

Press Release

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The Bureau
90 Fetter Lane
London EC4A 1EN

T +44 (0) 20 7353 5005
F +44 (0) 20 7353 5553
DX 333 Chancery Lane
www.carter-ruck.com

- **Former Egyptian President Mubarak’s family removed from EU sanctions after ten years**
- **Mubarak family will continue legal action against the EU Council and are actively considering bringing separate proceedings for damages**
- **Gamal Mubarak: “My late father President Mubarak and my mother never owned any assets outside Egypt. After ten years of intrusive investigations and apparent disregard by the EU for our fundamental rights not a single judicial authority in any foreign jurisdiction, including in EU member states, has discovered any legal violation of any sort by me or my family. The EU Council’s belated decision to discontinue its unlawful sanctions, coming after the EU Court of Justice ruled them unlawful and after the UK authorities decided that the reasons for inclusion in the UK sanctions list did not meet the relevant legal test, is no answer to the damage including reputational harm the sanctions have caused me and my family. Our legal battle with the EU Council continues in order to obtain further judicial vindication and we will pursue all available avenues to claim damages from the EU Council.”**

The late former President of Egypt, Mohamed Hosni Mubarak, has been removed by the EU Council from its list of designated individuals under its Egyptian sanctions regime. The EU Council has also delisted Hosni Mubarak’s wife, Suzanne Thabet, as well as their two sons, Alaa and Gamal Mubarak, and their two wives, Heidy Rasekh and Khadiga El Gammal.

This development comes after a legal battle which started nearly ten years ago with the imposition of sanctions upon the Mubarak family on 21 March 2011. Since then, restrictive measures have been renewed by the EU on the Mubarak family on an annual basis.

The Mubarak family has always asserted, supported by detailed objective evidence that the imposition of such sanctions was carried out in breach of their fundamental human rights protections enshrined in European law and established in a line of cases decided by the European Court of Justice.

They have 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 as defined and guaranteed under the EU Charter; a principle clearly established by the European courts. The EU Council has consistently failed to comply with this legal obligation. It has consistently and repeatedly failed to scrutinise or question the underlying Egyptian proceedings against the Mubarak family members.

The Mubarak family has suffered incalculable reputational harm as a result of the unlawful EU designations.

On 3 December 2020, the highest court in the European Union, the Court of Justice of the EU (CJEU), annulled earlier sanctions imposed on the Mubarak family, ruling that the sanctions were unlawful from the outset. In particular, the CJEU held that the Council had not verified that the Egyptian domestic proceedings upon which the sanctions were based had been conducted in accordance with the fundamental rights of the Mubarak family members.

Partners
Alasdair Pepper
Guy Martin
Nigel Tait
Cameron Doley
Claire Gill
Adam Tudor
Antonia Foster
Miranda Rushton
Rebecca Toman

Partnership Secretary
Alison Phillips

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Against this reality, it was not feasible for the Council to persist in maintaining its sanctions against the Mubaraks, which were in substance no different to those set aside by the CJEU's decision.

The EU Council was no doubt reminded again of this position when, on 1 January 2021, the UK government decided not to carry the names of the Mubarak family members over from the EU's sanctions list to its autonomous UK post-Brexit sanctions list, later explaining that this was because those individuals did not meet the relevant legal test for inclusion.

The Mubarak family notes the conclusion in the Council's press release of 12 March 2021 that its Egyptian sanctions regime has "*served its purpose*". To the contrary it has always been the Mubarak family's strong position, based on objective evidence, and now supported by the decisions of the CJEU and the UK government, that the sanctions imposed upon them were unlawful and accordingly cannot have served any legitimate purpose.

In addition to the foregoing, 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 listings and unreasonable behaviour over the past decade. Such action for damages is under serious consideration and will be decided upon at the appropriate juncture.

It is particularly regrettable that, after ten years, the Council did not see fit to notify the Mubarak family directly of their de-listing - instead they had to discover this vital development through the press.

The decision of the EU Council finally to de-list the Mubaraks vindicates the position the family has consistently held from the outset.

Gamal Mubarak, the son of late President Mubarak, added on behalf of himself and his family:

"These unlawful sanctions were imposed on my late father President Mubarak and my mother, even though neither of them ever owned any assets in the EU, or for that matter any assets outside of Egypt. The most basic of investigations by the EU and by other non-EU authorities would have uncovered this fact from the outset. Moreover, and after ten years of false allegations and intrusive investigations, not a single judicial authority in any EU member state, nor indeed in any other foreign jurisdiction, has discovered any legal violation of any sort by me or my family.

While welcome, the EU Council's belated decision to lift these unlawful sanctions is no remedy to the damage they have caused me and my family. Our legal battle with the EU Council continues in order to obtain further judicial vindication that the sanctions were unlawful from the outset and to pursue all available avenues to claim damages from the EU Council.

EU sanctions are aimed at pursuing objectives set out in the Treaty of the European Union. Indeed, they fall within the broad scope of the aims and objectives of the EU's Common Foreign and Security Policy. Based on my past experience in public service I fully understand the Council's desire to maintain a supportive and close mutually beneficial relationship with Egypt. That is a very laudable policy objective. It is as beneficial to the EU as it is to Egypt, and as an Egyptian I fully support such a policy.

In fact, President Mubarak himself worked tirelessly throughout his tenure to foster such cooperation and close relationship with the EU and its member states. Indeed, such cooperation is of the same, if not even greater, strategic importance today as it was during the years of the Mubarak administration. That is particularly so in the midst of the grave challenges facing the region and the world at large.

However, with all due respect to the institutions of the EU, the implementation of that policy must not be carried out unlawfully. It is the protection of fundamental rights which guides in large part the EU's Common Foreign and Security Policy, as with many of the EU's policies and indeed its very constitution. It is crucial that the Council remembers this when imposing sanctions. The approach adopted by the EU Council against me and my family for the last ten years is and should be a matter of very grave concern to the international community."

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's sanctions measures since 2013. The Mubarak family has also been represented by the eminent 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. Guy Martin said:

“The Council’s decision, though belated, marks a huge milestone in the Mubarak family’s 10-year battle against these unlawfully imposed sanctions. While no doubt an extremely important tool in the arsenal of foreign policy setters, it is crucial that the power of sanctions is wielded responsibly and in accordance with the rule of law. It is truly regrettable that in some cases, including this one, these standards are not met.

Despite today’s welcome decision from the Council, the Mubarak family rightly intends to continue with their proceedings in the European courts in order to vindicate their position and to recover their reputations, which have suffered untold harm as a result of the EU’s sanctions. We will also be advising them on all other avenues of legal recourse available to them, including the possibility of bringing claims for damages against the EU Council for its treatment of the Mubarak family over the past decade.”

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