



## Reports of Cases

### Judgment of the General Court (Sixth Chamber) of 13 September 2018 – Almaz-Antey v Council

(Case T-515/15)

(Common foreign and security policy — Restrictive measures adopted in view of Russia's actions destabilising the situation in Ukraine — Retention of the applicant's name on the list of entities to which the restrictive measures apply — Proportionality — Error of assessment — Obligation to state reasons — Fundamental rights)

1. *Judicial proceedings — Decision or regulation replacing the contested measure in the course of proceedings — New factor — Extension of the initial pleadings — Application to amend annulment plea — Time-limit for the submission of such an application — Point from which time starts to run — Date of communication of the new measure to the applicant*

(Art. 263, 6<sup>th</sup> para. TFEU; Rules of Procedure of the General Court, Arts 60 and 86(1))

(see paras 43, 44, 50, 51)

2. *Action for annulment — Time-limits — Mandatory — Examination by the EU judicature of its own motion*

(Art. 263, 6<sup>th</sup> para. TFEU; Rules of Procedure of the General Court, Art. 60)

(see para. 49)

3. *Action for annulment — Natural or legal persons — Measures of direct and individual concern to them — Whether directly concerned — Criteria — Restrictive measures taken having regard to the situation in Ukraine — Act prohibiting the sale, supply, transfer or export of all dual-use goods and technology, and the supply of certain services related to such goods and technology, to any entity in Russia included in the lists of entities covered by restrictive measures — Action brought by an entity included in those lists — Admissibility*

(Art. 263, 4<sup>th</sup> para. TFEU; Council Decision 2014/512/CFSP, Art. 3a and Annex IV; Council Regulation No 833/2014)

(see paras 62-65, 67)

4. *Acts of the institutions — Statement of reasons — Obligation — Scope — Restrictive measures taken having regard to the situation in Ukraine — Prohibition of the sale, supply, transfer or export of dual use goods and technology to certain persons, entities or bodies in Russia — Obligation to identify in the statement of reasons the specific and concrete elements justifying the said measure — Decision falling within a context known to the person concerned, enabling him to understand the scope of the measure taken against him — Whether summary statement of reasons sufficient*

(Art. 296, 2<sup>nd</sup> para. TFEU; Charter of Fundamental Rights of the European Union, Art. 41(2)(c); Council Decision 2014/512/CFSP; Council Regulation No 833/2014)

(see paras 83-85, 87, 89, 90, 94-97)

5. *EU law — Principles — Rights of defence — Right to effective judicial protection — Restrictive measures taken having regard to the situation in Ukraine — Prohibition of the sale, supply, transfer or export of dual use goods and technology to certain persons, entities or bodies in Russia — Obligation to disclose incriminating evidence — Scope*

(Art. 275, 2<sup>nd</sup> para. TFEU; Charter of Fundamental Rights of the European Union, Arts 41(2)(a) and 47; Council Decision 2014/512/CFSP; Council Regulation No 833/2014)

(see paras 100-103)

6. *Common foreign and security policy — Restrictive measures taken having regard to the situation in Ukraine — Prohibition of the sale, supply, transfer or export of dual use goods and technology to certain persons, entities or bodies in Russia — Rights of defence — Notification of inculpatory evidence — Subsequent decision maintaining the name of the applicant on the list of persons covered by those measures — No new grounds — No infringement of the right to be heard*

(Charter of Fundamental Rights of the European Union, Art. 41(2)(a); Council Decision 2014/512/CFSP, Art. 3a and Annex IV; Council Regulation No 833/2014)

(see paras 106-108)

7. *EU law — Principles — Rights of defence — Restrictive measures taken having regard to the situation in Ukraine — Prohibition of the sale, supply, transfer or export of dual use goods and technology to certain persons, entities or bodies in Russia — Right of access to documents — Rights subject to an application in that behalf before the Council*

(Charter of Fundamental Rights of the European Union, Art. 41(2)(a); Council Decision 2014/512/CFSP; Council Regulation No 833/2014)

(see para. 109)

8. *European Union — Judicial review of the legality of the acts of the institutions — Restrictive measures taken having regard to the situation in Ukraine — Ambit of the review*

(Art. 275, 2<sup>nd</sup> para. TFEU; Charter of Fundamental Rights of the European Union, Art. 47; Council Decision 2014/512/CFSP; Council Regulation No 833/2014)

(see para. 123)

9. *Common foreign and security policy — Restrictive measures taken having regard to the situation in Ukraine — Criteria for adopting restrictive measures — Restrictive measures covering a sector of the economy — Russian enterprise operating in the field of defence and armaments — No requirement to establish a link between the undertakings affected by the restrictive measures and the Russian state*

(Council Decision 2014/512/CFSP; Council Regulation No 833/2014)

(see paras 126-128)

10. *Common foreign and security policy — Restrictive measures taken having regard to the situation in Ukraine — Prohibition of the sale, supply, transfer or export of dual use goods and technology to certain persons, entities or bodies in Russia — Restriction of the right to property and the free exercise of an economic activity — No breach of principle of proportionality*

(Charter of Fundamental Rights of the European Union, Arts 16, 17 and 52(1); Council Decision 2014/512/CFSP; Council Regulation No 833/2014)

(see paras 135-137, 141-147)

11. *Common foreign and security policy — Restrictive measures taken having regard to the situation in Ukraine — Prohibition of the sale, supply, transfer or export of dual use goods and technology to certain persons, entities or bodies in Russia — Judicial review of legality — Appropriateness of the restrictive measures — Restrictive measures pursuing a legitimate aim of the common foreign and security policy*

(Art. 21 TEU; Council Decision 2014/512/CFSP; Council Regulation No 833/2014)

(see paras 139, 148)

## Re:

Application under Article 263 TFEU seeking annulment of (i) Council Decision (CFSP) 2015/971 of 22 June 2015 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ 2015 L 157, p. 50); (ii) the letter from the Council dated 31 July 2015 by which the Council stated that the applicant should remain subject to the measures in Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ 2014 L 229, p. 13) and Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ 2014 L 229, p. 1); (iii) Council Decision (CFSP) 2015/2431 of 21 December 2015 amending Decision 2014/512 (OJ 2015 L 334, p. 22); and (iv) Council Decision (CFSP) 2016/1071 of 1 July 2016 amending Decision 2014/512 (OJ 2016 L 178, p. 21), in so far as those acts concern the applicant.

**Operative part**

The Court:

1. Dismisses the action;
2. Orders Joint-Stock Company ‘Almaz-Antey’ Air and Space Defence Corp. to pay the costs.