



## PRESS RELEASE No 180/23

Luxembourg, 23 November 2023

Advocate General's Opinion in Case C-351/22 | Neves 77 Solutions

### **Advocate General Ćapeta: The Court does not have jurisdiction to interpret general provisions of an EU Common Foreign and Security Policy measure merely in order to clarify their meaning**

*However, the Court can interpret EU fundamental rights and principles to enable assessment of the lawfulness of national measures implementing the EU Common Foreign and Security Policy*

Neves 77 Solutions is a company that is active in brokering in the sale of products in the field of aviation. In 2020, the Romanian National Tax Administration Agency fined Neves around € 6,000 and confiscated approximately € 3 million, representing the sums that Neves had received from a brokering transaction involving the supply of radio sets manufactured in Russia to an Indian company. It considered that Neves had infringed EU restrictive measures against Russia introduced by a Council Common Foreign and Security Policy (CFSP) Decision <sup>1</sup>, as well as the Romanian implementation measures.

The Romanian appellate court, deciding on the action brought by Neves, wonders whether the national implementing measures run counter to EU law and in particular rights contained in the Charter of Fundamental Rights of the European Union. It is also unsure whether the CFSP Decision at stake applies to a situation where the goods have never been imported into the EU. It therefore submitted a request for a preliminary ruling to the Court of Justice.

Together with the joined cases C- 29/22 P and C-44/22 P, *KS and KD v Council and Others*, in which Advocate General Ćapeta also delivered her Opinion today (Press Release No 179/23), this case raises important questions regarding the limits of the EU Courts' jurisdiction in the area of the CFSP set by the Treaties.

**In her Opinion, Advocate General Tamara Ćapeta concludes that the Court has jurisdiction to interpret EU fundamental rights and principles, even if the Court's interpretation is relevant for the assessment by a national court of the lawfulness of national measures that implement the CFSP. However, EU law excludes the Court's jurisdiction to interpret general provisions of a CFSP Decision in order to clarify their meaning.**

On that basis, the Advocate General examines the national confiscation measures in the light of the right to property. She considers that **national measures providing for the confiscation of the entire proceeds of a transaction undertaken in breach of a CFSP decision constitute a proportionate limitation of the right to property**. This is so even if the confiscation is an automatic consequence of the failure to notify the transaction to the competent authorities.

**NOTE:** The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

**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.

Unofficial document for media use, not binding on the Court of Justice.

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

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<sup>1</sup> [Council Decision 2014/512/CFSP](#) of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.