



Reports of Cases

Judgment of the General Court (Seventh Chamber) of 27 April 2022 – Kampete v Council

(Case T-110/21)¹

(Common foreign and security policy – Restrictive measures taken in view of the situation in the Democratic Republic of the Congo – Freezing of funds – Restriction on admission to the territories of the Member States – Retention of the applicant’s name on the lists of persons covered – Right to be heard – Proof that inclusion and retention on the lists is well founded – Manifest error of assessment – Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures)

1. *EU law – Principles – Rights of the defence – Right to effective judicial protection – Restrictive measures directed against the Democratic Republic of the Congo – Freezing of funds of persons undermining the rule of law or contributing to the commission of acts that constitute serious human rights violations – Obligation to disclose individual and specific grounds for the decisions adopted – Obligation to enable the person concerned effectively to put forward his or her point of view regarding the reasons relied on against him or her – Scope*

(Charter of Fundamental Rights of the European Union, Art. 41(2)(a); Council Decision 2010/788/CFSP, as amended by Decision (CFSP) 2020/2033, Annex II; Council Regulations No 1183/2005 and 2020/2021, Annex)

(see paras 52-54)

2. *Common foreign and security policy – Restrictive measures directed against the Democratic Republic of the Congo – Freezing of funds – Rights of the defence – Notification of inculpatory evidence – Subsequent decision maintaining the name of the applicant on the list of persons covered by those measures – Disclosure by the Council to the person concerned of new evidence taken into account during the periodic review of the restrictive measures – Infringement of the right to be heard – None*

(Council Decision 2010/788/CFSP, as amended by Decision (CFSP) 2020/2033, Arts 7(2) and (3) and 9(2), Annex II; Council Regulations No 1183/2005, Art. 9(3), and 2020/2021, Annex)

(see paras 55, 56, 60-70, 77)

¹ OJ C 128, 12.4.2021.

3. *EU law – Principles – Rights of the defence – Right to be heard – Obligation on the institutions to adhere to the point of view of the parties concerned – None*

(see para. 74)

4. *European Union – Judicial review of the legality of the acts of the institutions – Restrictive measures directed against the Democratic Republic of the Congo – Scope of the review – Restricted review for general rules – Review extending to the assessment of the facts and verification of the evidence*

(Council Decision 2010/788/CFSP, as amended by Decision (CFSP) 2020/2033, Art. 3(2)(b) and Annex II; Council Regulations No 1183/2005, Art. 2b(1)(b), and 2020/2021, Annex)

(see paras 84, 85, 89, 92, 94, 101, 102, 107)

5. *European Union – Judicial review of the legality of the acts of the institutions – Restrictive measures directed against the Democratic Republic of the Congo – Scope of the review – Proof that the measure is well founded – Obligation on the competent EU authority to establish, in the event of challenge, that the reasons relied on against the persons or entities concerned are well founded*

(Charter of Fundamental Rights of the European Union, Art. 47; Council Decision 2010/788/CFSP, as amended by Decision (CFSP) 2020/2033, Annex II; Council Regulations No 1183/2005 and 2020/2021, Annex)

(see paras 115-118)

6. *Common foreign and security policy – Restrictive measures directed against the Democratic Republic of the Congo – Freezing of funds of persons undermining the rule of law or contributing to the commission of acts that constitute serious human rights violations – Criteria – Roles conferring responsibility for the repression of the civil population or compliance with the rule of law – Error of assessment – None*

(Council Decision 2010/788/CFSP, as amended by Decisions (CFSP) 2016/2231 and (CFSP) 2020/2033, Art. 3(2)(b) and Annex II; Council Regulations No 1183/2005, Art. 2b(1)(b), and 2020/2021, Annex)

(see paras 119, 125-132)

7. *Common foreign and security policy – Restrictive measures directed against the Democratic Republic of the Congo – Scope – Persons who have been involved in planning, directing, or committing acts that constitute serious human rights violations or abuses – Definition – Persons who have committed those acts in the past, notwithstanding the lack of evidence establishing current involvement or participation in such acts – Included*

(Council Decision 2010/788/CFSP, as amended by Decisions (CFSP) 2016/2231 and (CFSP) 2020/2033, Art. 3(2)(b) and Annex II; Council Regulations No 1183/2005, Art. 2b(1)(b), and 2020/2021, Annex)

(see paras 120, 121, 123)

Operative part

The Court:

1. Dismisses the action;
2. Orders Mr Ilunga Kampete to pay the costs.