Council Decision (CFSP) 2020/117 of 27 January 2020 amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia

COUNCIL DECISION (CFSP) 2020/117

of 27 January 2020

amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 31 January 2011 the Council adopted Decision 2011/72/CFSP[(1)] concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia.

(2) On the basis of a review of Decision 2011/72/CFSP, the restrictive measures set out therein should be extended until 31 January 2021 and the Annex to that Decision should be amended and supplemented with information regarding the rights of defence and the right to effective judicial protection.

(3) Decision 2011/72/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2011/72/CFSP is amended as follows:

(1) Article 5 is replaced by the following:

'*Article 5*

This Decision shall apply until 31 January 2021. It shall be kept under constant review. It may be renewed or amended, as appropriate, if the Council deems that its objectives have not been met.';

(2) the Annex is amended in accordance with the Annex to this Decision.

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (CFSP) 2020/117. (See end of Document for details)*

Done at Brussels, 27 January 2020.

For the Council

The President

M. VUČKOVIĆ.

***Changes to legislation:** There are currently no known outstanding effects for the Council Decision (CFSP) 2020/117. (See end of Document for details)*

ANNEX

The Annex to Decision 2011/72/CFSP is replaced by the following:

ANNEX A.List of persons and entities referred to in Article 1

B. Rights of defence and right to effective judicial protection under Tunisian law:

The rights of defence and the right to effective judicial protection

It follows from Articles 20, 27, 29 and 108 of the Tunisian constitution, Articles 13, 47, 50, 59, 66 and 175 of the Criminal Procedure Code and Law No 2002-52 of 3 June 2002 that the following rights are guaranteed under Tunisian law:

— to any individual suspected of or charged with a criminal offence:

1. the right to judicial review of any act or administrative decision;

2. the right to defend himself/herself in person or through legal assistance of his/her own choosing or, if he/she has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

— to any individual charged with a criminal offence:

1. the right to be informed promptly, in a language which he/she understands and in detail, of the nature and cause of the accusation against him/her;

2. the right to have adequate time and facilities for the preparation of his/her defence;

3. the right to examine or have examined witnesses against him/her and to obtain the attendance and examination of witnesses on his/her behalf under the same conditions as witnesses against him/her;

4. the right to have the free assistance of an interpreter if he/she cannot understand or speak the language used in court.

Application of the rights of defence and the right to effective judicial protection

1. Zine El Abidine Ben Haj Hamda Ben Haj Hassen BEN ALI

   The investigation or trial relating to the misappropriation of public funds or assets is still ongoing.

   The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that during the trials *in absentia* a lawyer was appointed by the Court to defend the interests of Mr Ben Ali.

2. Leïla Bent Mohamed Ben Rhouma TRABELSI

   This person is absconding and is no longer present in Tunisia. The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that during the trials *in absentia* a lawyer was appointed by the Court to defend the interests of Ms Trabelsi.

3. Moncef Ben Mohamed Ben Rhouma TRABELSI

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (CFSP) 2020/117. (See end of Document for details)*

The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that on 5 March 2012 Mr Moncef Ben Mohamed Ben Rhouma Trabelsi was heard by an investigating judge in the presence of his lawyer.

4. Mohamed Ben Moncef Ben Mohamed TRABELSI

This person is absconding and is no longer present in Tunisia. The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The Council has found no indication that the rights of defence or the right to effective judicial protection of Mr Mohamed Ben Moncef Ben Mohamed Trabelsi were not respected.

5. Fahd Mohamed Sakher Ben Moncef Ben Mohamed Hfaiez MATERI

This person is absconding and is no longer present in Tunisia. The investigation or trial relating to the misappropriation of public funds or assets is still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that during the trials *in absentia* a lawyer was appointed by the Court to defend the interests of Mr Materi.

6. Nesrine Bent Zine El Abidine Ben Haj Hamda BEN ALI

This person is absconding and is no longer present in Tunisia. The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that during the trial *in absentia* Ms Ben Ali was represented by a lawyer.

7. Halima Bent Zine El Abidine Ben Haj Hamda BEN ALI

This person is absconding and is no longer present in Tunisia. The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The Council has found no indication that the rights of defence or the right to effective judicial protection of Ms Halima Bent Zine El Abidine Ben Haj Hamda Ben Ali were not respected.

8. Belhassen Ben Mohamed Ben Rhouma TRABELSI

This person is absconding and is no longer present in Tunisia. The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by a written commitment made by the Tunisian authorities to the Swiss authorities on 7 April 2014, in the context of the implementation of a letter rogatory, to respect the fundamental rights of Mr Belhassen Ben Mohamed Ben Rhouma TRABELSI and his rights of defence.

9. Mohamed Naceur Ben Mohamed Ben Rhouma TRABELSI

The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The information on the Council's file shows that the rights of defence

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and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that on 13 March 2012 and 16 March 2012 Mr Mohamed Naceur Ben Mohamed Ben Rhouma Trabelsi was heard by an investigating judge in the presence of his lawyer.

10. Jalila Bent Mohamed Ben Rhouma TRABELSI

The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that on 5 January 2012, 5 July 2012 and 27 February 2013 Ms Jalila Bent Mohamed Ben Rhouma Trabelsi was heard by an investigating judge in the presence of her lawyer.

11. Mohamed Imed Ben Mohamed Naceur Ben Mohamed TRABELSI

The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that on 27 October 2016 Mr Mohamed Imed Ben Mohamed Naceur Ben Mohamed Trabelsi was heard by an investigating judge in the presence of his lawyer.

12. Mohamed Adel Ben Mohamed Ben Rehouma TRABELSI

This person is absconding and is no longer present in Tunisia. The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The Council has found no indication that the rights of defence or the right to effective judicial protection of Mr Mohamed Adel Ben Mohamed Ben Rehouma Trabelsi were not respected.

13. Mohamed Mourad Ben Mohamed Ben Rehouma TRABELSI

The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that on 23 February 2012 Mr Mohamed Mourad Ben Mohamed Ben Rehouma Trabelsi was heard by an investigating judge in the presence of his lawyer.

14. Samira Bent Mohamed Ben Rhouma TRABELSI

The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The Council has found no indication that the rights of defence or the right to effective judicial protection of Ms Samira Bent Mohamed Ben Rhouma Trabelsi were not respected.

15. Mohamed Montassar Ben Kbaier Ben Mohamed MAHERZI

The investigation or trial relating to the misappropriation of public funds or assets is still ongoing. The information on the Council's file shows that the rights of defence and the right to effective judicial protection were respected in the judicial proceedings on which the Council relied. This is demonstrated in particular by the fact that on 20 August 2011 and 2 October 2012 and 31 May 2013 Mr Mohamed Montassar Ben Kbaier Ben Mohamed Maherzi was heard by an investigating judge in the presence of his lawyers.