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EU sanctions against Mubarak family unlawful, confirms EU General Court in a new decision after decade-long legal battle

- In a decision handed down today the EU General Court confirms the unlawfulness of EU sanctions, already fully lifted, imposed on former Egyptian President Hosni Mubarak and his family.
- In oral submissions before the Court in September 2021 the EU Council confirmed there were violations of fundamental rights in two specific Egyptian proceedings it had previously relied on to impose sanctions.
- The EU Council failed to verify whether fundamental rights were respected in all other Egyptian proceedings relied upon to impose sanctions.
- The EU Courts in successive decisions have now provided definitive judicial confirmation that restrictive measures imposed by the EU Council in 2016, 2017, 2018, 2019 and 2020 were unlawful from the outset.

Today's judgment of the EU General Court

Today, the EU General Court has provided further unequivocal judicial acknowledgement that restrictive measures imposed on the Mubarak family by the EU Council were unlawful from the outset, ending a decade-long legal battle.

The EU Council has consistently failed to uphold cardinal principles of EU law that prohibit imposing sanctions based on proceedings that do not respect the fundamental rights enshrined in the European Convention on Human Rights (ECHR) and the EU Charter.

The EU Council's failure to uphold these principles of EU law has resulted in the following:

1. a previous (and separate) decision of the EU Court of Justice on 3 December 2020 annulling sanctions imposed in 2016, 2017 and 2018;
2. the EU Council deciding to discontinue its unlawful sanctions against the Mubarak family in March 2021; and
3. the Mubarak family, despite the full lifting of sanctions, continuing to pursue to conclusion their remaining legal challenges in the General Court of the European Union in relation to EU sanctions imposed on them in subsequent years resulting in today's judgment annulling sanctions imposed in 2018, 2019 and 2020.

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Moreover, on 1 January 2021 the United Kingdom, and based on the same Egyptian judicial proceedings against the Mubarak family that were relied upon by the EU Council, decided not to include the late former President and his family members in its autonomous, post-Brexit UK sanctions list, confirming in the UK Parliament that they did not meet the legal test for designation under UK law.

Commenting on the powerful and robust EU General Court decision, Gamal Mubarak expressed his delight stating:

“It is now confirmed beyond any doubt that the EU sanctions imposed against my family for over the past ten years were unlawful. My family has suffered enormous reputational harm because of these wholly unlawful designations. We have already received a substantial payment from the EU Council to refund our legal costs as ordered by the Court of Justice. We expect to receive more funds from the EU Council as ordered by the General Court today. Moreover, I have also asked our EU lawyers to explore every possible legal avenue to seek damages from the EU Council as a result of its unlawful measures against my family”.

In its decision, the EU General Court has today ruled in the Mubarak family's favour, stating that:

it is for the Council, before acting on the basis of a decision of an authority of a third State with a view to adopting or maintaining restrictive measures, to verify whether that decision was adopted in accordance with the rights of the defence and the right to effective judicial protection.

And that:

it was not apparent...that...the Council had fulfilled its obligation to itself verify that the rights of defence and the right to effective judicial protection...had been respected by the Egyptian authorities.

The court further confirmed the fact that the annulled decisions are “*removed retroactively from the legal order of the European Union and [are] deemed never to have existed*”.

Fundamental rights

The EU Council's decisions to list the Mubarak family members were flawed from the outset.

There is clear evidence that the Mubarak family have been the subject of consistent violations of their fundamental legal rights in the underlying Egyptian proceedings, in direct violation of Articles 5, 6, 7, 13 and 18 of the European Convention on Human Rights (ECHR). By way of example:

- 1 In its oral submissions before the EU General Court the EU Council confirmed that it considered fundamental rights were not respected in two specific Egyptian proceedings against the Mubaraks and thus dropped its reliance on them to renew sanctions. However, the EU Council relied on other proceedings in Egypt against the Mubaraks to renew its sanctions.
- 2 One of the other Egyptian judicial proceedings was a prosecution for insider share dealing in respect of which the Council was provided with extensive evidence of a litany of flagrant violations of fundamental rights. These include (but are not limited to) falsified expert reports, perjury of prosecution witness testimony, obstruction of justice, arbitrary detention, and unreasonable delays in the proceedings by the relevant authorities; yet the EU Council nevertheless relied upon this case to renew its sanctions.

- 3 In another Egyptian case there was again clear and documented evidence of serious violations of fundamental rights including (but not limited to) witness' testimony relied upon to convict that was obtained under duress. There was also evidence that the Mubaraks had been subjected to obstruction of justice and denied their rights to effective judicial protection; yet the Council took no account of this and again continued to rely on this case to renew its sanctions.

Having been presented with detailed and unchallenged evidence attesting to these most serious violations (and others), the EU General Court has ruled that the Council failed to verify whether the Mubarak's rights of defense and rights to effective judicial protection were indeed respected in such proceedings before imposing sanctions. It has thus ruled to annul the sanctions and confirmed that they were unlawful.

Moreover, it has today ruled that the actions of the relevant Egyptian authorities in the underlying proceedings had "*prevented the applicants from exercising their rights of defence*" and were such as to "*prevent the lifting of [the EU sanctions]*".

The Mubarak family has been represented by [Guy Martin](#) and [Charles Enderby Smith](#) of Carter-Ruck, and Brian Kennelly QC and Jason Pobjoy of Blackstone Chambers, in all of their EU proceedings.

Notes to editors:

For all media enquiries please contact simon.pugh@portland-communications.com and charles.mckeeon@portland-communications.com

All other relevant press releases issued by Carter-Ruck about the family can be found at <https://www.carter-ruck.com/news/eu-court-of-justice-annuls-sanctions-imposed-on-former-egyptian-president-hosni-mubarak-and-family/>