



Reports of Cases

Judgment of the General Court (First Chamber) of 6 September 2023 – Timchenko v Council

(Case T-361/22)¹

(Common foreign and security policy – Restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine – Freezing of funds – Inclusion and retention of the applicant’s name on the lists of persons, entities and bodies concerned – Obligation to state reasons – Article 1(1) of Decision 2014/145/CFSP – Concept of ‘association’ – Right to be heard)

1. *Acts of the institutions – Statement of reasons – Obligation – Scope – Restrictive measures taken having regard to the situation in Ukraine – Freezing of funds – 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) 2022/582 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/581 and 2022/1529)

(see paragraphs 29-34, 47, 50, 51)

2. *European Union – Judicial review of the legality of the acts of the institutions – Restrictive measures taken having regard to 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 – Error of assessment – None*

(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) 2022/582 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/581 and 2022/1529)

(see paragraphs 39, 68-70, 72, 77-79, 84)

3. *Common foreign and security policy – Restrictive measures taken having regard to the situation in Ukraine – Criteria for adopting restrictive measures – Freezing of funds of persons responsible for, supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, and of natural or*

¹ OJ C 303, 8.8.2022.

legal persons, entities or bodies associated with them – Concept of association – Common interests

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/582 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/581 and 2022/1529)

(see paragraphs 74-76)

4. *EU law – Principles – Rights of the defence – Right to effective judicial protection – Restrictive measures – Obligation to disclose individual and specific grounds for the decisions adopted – Right to be heard prior to the adoption of such measures – Limitations – Conditions*

(Art. 296, second para., TFEU; Charter of Fundamental Rights of the European Union, Arts 41(2)(a) and 52; Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/582 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/581 and 2022/1529)

(see paragraphs 88-90)

5. *Common foreign and security policy – Restrictive measures taken having regard to 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 and independence of Ukraine, and of natural or legal persons, entities or bodies 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 new incriminating evidence – No notification of inculpatory evidence – No infringement of the right to be heard*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/582 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/581 and 2022/1529)

(see paragraphs 91, 97-99, 101)

6. *EU law – Principles – Rights of the defence – Right to effective judicial protection – Restrictive measures taken having regard to the situation in Ukraine – No right to a prior formal hearing*

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/582 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/581 and 2022/1529)

(see paragraph 92)

7. *EU law – Principles – Rights of the defence – Right to effective judicial protection – Restrictive measures taken having regard to 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 and independence of Ukraine, and of natural or legal persons, entities or bodies associated with them – Obligation to disclose incriminating*

evidence – Scope – Unlawfulness of the act depending on proving the procedural relevance of the infringement of that obligation – No effect in the present case

(Council Decision 2014/145/CFSP, as amended by Decisions (CFSP) 2022/582 and (CFSP) 2022/1530; Council Regulations No 269/2014, 2022/581 and 2022/1529)

(see paragraphs 95, 96, 100)

8. *Non-contractual liability – Conditions – Unlawfulness – Damage – Causal link – Cumulative conditions – One of the conditions not satisfied – Action for damages dismissed in its entirety*

(Art. 340, second para., TFEU)

(see paragraphs 104-106)

Operative part

The Court:

1. Dismisses the action;
2. Orders Ms Elena Petrovna Timchenko to bear her own costs and to pay those incurred by the Council of the European Union;
3. Orders the European Commission to pay its own costs.