

Action brought on 22 May 2015 — Kiselev v Council

(Case T-262/15)

(2015/C 294/85)

*Language of the case: English***Parties**

Applicant: Dmitry Konstantinovich Kiselev (Korolev, Russia) (represented by: T. Otty and B. Kennelly, Barristers, and J. Linneker, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul Council Decision (CFSP) 2015/432 of 13 March 2015 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine and Council Implementing Regulation (EU) 2015/427 of 13 March 2015 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining the territorial integrity, sovereignty and independence of Ukraine insofar as it applies to the applicant;
- order the defendant to pay the applicant's costs.

Pleas in law and main arguments

In support of the action, the applicant relies on six pleas in law.

1. First plea in law, alleging a manifest error of assessment in finding that the applicant satisfied the criterion for listing in Article 1(1) of the Decision (as amended) and Article 2(1) of the Regulation (as amended).
 - The applicant puts forward that in order to ensure compliance with Article 11 of the Charter of Fundamental Rights of the European Union and Article 10 of the European Convention on Human Rights, the criteria for listing in the Decision and Regulation must be interpreted consistently with the right to freedom of expression. According to the applicant, the criterion that a person '*actively supports*' Russian government policies in relation to Ukraine must require the person to have a greater degree of influence over the relevant policies than merely expressing a view in a journalistic context. The applicant, so he claims, is a journalist and the director of a media company only and thus does not have the requisite influence or concrete impact on, and responsibility, for the situation in Ukraine. In fact, the applicant has never expressed support for '*the deployment of Russian forces in Ukraine*' as the Council claims.
2. Second plea in law, alleging an infringement of the freedom of expression.
 - According to the applicant, the restrictive measures punish the applicant for the political views that he has expressed as a journalist and a commentator. They also restrict his ability to exercise his right to freedom of expression as well as the operation of the news agency, Rossiya Segodnya, which he manages. According to the applicant, the mere fact that the Council objects to the content of some of the applicant's reportage cannot justify restrictions. In addition, there is no evidence that he has incited violence or done anything to justify a restriction on his free speech rights.

3. Third plea in law, alleging a violation of the applicant's right of defence and the right to effective judicial protection.
 - The applicant puts forward that he was never given 'serious and credible evidence' or 'concrete evidence and information' in support of a case which would justify restrictive measures against him. The applicant, so he claims, was provided with the Council's 'evidence' (and then in part) only after he had been relisted.
4. Fourth plea in law, alleging that the Council failed to give the applicant sufficient reasons for his inclusion.
 - According to the applicant, the reason provide is excessively vague and fails to identify the actual and specific reason form imposing restrictive measures on the applicant.
5. Fifth plea in law, alleging, alternatively, that the Council relied on an illegal measure (to the extent that the criterion for listing permits a violation of the applicant's right to freedom of expression).
 - The applicant puts forward that if, contrary to the first plea, the criterion is to be interpreted so as to permit the listing of natural persons engaged in media activities simply by reason of their expression of political views which the Council regards as objectionable, the designation criterion would lack a proper legal base and/or be disproportionate to the objectives of the Decision and the Regulation.
6. Sixth plea in law, alleging a breach of the EU/Russia Partnership and Cooperation Agreement.
 - The applicant puts forward that no attempt has been made to justify the breaches of Article 52 of the Partnership and Cooperation Agreement involved in restricting the free movement of the funds of the applicant (among others) and no attempt has been made to engage with the Cooperation Council under Article 90.

Action brought on 29 May 2015 — Hmicho/Conseil

(Case T-275/15)

(2015/C 294/86)

Language of the case: English

Parties

Applicant: Samir Hmicho (Poole, United Kingdom) (represented by: V. Davies, Solicitor, and T. Eicke, QC)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14), and/or Council Implementing Decision (CFSP) 2015/383 of 6 March 2015 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2015 L 64, p. 41), and/or Council Implementing Decision (CFSP) 2015/784 of 19 May 2015, implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2015 L 124, p. 13), in so far as they relate to the Applicant;
- annul Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria (OJ 2012 L 16, p. 1), and/or Council Implementing Regulation (EU) 2015/375 of 6 March 2015 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2015 L 124, p. 1), and/or Council Implementing Regulation (EU) 2015/780 of 19 May 2015 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2015 L 64, p. 10), in so far as they relate to the Applicant;