

Judgment of the General Court of 15 September 2016 –Klyuyev v Council(Case T-340/14) ⁽¹⁾

(Common foreign and security policy — Restrictive measures taken in view of the situation in Ukraine — Freezing of funds — List of persons, entities and bodies subject to the freezing of funds and economic resources — Inclusion of the applicant's name — Rights of the defence — Obligation to state reasons — Legal basis — Right to effective judicial protection — Failure to comply with the listing criteria — Manifest error of assessment — Right to property — Right to reputation)

(2016/C 402/37)

Language of the case: English

Parties

Applicant: Andriy Klyuyev (Donetsk, Ukraine) (represented by: B. Kennelly and J. Pobjoy, Barristers, and by R. Gherson and T. Garner, Solicitors)

Defendant: Council of the European Union (represented by: Á. De Elera-San Miguel Hurtado and J.-P. Hix, acting as Agents)

Intervener in support of the defendant: European Commission (represented by: D. Gauci and T. Scharf, acting as Agents)

Re:

Application under Article 263 TFEU seeking the annulment of (i) Council Decision 2014/119/CFSP of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2014 L 66, p. 26) and Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2014 L 66, p. 1), and (ii) Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119 (OJ 2015 L 62, p. 25) and Council Implementing Regulation (EU) 2015/357 of 5 March 2015 implementing Regulation No 208/2014 (OJ 2015 L 62, p. 1), in so far as the applicant's name was included or maintained in the list of persons, entities and bodies subject to those restrictive measures, and, in the alternative, a declaration that Article 1(1) of Decision 2014/119 as amended by Council Decision (CFSP) 2015/143 of 29 January 2015 (OJ 2015 L 24, p. 16), and Article 3(1) of Regulation No 208/2014, as amended by Council Regulation (EU) 2015/138 of 29 January 2015 (OJ 2015 L 24, p. 1) do not apply to the applicant.

Operative part of the judgment

The Court:

1. Annuls — until the entry into force of Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119 and Council Implementing Regulation (EU) 2015/357 of 5 March 2015 implementing Regulation No 208/2014 — Council Decision 2014/119/CFSP of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine and Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, in their initial versions, in so far as Mr Andriy Klyuyev was named in the list of persons, entities and bodies subject to those restrictive measures;
2. Dismisses the action as to the remainder;
3. Orders the Council of the European Union to bear its own costs and to pay the costs incurred by Mr Klyuyev, with respect to the claim for annulment stated in the application;
4. Orders Mr Klyuyev to bear his own costs and to pay the costs incurred by the Council, with respect to the claim for annulment stated in the statement of modification of the form of order sought;
5. Orders the European Commission to bear its own costs.

⁽¹⁾ OJ C 261, 11.8.2014.