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Judgment of the General Court in Case T-65/18 RENV | Venezuela v Council

The General Court dismisses the action brought by Venezuela against the restrictive measures of the European Union

Having regard to the worsening of the situation regarding human rights, the rule of law and democracy, on 13 November 2017 the Council of the European Union adopted restrictive measures in view of the situation in Venezuela.¹ Those measures laid down, in essence, a prohibition on the sale, supply, transfer or export of equipment which might be used for internal repression and services related to that equipment and military equipment to any natural or legal person, entity or body in, or for use in, Venezuela.

On 6 February 2018, Venezuela brought an action before the General Court of the European Union seeking the annulment of Regulation 2017/2063 in so far as the provisions of that regulation concerned it. Subsequently, Venezuela amended its action to cover, in addition, Decision 2018/1656 and Implementing Regulation 2018/1653², acts by which the Council had, respectively, extended and amended the restrictive measures adopted.

By judgment of 20 September 2019, the General Court dismissed that action as inadmissible, on the ground that Venezuela's legal situation was not directly affected by the measures at issue³. Hearing an appeal brought by Venezuela, on 22 June 2021 the Court of Justice set aside⁴ the judgment of the General Court in so far as it had declared inadmissible the action brought by Venezuela inasmuch as it sought the annulment of Articles 2, 3, 6 and 7 of Regulation 2017/2063 and referred the case back to the General Court for a ruling on the substance.

By its judgment, delivered today, **the General Court rejects all the arguments relied on by Venezuela in support of its request for annulment of Articles 2, 3, 6 and 7 of Regulation 2017/2063.**

First, according to the General Court, Venezuela did not have the right to be heard before the adoption of the measures at issue, which constitute measures of general application. Indeed, the right to be heard applies to individual measures taken in respect of a person and cannot be relied on in connection with the adoption of measures of general application.

In addition, hearing a concerned third country, prior to the adoption of restrictive measures implementing an external policy choice, would be tantamount to requiring the Council to conduct discussions similar to international negotiations with that country. This would negate the desired effect of imposing restrictive measures with regard to the country concerned, namely exerting pressure on that country in order to bring about a change in its behaviour.

Secondly, as regards the Council's obligation to state reasons, the General Court notes that the overall situation which led to the adoption of the restrictive measures, as well as the objectives pursued by those measures, were

¹ Council Regulation (EU) 2017/2063 of 13 November 2017 concerning restrictive measures in view of the situation in Venezuela (OJ 2017 L 295, p. 21).

² Council Decision (CFSP) 2018/1656 of 6 November 2018 amending Decision (CFSP) 2017/2074 concerning restrictive measures in view of the situation in Venezuela (OJ 2018 L 276, p. 10) and Council Implementing Regulation (EU) 2018/1653 of 6 November 2018 implementing Regulation (EU) 2017/2063 concerning restrictive measures in view of the situation in Venezuela (OJ 2018 L 276, p. 1).

³ Judgment of 20 September 2019, *Venezuela v Council*, [T-65/18](#).

⁴ Judgment of 22 June 2021, *Venezuela v Council*, [C-872/19 P](#) (Affectation d'un État tiers). See also [PR No 112/21](#).

amply explained by the Council and could not have been unknown to Venezuela.

Thirdly, regarding the arguments alleging material inaccuracy of the facts, as well as a manifest error in assessing the political situation in Venezuela, the General Court finds that the Council relied on credible and reliable information in order to assess the situation in Venezuela, and that Venezuela has not shown that the facts relied on were vitiated by material inaccuracies. In addition, the Council was able to consider that, on the date of adoption of the contested regulation, violence, excessive use of force, human rights violations, and threats to democracy in Venezuela were sufficiently well established and that there were risks of such incidents recurring in the future. Thus, the Council was able to conclude, without making a manifest error of assessment, that there were threats to democracy, the rule of law and human rights in Venezuela.

Fourthly, the General Court rejects the arguments relied on by Venezuela alleging that unlawful countermeasures have been imposed and that there has been an infringement of international law. In that regard, first of all, the General Court considers that the measures at issue do not constitute countermeasures, because the restrictive measures concerned are not covered by the conditions set out in the Draft articles on Responsibility of States for Internationally Wrongful Acts, as adopted in 2001 by the United Nations International Law Commission. In addition, in accordance with the case-law, the General Court rejects the argument relied on by Venezuela according to which the Council did not have the power to adopt those restrictive measures without the prior authorisation of the United Nations Security Council (UN). The General Court adds that Venezuela has not established the existence of 'a general practice accepted as law' requiring such authorisation to be obtained prior to the adoption, by the Council, of restrictive measures. Next, the General Court rejects the arguments relied on by Venezuela alleging infringement of the World Trade Organization (WTO) Agreements. Indeed, Venezuela does not argue that the contested regulation refers expressly to provisions of the WTO Agreements and, in addition, it has not indicated by which acts or on what occasion the Union intended to implement, by means of the contested regulation, any particular obligation assumed in the context of the WTO. Lastly, the General Court also rejects the argument relied on by Venezuela alleging exercise, by the Council, of extraterritorial jurisdiction. In that regard, the General Court notes that the restrictive measures at issue concern persons and situations falling within the jurisdiction of the Member States *ratione loci* or *ratione personae*. In that context, the General Court recalls that the Council's power to adopt restrictive measures falls within a context of independent measures of the Union adopted in the context of the Common foreign and security policy (CFSP), which are intended, inter alia, to ensure respect for the *erga omnes partes* obligations to respect the principles derived from general international law and international instruments of a universal or quasi-universal nature, in particular Article 1 of the United Nations Charter.

NOTE: An appeal, limited to points of law, may be brought before the Court of Justice against the decision of the General Court within two months and 10 days of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text and, as the case may be, the résumé](#) of the judgment are published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355

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