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Former Egyptian President Hosni Mubarak and Family Removed from UK Sanctions List

The UK has decided not to include the late former President of Egypt, Hosni Mubarak, and his family members, in its UK sanctions list of 1 January 2021. Enacted by the UK authorities as a consequence of Brexit, this UK list replaces, in the UK, the previously applicable EU Egyptian sanctions regime. For the past ten years, the Mubarak family has contested the validity and legality of EU sanctions imposed against them. This decision represents a vindication of their position.

Gamal Mubarak, the son of former Egyptian president Hosni Mubarak, stated that:

*“The UK’s decision not to replicate EU sanctions, coming soon after the favourable decision of the Court of Justice of the EU, is a significant milestone for my family. It is of particular relevance to my situation, since I lived and worked in London for almost ten years. **These EU sanctions were imposed on my late father and my mother even though neither of them ever owned any assets in the UK, nor for that matter any assets outside of Egypt.** Over the past ten years I and my family have been subjected to a continued campaign of flagrantly false allegations and highly intrusive investigations. As a result of such investigations not a single judicial authority in any foreign jurisdiction, including the UK, has discovered any legal violation of any sort by me or my family. This is the most conclusive vindication of my family’s position over the past ten years.”*

This latest development comes on the heels of the decision of the Court of Justice of the EU dated 3 December 2020 to annul relevant EU sanctions applicable to the Mubarak family, ruling that they were unlawful from the outset.

Notwithstanding these positive and welcome developments, first of all in the EU and now in the UK, the Mubarak family is still pursuing legal proceedings in the European General Court in relation to the EU’s restrictive measures imposed on them in later years. The family intends to pursue these cases until their conclusion, in order to obtain additional judicial confirmation that the EU’s measures were unlawful from the outset. In addition, the family’s London-based lawyers Carter-Ruck have been instructed to reserve the family’s rights with respect to action against the EU Council for damages as a result of its erroneous and unlawful listings over the past decade. Such action for damages suffered by the Mubarak family is under serious consideration and will be decided upon at the appropriate juncture.

The Mubarak family members not included in the UK domestic sanctions regime include the late former President of Egypt, Mohamed Hosni Elsayed Mubarak, his wife, Suzanne Thabet, as well as Hosni Mubarak’s two sons,

Partners
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Alaa and Gamal Mubarak, and their wives, Heddy Rassekh and Khadiga El Gammal.

In its ruling on 3 December 2020 the CJEU reaffirmed the fundamental principle that:

“in a review of restrictive measures, the Courts of the European Union must ensure the review, in principle a full review, of the lawfulness of all Union acts in the light of the fundamental rights forming an integral part of the EU legal order, which include, in particular, observance of the rights of the defence and the right to effective judicial protection” (§32)

It held that:

“the mere reference by the Council to letters and a memorandum from the Egyptian authorities, in which those authorities set out the manner in which the applicants’ fundamental rights had been observed and gave assurances in that regard ... cannot suffice” (§44)

The Mubarak family was represented in these appeals by the former Independent Reviewer of Terrorism Legislation Lord Anderson of Ipswich KBE QC, as well as by Brian Kennelly QC and Jason Pobjoy of Blackstone Chambers, who also represent the family in their EU General Court proceedings, and by Guy Martin of London based solicitors Carter-Ruck.

Carter-Ruck’s International Law department, led by partner Guy Martin, with senior associates Charles Enderby Smith and François Holmey, has been advising the Mubarak family in relation to the EU and UK sanctions measures since 2013. Guy Martin said:

“The UK’s decision provides yet further vindication for the position the Mubarak family members have asserted throughout: that the sanctions imposed against them have been unlawful. The family has also consistently maintained that the EU Council was under a legal obligation to verify that the underlying proceedings relied upon to impose sanctions respected their fundamental rights; a principle clearly established by the European Courts and now reaffirmed in this case by the CJEU. The EU Council has consistently failed to abide by this legal obligation. The UK’s decision and the CJEU judgment fully vindicate the family’s position in that regard”.

All enquiries should be directed to Guy Martin or Charles Enderby Smith on + 44 20 7353 5005 and at guy.martin@carter-ruck.com

Links to the CJEU decision at:

Brick Court Chambers: <https://www.brickcourt.co.uk/news/detail/egypts-assurances-insufficient-for-eu-sanctions>

Blackstone Chambers: <https://www.blackstonechambers.com/news/mohamed-hosni-elsayed-mubarak-and-others-v-council-european-union/>

Link to press releases on behalf of the Mubarak family at:

Carter-Ruck: <https://www.carter-ruck.com/news/read/eu-court-of-justice-annuls-sanctions-imposed-on-former-egyptian-president>

Background note for editors

A brief note on Brexit and the UK sanctions regime:

The UK left the EU on 31 January 2020 and, pursuant to the Withdrawal Agreement, EU law and EU sanctions continued to apply to the UK until 31 December 2020. After this date however, EU law and EU sanctions ceased to apply in the UK and the UK sanctions regime fell under UK domestic sanctions legislation. Such legislation enables the UK to continue to comply with its international obligations and to use sanctions to meet foreign policy and national security objectives after exiting the EU.