannes Tomana and Others v Council and Commission

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## **The Court of Justice confirms the restrictive measures imposed on Johannes Tomana, Attorney-General of Zimbabwe, and 120 other individuals and companies in Zimbabwe**

In 2002, in view of the situation in Zimbabwe and, in particular, the serious infringements of human rights committed by the Government of Zimbabwe, the Council imposed restrictive measures (freezing of funds and a ban on entry into or transit through EU territory) on a number of individuals and companies in Zimbabwe. Those measures were extended a number of times and the list of persons and entities affected was regularly amended.

Mr Johannes Tomana, the Attorney-General of Zimbabwe, 109 other individuals (including high-ranking officials or civil servants and police and army officers) and 11 companies were made subject to those restrictive measures in 2012.<sup>1</sup> The reasons stated for Mr Tomana's listing were as follows: 'Engaged in activities that seriously undermine democracy, respect for human rights and the rule of law'. The reasons stated for the listing of the 120 other individuals and companies were broadly similar (in particular, activities plainly linked to a policy of violence, intimidation and infringement of the fundamental rights of the Zimbabwean people).

Mr Tomana and the 120 other individuals and companies applied to the General Court for their listings to be annulled. The General Court dismissed that action by judgment of 22 April 2015.<sup>2</sup> It held, in particular, that the legal basis for the restrictive measures was adequate and that the Commission had not infringed its obligation to state reasons or made a manifest error of assessment. Mr Tomana and the other individuals and companies subsequently lodged an appeal against that judgment before the Court of Justice.

**In today's judgment, the Court of Justice dismisses the appeal of Mr Tomana and the 120 other individuals and companies, thus upholding both the judgment of the General Court and the restrictive measures imposed on them in 2012.**

The Court of Justice considers, like the General Court, that the natural persons whose activities seriously undermine democracy, respect for human rights and the rule of law in Zimbabwe, and the legal persons belonging to those natural persons, should not be regarded as distinct from persons associated with the members of the Government of Zimbabwe but constitute, in fact, a particular category of those associates. Contrary to the appellants' assertions, the General Court did not, therefore, re-characterise the listing decisions in ruling as it did.

As regards a manifest error of assessment, the appellants submit that the Council could target only persons whose activities seriously undermined democracy and human rights in Zimbabwe. They claim that the General Court characterised certain persons as 'associates' of members of the government on the basis of past conduct and thereby created a presumption that those persons colluded with the leaders responsible for policies of violence and intimidation.

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<sup>1</sup> Council Decision 2012/97/CFSP of 17 February 2012 amending Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe (OJ 2012 L 47 p. 50), Commission Implementing Regulation (EU) No 151/2012 of 21 February 2012 amending Council Regulation (EC) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe (OJ 2012 L 49, p. 2) and Council Implementing Decision 2012/124/CFSP of 27 February 2012 implementing Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe (OJ 2012 L 54, p. 20).

<sup>2</sup> [T-190/12](#) Tomana and Others v Council and Commission, see Press Release No. [38/15](#).

Like the General Court, the Court of Justice concludes that those who hold senior posts, such as the individuals involved in military, police or security operations, must be regarded as being fully associated with the Government of Zimbabwe, unless they demonstrate through specific action their rejection of the government's practices. In those circumstances, referring to the capacity of those persons or to the posts they occupy is sufficient to demonstrate that the measures imposed on them are well founded, given that such a reference does not amount to a presumption. In addition, reference to the fact that a person has in the past occupied a post on the basis of which he could be characterised, while occupying that post, as a member of the Government of Zimbabwe or as an associate of such a member constitutes sufficient justification for his being characterised, after leaving that post, as an associate of members of the government. The Court of Justice concludes that the General Court correctly reviewed whether the restrictive measures at issue were well founded on the basis of a set of indicia relating to the situation, functions and relations of those individuals in the context of the Zimbabwean regime.

As regards any infringement of the obligation to state reasons, the Court of Justice notes that the grounds for the restrictive measures at issue can be clearly inferred as the posts giving Mr Tomana and the other individuals and companies the status of members of the Government of Zimbabwe or associating them with it.

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**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.

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