



Press and Information

Court of Justice of the European Union

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Judgment in Case C-72/15

The Queen, on the application of PJSC Rosneft Oil Company, formerly OJSC Rosneft Oil Company v Her Majesty's Treasury, Secretary of State for Business, Innovation and Skills and The Financial Conduct Authority

The restrictive measures adopted by the Council in response to the crisis in Ukraine against certain Russian undertakings, including Rosneft, are valid

The Court of Justice has jurisdiction to give preliminary rulings on the legality of restrictive measures against individuals or entities in the context of the Common Foreign and Security policy

By a decision of 31 July 2014¹ and a regulation of the same date,² the Council adopted restrictive measures in response to actions of Russia to destabilise the situation in Ukraine. Those measures impose restrictions on certain financial transactions and on the export of certain sensitive goods and technologies, restrict the access of certain Russian entities to the capital market and prohibit the provision of services required for certain oil transactions. The objective of the measures adopted by the Council is to increase the cost of the actions taken by Russia to undermine the sovereignty of Ukraine. One of the companies affected by those measures is the Russian company, Rosneft, which specialises in the oil and gas sector.

Rosneft has challenged before the High Court of Justice (England & Wales) the validity, in the light of EU law, of the restrictive measures imposed by the Council on it and the implementing measures adopted by the United Kingdom that are based on the Council acts. That court's question to the Court of Justice is, in essence, whether the acts of the Council and the United Kingdom are valid.

As regards the measures adopted by the United Kingdom, the referring court seeks, in particular, to ascertain whether, first, the United Kingdom was entitled, in the event of an infringement of the restrictive measures, to establish criminal penalties before the Court has clarified the meaning of terms used by the Council. Second, it asks whether the restrictive measures relate to the processing of payments by banks and prohibit the issuance of Global Depository Receipts representing shares issued before the adoption of those measures.

In its judgment today, **the Court considers, first, that it has jurisdiction to give preliminary rulings on the validity of an act adopted on the basis of provisions relating to the Common Foreign and Security Policy (CFSP)**, such as the Council decision. The Court specifies however that a reference for a preliminary ruling must relate either to the monitoring of the legality of the decision itself in the light of Article 40 TEU (an article which governs, in essence, the relationship of the CFSP with other Union policies) or a review of the legality of restrictive measures against natural or legal persons.

Next, the Court finds that **there is nothing capable of affecting the validity of the decision or the regulation**. In particular, the Court considers that the fact that the decision predetermines part of the content of the regulation and describes in detail the persons and entities that are to be subject to the restrictive measures does not encroach on the powers attributed to the High

¹ 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), as amended by Council Decision 2014/872/CFSP of 4 December 2014 (OJ 2014 L 349, p. 58, and corrigendum, OJ 2014 L 350, p. 15).

² Council Regulation (UE) 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, and corrigendum, OJ 2014 L 246, p. 59) as amended by Council Regulation (EU) No 1290/2014 of 4 December 2014 (OJ 2014 L 349, p. 20, and corrigendum, OJ 2014 L 246, p. 79).

Representative of the Union for Foreign Affairs and Security Policy and the Commission. The Court states further that the EU-Russia Partnership Agreement does not preclude the adoption of those acts.³ Likewise, the Council stated sufficient reasons for those acts. The Court holds that the importance of the objectives pursued by the contested acts is such as to justify certain operators being adversely affected. Having regard to the fact that the restrictive measures adopted by the Council in reaction to the crisis in Ukraine have become progressively more severe, interference with Rosneft's freedom to conduct a business and its right to property cannot be considered to be disproportionate.

The Court also holds that the terms of the regulation do not preclude a Member State imposing criminal penalties that are to be applied in the event of an infringement of the provisions of the regulation. The fact that the terms used in the regulation may be subject to clarification, gradually and subsequently, by the Court does not prevent a Member State from establishing penalties in order to ensure its effective implementation.

The Court holds that **the restrictive measures do not relate to the processing of payments by banks**. The Court states that the EU legislature would have used an expression other than 'financial assistance' if it had wanted the processing of all bank transfers to be subject to an additional authorisation request, given the fact that the payment services are provided by financial institutions as intermediaries, without any commitment of their own resources; further, the Court notes in this connection that it is not the aim of the regulation to establish a freezing of assets or restrictions on the transfer of funds.

Last, **the Court holds that the measures prohibit the issuance of Global Depositary Receipts representing shares issued before the adoption of those measures.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Holly Gallagher ☎ (+352) 4303 3355

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³ The Agreement on partnership and cooperation establishing a partnership between the European Communities and their Member States, of one part, and the Russian Federation, of the other part, signed in Corfu on 24 June 1994.