



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 10 September 2012**

**13566/12**

**JUR 480**  
**COAFR 261**  
**RELEX 788**  
**PESC 1066**

**INFORMATION NOTE**

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from: Council Legal Service  
to: COREPER (2nd part)  
Subject: Cases before the EU General Court  
- Case T-190/12 Johannes TOMANA and 122 others v. Council

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1. By application notified to the Council on 26 June 2012, the Applicants (all persons and entities subject to restrictive measures imposed on Zimbabwe) have brought an action pursuant to Article 263 TFEU for the annulment of:
  - Council Decision 2012/97/CFSP of 17 February 2012 amending Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe,
  - Commission Implementing Regulation (EU) No 151/2012 of 21 February 2012 amending Council Regulation (EC) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe, and
  - Council Implementing Decision 2012/124/CFSP of 27 February 2012 implementing Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe.
  
2. The Applicants argue that the Council and Commission have
  - included individuals and entities without a proper legal basis for doing so. The applicants contend that neither the Council nor the Commission have the power to impose restrictive measures on non-state actors in Zimbabwe on the sole grounds of unsubstantiated allegations of criminal misconduct in Zimbabwe;

- manifestly erred in considering that the criteria for listing in the contested measures were fulfilled. They argue that the Council and the Commission were not entitled to include applicants on the sole basis of assertions that they are a ZANU-PF member of the Government of National Unity of Zimbabwe or an associate of such a person, or on the basis of vague unsupported allegations of misconduct stated to have taken place in the past;
  - failed to give adequate or sufficient reasons for including individuals and entities in the contested measures;
  - failed to safeguard the applicants’ rights of defence and to effective judicial review, by providing no particulars or evidence in support of their vague assertions of serious criminal misconduct, and no opportunity for the applicants to comment on the case against them; and
  - infringed, without justification or proportion, the applicants’ fundamental rights, including their right to protection of their property, business, reputation and private and family life.
3. The Director-General of the Council Legal Service has appointed Mr Bart DRIESSEN and Ms Madalena VEIGA, members of the Legal Service, as the Council’s agents in the case.

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