



Press and Information

Court of Justice of the European Union  
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Judgment in Case C-417/11 P  
Council of the European Union v Nadiany Bamba

## **The Court of Justice sets aside the judgment of the General Court annulling the European Union acts freezing Ms Bamba's funds**

*The Court takes the view that the Council has provided a sufficient statement of reasons for the inclusion of Ms Bamba on the list of persons considered as obstructing the process of peace and reconciliation in Côte d'Ivoire*

In the autumn of 2010, a presidential election took place in Côte d'Ivoire, following which the United Nations certified the victory of Mr Alassane Ouattara. The European Union also acknowledged Mr Ouattara's victory and called upon the Ivorian leaders, both civilian and military, to place themselves under the authority of the democratically elected president, while confirming its determination to take targeted restrictive measures against those obstructing the respect of the sovereign wish expressed by the Ivorian people.

In view of the seriousness of the situation in Côte d'Ivoire, the Council adopted restrictive measures against those persons obstructing the process of peace and national reconciliation, and in particular those jeopardising the proper outcome of the electoral process. Those restrictive measures involved, inter alia, freezing those persons' funds. A list detailing the names of the persons concerned was annexed to the acts imposing the restrictive measures.

Ms Nadiany Bamba is an Ivorian national and, according to the information given by the Council in the course of the written procedure, the second wife and one of the principal collaborators of Mr Laurent Gbagbo, former president of Côte d'Ivoire. Ms Bamba's name was included in the list containing the names of those persons subject to restrictive measures.

The annexes to the decision<sup>1</sup> and the regulation<sup>2</sup> leading to that inclusion indicate, with regard to Ms Bamba's name: 'Director of the Cyclone group which publishes the newspaper "Le Temps": Obstruction of the peace and reconciliation processes through public incitement to hatred and violence and through participation in disinformation campaigns in connection with the 2010 presidential election'.

Ms Bamba asked the General Court to annul that decision and that regulation insofar as they concern her.

In a judgment of 8 June 2011, the General Court annulled the acts freezing Ms Bamba's funds, ruling that the Council had not provided a sufficient statement of reasons for the inclusion of Ms Bamba in the list of persons considered as obstructing the process of peace and reconciliation in Côte d'Ivoire<sup>3</sup>. The Council brought an appeal before the Court of Justice in order to have that judgment set aside.

<sup>1</sup> Council Decision 2011/18/CFSP of 14 January 2011 amending Council Decision 2010/656/CFSP renewing the restrictive measures against Côte d'Ivoire (OJ 2011 L 11, p. 36).

<sup>2</sup> Council Regulation (EU) No 25/2011 of 14 January 2011 amending 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 2011 L 11, p. 1)

<sup>3</sup> [Case T-86/11 Nadiany Bamba v Council](#), see also Press Release [No 53/11](#).

The Council claims, inter alia, that the reasoning contained in the acts in question was sufficient. Indeed, it had provided a detailed description of the particularly serious situation in Côte d'Ivoire which justified the measures taken against certain persons and entities. In addition, the Council had clearly indicated the actual and specific reasons why Ms Bamba was to be subject to restrictive measures.

**The Court recalls that, since the obligation to state the reasons on which a decision is based is the corollary of the principle of respect for the rights of the defence,** the statement of reasons must disclose in a clear and unequivocal fashion the reasoning followed by the institution which has adopted the contested act. Compliance with that obligation to state reasons is all the more important where the person concerned is not afforded the opportunity to be heard before the adoption of a decision to freeze funds.

**However, the Court states that that statement of reasons must be appropriate to the contested act and the context in which it was adopted.** In particular, the reasons given for an act are sufficient if that act is adopted in a context which is known to the person concerned, enabling him to understand the scope of the measure concerning him.

In the present case, the Court takes the view, first, that the Council has set out the general context which had led it to extend the list of persons covered by the restrictive measures against the Republic of Côte d'Ivoire. That general context concerned the seriousness of the situation in Côte d'Ivoire and the specific threat posed to international peace and security by obstructions to the processes of peace and national reconciliation. The Court states that that context was necessarily known to Ms Bamba, in view of her personal and professional position.

The Court finds, second, that, regarding the grounds on which the Council decided that Ms Bamba was to be subject to restrictive measures, that institution has identified the actual and specific evidence – in terms of professional position, publishing group, newspaper and types of activities and press campaigns covered – which showed her involvement in obstructing the process of peace and reconciliation in Côte d'Ivoire.

The Court states that review of compliance with the obligation to state reasons is intended to ascertain whether the notes provided by the Council, in the contested acts, were sufficient to allow the reasons for imposing restrictive measures against Ms Bamba to be understood. That review must be distinguished from review of the substantive legality of those acts, which consists of ascertaining whether the evidence relied on by the Council was well founded and whether it was capable of justifying the adoption of the measures in question.

**Accordingly, the Court sets aside the judgment of the General Court** and dismisses Ms Bamba's action.

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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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