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COUNCIL REGULATION (EU) No 270/2011

of 21 March 2011

concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt

(OJ L 76, 22.3.2011, p. 4)

Amended by:

		Official Journal		
		No	page	date
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COUNCIL REGULATION (EU) No 270/2011

of 21 March 2011

concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215(2) thereof,

Having regard to Council Decision 2011/172/CFSP of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt [1],

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

Whereas:

(1) Decision 2011/172/CFSP provides for the freezing of funds and economic resources of certain persons having been identified as responsible for the misappropriation of Egyptian State funds, and natural or legal persons, entities or bodies associated with them, who are thus depriving the Egyptian people of the benefits of the sustainable development of their economy and society and undermining the development of democracy in the country. These natural or legal persons, entities and bodies are listed in the Annex to Decision 2011/172/CFSP.

(2) These measures fall within the scope of the Treaty on the Functioning of the European Union and, therefore, notably with a view to ensuring their uniform application by economic operators in all Member States, regulatory action at the level of the Union is necessary in order to implement them.

(3) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably the right to an effective remedy and to a fair trial and the right to the protection of personal data. This Regulation should be applied in accordance with those rights.

(4) The power to amend the list in Annex I to this Regulation should be exercised by the Council, in view of the seriousness of the political and security situation in Egypt and to ensure consistency with the process for amending and reviewing the Annex to Decision 2011/172/CFSP.

(5) The procedure for amending the list in Annex I to this Regulation should include providing natural or legal persons, entities or bodies concerned with the grounds for their listing, so as to give them an opportunity to submit observations. Where observations are submitted, or substantial new evidence is presented, the Council should review its decision on Annex I in light of those observations and inform the person, entity or body concerned accordingly.

[1] See page 63 of this Official Journal.

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(6) For the implementation of this Regulation, and in order to create maximum legal certainty within the Union, the names and other relevant data concerning natural and legal persons, entities and bodies whose funds and economic resources must be frozen in accordance with this Regulation, must be made public. Any processing of personal data should comply with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [1] and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [2].

(7) In order to ensure that the measures provided for in this Regulation are effective, it should enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, the following definitions shall apply:

(a) 'funds' means financial assets and benefits of every kind, including but not limited to:

(i) cash, cheques, claims on money, drafts, money orders and other payment instruments;

(ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

(iii) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;

(iv) interest, dividends or other income on or value accruing from or generated by assets;

(v) credit, right of set-off, guarantees, performance bonds or other financial commitments;

(vi) letters of credit, bills of lading and bills of sale;

(vii) documents evidencing an interest in funds or financial resources;

(b) 'freezing of funds' means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;

[1] OJ L 8, 12.1.2001, p. 1.
[2] OJ L 281, 23.11.1995, p. 31.

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(c) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;

(d) ‘freezing of economic resources’ means preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;

(e) ‘territory of the Union’ means the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty, including their airspace.

Article 2

1. All funds and economic resources belonging to, or owned, held or controlled by, persons who, as referred to in Article 1(1) of Decision 2011/172/CFSP, have been identified as being responsible for the misappropriation of Egyptian State funds, and natural or legal persons, entities and bodies associated with them, as listed in Annex I, shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in Annex I.

3. The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to in paragraphs 1 and 2 shall be prohibited.

Article 3

1. Annex I shall include the grounds for listing of listed natural or legal persons, entities and bodies concerned.

2. Annex I shall also include, where available, information necessary to identify the natural or legal persons, entities and bodies concerned. With regard to natural persons, such information may include names, including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address if known, and function or profession. With regard to legal persons, entities and bodies, such information may include names, place and date of registration, registration number and place of business.

Article 4

1. By way of derogation from Article 2, the competent authorities of the Member States, as indicated on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources are:

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(a) necessary to satisfy the basic needs of natural persons listed in Annex I and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

(b) intended exclusively for the payment of reasonable professional fees or the reimbursement of incurred expenses associated with the provision of legal services;

(c) intended exclusively for the payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources; or

(d) necessary for extraordinary expenses, provided that the Member State concerned has notified all other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least 2 weeks prior to the authorisation.

2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.

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Article 5

1. By way of derogation from Article 2, the competent authorities in Member States, as indicated on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, provided the following conditions are met:

(a) the funds or economic resources are the subject of an arbitral decision rendered prior to the date on which the natural or legal person, entity or body referred to in Article 2 was listed in Annex I, or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to or after that date;

(b) the funds or economic resources will be used exclusively to satisfy claims secured by such a decision or recognised as valid in such a decision, within the limits set by applicable laws and regulations governing the rights of persons having such claims;

(c) the decision is not for the benefit of a natural or legal person, entity or body listed in Annex I; and

(d) recognising the decision is not contrary to public policy in the Member State concerned.

2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this Article.

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Article 6

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1. Article 2(2) shall not apply to the addition to frozen accounts of:

(a) interest or other earnings on those accounts; or

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(b) payments due under contracts, agreements or obligations that were concluded or arose before the date on which the natural or legal person, entity or body referred to in Article 2 has been listed in Annex I; or

(c) payments due under judicial, administrative or arbitral decisions rendered in the Union or enforceable in the Member State concerned,

provided that such interest, other earnings and payments are frozen in accordance with Article 2(1).

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2. Article 2(2) shall not prevent financial or credit institutions in the Union from crediting frozen accounts where they receive funds transferred to the account of a listed natural or legal person, entity or body, provided that any additions to such accounts will also be frozen. The financial or credit institution shall inform the relevant competent authority about any such transaction without delay.

Article 7

By way of derogation from Article 2 and provided that a payment by a natural or legal person, entity or body listed in Annex I is due under a contract or agreement that was concluded by, or an obligation that arose for, the person, entity or body concerned, before the date on which that person, entity or body was listed in Annex I, the competent authorities of the Member States, as indicated on the websites listed in Annex II, may authorise, under such conditions as they deem appropriate, the release of certain frozen funds or economic resources, if the following conditions are met:

(a) the competent authority concerned has determined that:

(i) the funds or economic resources shall be used for a payment by a person, entity or body listed in Annex I; and

(ii) the payment is not in breach of Article 2(2);

(b) the Member State concerned has, at least 2 weeks prior to the grant of the authorisation, notified the other Member States and the Commission of that determination and its intention to grant an authorisation.

Article 8

1. The freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person or entity or body implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen or withheld as a result of negligence.

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2. The prohibition set out in Article 2(2) shall not give rise to any liability of any kind on the part of the natural and legal persons, entities and bodies who made funds or economic resources available if they did not know, and had no reasonable cause to suspect, that their actions would infringe the prohibition in question.

Article 9

1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

(a) supply immediately any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 2(1), to the competent authority in the Member State where they are resident or located, as indicated on the websites listed in Annex II, and shall transmit such information, either directly or through the Member States, to the Commission; and

(b) cooperate with that competent authority in any verification of this information.

2. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

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3. Paragraph 2 shall not prevent Member States from sharing that information, in accordance with their national law, with the relevant authorities of Egypt and other Member States where necessary for the purpose of assisting the recovery of misappropriated assets.

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Article 10

The Commission and Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgments handed down by national courts.

Article 11

The Commission shall be empowered to amend Annex II on the basis of information supplied by Member States.

Article 12

1. Where the Council decides to subject a natural or legal person, entity or body to the measures referred to in Article 2(1), it shall amend Annex I accordingly.

2. The Council shall communicate the decision referred to in paragraph 1, including the grounds for listing, to the natural or legal person, entity or body concerned, either directly, if the address is known, or through the publication of a notice, providing such person, entity or body with an opportunity to present observations.

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3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review the decision referred to in paragraph 1 and inform the person, entity or body concerned accordingly.

4. The list in Annex I shall be reviewed at regular intervals and at least every 12 months as from 21 March 2011.

Article 13

1. Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

2. Member States shall notify the Commission of those rules without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment to them.

Article 14

Where there is, in this Regulation, a requirement to notify, inform or otherwise communicate with the Commission, the address and other contact details to be used for such communication shall be those indicated in Annex II.

Article 15

This Regulation shall apply:

(a) within the territory of the Union;

(b) on board any aircraft or any vessel under the jurisdiction of a Member State;

(c) to any person inside or outside the territory of the Union who is a national of a Member State;

(d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State;

(e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.

Article 16

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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ANNEX I

List of natural and legal persons, entities and bodies referred to in Article 2(1)

	Name (and any aliases)	Identifying information	Grounds for designation
1.	Mohamed Hosni Elsayed Mubarak	Former President of the Arab Republic of Egypt Date of birth 04.05.1928 Male	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
2.	Suzanne Saleh Thabet	Spouse of Mr. Mohamed Hosni Elsayed Mubarak, former President of the Arab Republic of Egypt Date of birth: 28.02.1941 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
3.	Alaa Mohamed Hosni Elsayed Mubarak	Son of Mr. Mohamed Hosni Elsayed Mubarak, former President of the Arab Republic of Egypt Date of birth: 26.11.1960 Male	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
4.	Heidy Mahmoud Magdy Hussein Rasekh	Spouse of Mr. Alaa Mohamed Hosni Elsayed Mubarak, son of former President of the Arab Republic of Egypt Date of birth: 05.10.1971 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
5.	Gamal Mohamed Hosni Elsayed Mubarak	Son of Mr. Mohamed Hosni Elsayed Mubarak, former President of the Arab Republic of Egypt Date of birth: 28.12.1963 Male	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
6.	Khadiga Mahmoud El Gammal	Spouse of Mr. Gamal Mohamed Hosni Elsayed Mubarak, son of former President of the Arab Republic of Egypt Date of birth: 13.10.1982 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
7.	Ahmed Abdelaziz Ezz	Former Member of the Parliament Date of birth: 12.01.1959 Male	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
8.	Abla Mohamed Fawzi Ali Ahmed	Spouse of Mr. Ahmed Abdelaziz Ezz Date of birth: 31.01.1963 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption

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	Name (and any aliases)	Identifying information	Grounds for designation
9.	Khadiga Ahmed Ahmed Kamel Yassin	Spouse of Mr Ahmed Abdelaziz Ezz Date of birth: 25.05.1959 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
10.	Shahinaz Abdel Aziz Abdel Wahab Al Naggar	Spouse of Mr. Ahmed Abdelaziz Ezz Date of birth: 09.10.1969 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
11.	Ahmed Alaeldin Amin Abdelmaksoud Elmaghraby	Former Minister of Housing, Public Utilities and Urban Development Date of birth: 16.05.1945 Male	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
12.	Naglaa Abdallah El Gazaerly	Spouse of Mr. Ahmed Alaeldin Amin Abdelmaksoud Elmaghraby Date of birth: 03.06.1956 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
13.	Rachid Mohamed Rachid Hussein	Former Minister of Trade and Industry Date of birth: 09.02.1955 Male	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
14.	Hania Mahmoud Abdel Rahman Fahmy	Spouse of Mr. Rachid Mohamed Rachid Hussein Date of birth: 05.07.1959 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
15.	Mohamed Zohir Mohamed Wahed Garrana	Former Minister of Tourism Date of birth: 20.02.1959 Male	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
16.	Jaylane Shawkat Hosni Galal Eldin	Spouse of Mr. Mohamed Zohir Mohamed Wahed Garrana Date of birth: 08.01.1960 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
17.	Amir Mohamed Zohir Mohamed Wahed Garrana	Son of Mr. Mohamed Zohir Mohamed Wahed Garrana Date of birth: 21.09.1990 Male	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption

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	Name (and any aliases)	Identifying information	Grounds for designation
18.	Habib Ibrahim Habib Eladli	Former Minister of Interior Date of birth: 01.03.1938 Male	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption
19.	Elham Sayed Salem Sharshar	Spouse of Mr. Habib Ibrahim Eladli Date of birth: 23.01.1963 Female	Person subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption

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ANNEX II

List of competent authorities in the Member States referred to in Articles 4(1) and 5(1), Article 7 and Article 9(1)(a) and address for notifications to the Commission

A. Competent authorities in each Member State:

BELGIUM

http://www.diplomatie.be/eusanctions

BULGARIA

http://www.mfa.bg/pages/view/5519

CZECH REPUBLIC

http://www.mfcr.cz/mezinarodnisankce

DENMARK

http://www.um.dk/da/menu/Udenrigspolitik/FredSikkerhedOgInternational Retsorden/Sanktioner/

GERMANY

http://www.bmwi.de/BMWi/Navigation/Aussenwirtschaft/Aussenwirtschaftsrecht/embargos.html

ESTONIA

http://www.vm.ee/est/kat_622/

IRELAND

http://www.dfa.ie/home/index.aspx?id=28519

GREECE

http://www.mfa.gr/www.mfa.gr/en-US/Policy/Multilateral+Diplomacy/Global+Issues/International+Sanctions/

SPAIN

http://www.maec.es/es/MenuPpal/Asuntos/Sanciones%20Internacionales/Paginas/Sanciones_%20Internacionales.aspx

FRANCE

http://www.diplomatie.gouv.fr/autorites-sanctions/

ITALY

http://www.esteri.it/MAE/IT/Politica_Europea/Deroghe.htm

CYPRUS

http://www.mfa.gov.cy/sanctions

LATVIA

http://www.mfa.gov.lv/en/security/4539

LITHUANIA

http://www.urm.lt

LUXEMBOURG

http://www.mae.lu/sanctions

HUNGARY

http://www.kulugyminiszterium.hu/kum/hu/bal/Kulpolitikank/nemzetkozi_szankciok/

MALTA

http://www.doi.gov.mt/EN/bodies/boards/sanctions_monitoring.asp

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NETHERLANDS

http://www.minbuza.nl/sancties

AUSTRIA

http://www.bmeia.gv.at/view.php3?f_id=12750&LNG=en&version=

POLAND

http://www.msz.gov.pl

PORTUGAL

http://www.min-nestrangeiros.pt

ROMANIA

http://www.mae.ro/node/1548

SLOVENIA

http://www.mzz.gov.si/si/zunanja_politika/mednarodna_varnost/omejevalni_ukrepi/

SLOVAKIA

http://www.foreign.gov.sk

FINLAND

http://formin.finland.fi/kvyhteistyo/pakotteet

SWEDEN

http://www.ud.se/sanktioner

UNITED KINGDOM

http://www.fco.gov.uk/competentauthorities

B. Address for notifications to or other communication with the Commission:

European Commission
Foreign Policy Instruments Service
CHAR 12/106
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

E-mail: relex-sanctions@ec.europa.eu
Tel. +32 22955585
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