



Reports of Cases

Judgment of the General Court (First Chamber) of 20 September 2023 – Mordashov v Council

(Case T-248/22)¹

(Common foreign and security policy – Restrictive measures taken in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine – Freezing of funds – Inclusion and maintenance of the applicant’s name on the lists of persons, entities and bodies concerned – Article 2(1)(a), (d), (f) and (g) of Decision 2014/145/CFSP – Right to effective legal protection – Obligation to state reasons – Error of assessment – Proportionality – Equal treatment – Right to property)

1. *Acts of the institutions – Statement of reasons – Obligation – Scope – Restrictive measures taken in view of the situation in Ukraine – Freezing of the funds of leading businesspersons involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation and persons associated with them – 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 or her to understand the scope of the measure taken against him or her – Whether summary statement of reasons sufficient*

(Art. 296, second para., TFEU; Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/336 and 2022/1529)

(see paragraphs 42-47, 50-54)

2. *Common foreign and security policy – Restrictive measures taken in view of the situation in Ukraine – Freezing of funds – Rights of the defence – Subsequent decision maintaining the name of the applicant on the list of persons covered by those measures – No new grounds – Council’s obligation to communicate to the person concerned the new evidence taken into account when periodically re-examining the restrictive – Communication of the new evidence to the person concerned so that he or she can submit his or her obligations*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337, (CFSP) 2022/1530 and (CFSP) 2023/572; Council Regulations No 269/2014, 2022/336, 2022/1529 and 2023/571)

(see paragraph 63)

¹ OJ C 244, 27.6.2022.

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 – No such obligation – Obligation to reply to all the arguments of the parties – No such obligation*

(Charter of Fundamental Rights of the European Union, Art. 41(2))

(see paragraphs 64-67)

4. *Common foreign and security policy – Restrictive measures taken in view of the situation in Ukraine – Freezing of the funds of leading businesspersons involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation and persons associated with them – Rights of the defence – Subsequent decision maintaining the name of the applicant on the list of persons covered by those measures – No new grounds – No inculpatory evidence – Notification of inculpatory evidence – No such notification – Infringement of the right to be heard – No infringement*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337, (CFSP) 2022/1530 and (CFSP) 2023/572; Council Regulations No 269/2014, 2022/336, 2022/1529 and 2023/571)

(see paragraphs 68-70)

5. *Common foreign and security policy – Restrictive measures taken in view of the situation in Ukraine – Freezing of funds – Rights of the defence – Subsequent decision maintaining the name of the applicant on the list of persons covered by those measures – Notification of inculpatory evidence – New grounds – Communication of the new evidence to the person concerned so that he or she can submit his or her obligations – Infringement of the right to be heard – No infringement*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337, (CFSP) 2022/1530, and (CFSP) 2023/572; Council Regulations No 269/2014, 2022/336, 2022/1529 and 2023/571)

(see paragraphs 72-74)

6. *European Union – Judicial review of the legality of the acts of the institutions – Restrictive measures taken in view of the situation in Ukraine – 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 – Inclusion on the lists based on a specific, precise and consistent set of indicia*

(Art. 275, second para., TFEU; Charter of Fundamental Rights of the European Union, Art. 47; Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337, (CFSP) 2022/1530 and (CFSP) 2023/572; Council Regulations No 269/2014, 2022/336, 2022/1529 and 2023/571)

(see paragraphs 81-84)

7. *European Union – Judicial review of the legality of the acts of the institutions – Restrictive measures taken in view of the situation in Ukraine – 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 – Breadth of the discretion of that competent authority – Relevance of evidence produced on the basis of a previous inclusion where there are no amendments to the grounds for inclusion or changes in the applicant’s situation or in the context in Ukraine*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337, (CFSP) 2022/1530, and (CFSP) 2023/572; Council Regulations No 269/2014, 2022/336, 2022/1529 and 2023/571)

(see paragraphs 86, 87, 99-102)

8. *Common foreign and security policy – Restrictive measures taken in view of the situation in Ukraine – Criteria for adopting restrictive measures – Persons providing material or financial support to Russian decision-makers or benefitting from those decision-makers – Meaning – Need for a link between that support or the benefit and the annexation of Crimea or the destabilisation of Ukraine – No such need*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337 and (CFSP) 2022/1530, Art. 2(1)(d); Council Regulations No 269/2014, Arts 3(1)(d), 2022/336 and 2022/1529)

(see paragraph 91)

9. *Common foreign and security policy – Restrictive measures taken in view of the situation in Ukraine – Freezing of funds of persons responsible for, supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty or independence of Ukraine, and of natural or legal persons, entities or bodies associated with them – Freezing of the funds of persons providing material or financial support to Russian decision-makers or benefitting from those decision-makers – Definition – Error of assessment – No error*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/336 and 2022/1529)

(see paragraphs 94, 107-111, 113, 114, 119-121)

10. *European Union – Judicial review of the legality of the acts of the institutions – Restrictive measures against certain persons and entities in view of the situation in Ukraine – Freezing of the funds of persons providing material or financial support to Russian decision-makers or benefitting from those decision-makers – Scope of the review – Assessment of the legality by reference to the information available at the time of adoption of the decision*

(Art. 275, second para., TFEU; Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/336 and 2022/1529)

(see paragraphs 97, 98)

11. *Common foreign and security policy – Restrictive measures taken in view of the situation in Ukraine – Criteria for adopting restrictive measures – Leading businesspersons involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation and persons associated with them – Meaning – Need to establish direct links or a relation of interdependence between the person subject to the measures and the Russian Government or its actions undermining the territorial integrity, sovereignty and independence of Ukraine – No such need*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337 and (CFSP) 2022/1530, Art. 2(1); Council Regulations No 269/2014, Art. 3(1), 2022/336 and 2022/1529)

(see paragraphs 125-128)

12. *Common foreign and security policy – Restrictive measures taken in view of the situation in Ukraine – Freezing of the funds of leading businesspersons involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation and persons associated with them – Error of assessment – No error*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/572; Council Regulations No 269/2014 and 2023/571)

(see paragraphs 131-134, 138-141)

13. *Common foreign and security policy – Restrictive measures taken in view of the situation in Ukraine – Freezing of funds of certain persons and entities having regard to the situation in Ukraine – Restriction of the right to property – Breach of principle of proportionality – No breach*

(Charter of Fundamental Rights of the European Union, Arts 17 and 52(1); Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337, (CFSP) 2022/1530 and (CFSP) 2023/572; Council Regulations No 269/2014, 2022/336, 2022/1529 and 2023/571)

(see paragraphs 152-170)

14. *Common foreign and security policy – Restrictive measures taken in view of the situation in Ukraine – Freezing of funds of certain persons and entities having regard to the situation in Ukraine – Restriction of the right to property – Measures to freeze funds not adopted by the Council in respect of other persons in an identical situation – Breach of the principle of equal treatment – No breach*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/337, (CFSP) 2022/1530 and (CFSP) 2023/572; Council Regulations No 269/2014, 2022/336, 2022/1529 and 2023/571)

(see paragraph 169)

Operative part

The Court:

1. Dismisses the action;
2. Orders Mr Alexey Mordashov to pay the costs.