



The General Court upholds the freezing of funds of the Russian company Almaz-Antey

In response to the crisis in Ukraine, the Council adopted, in early 2014, restrictive measures (freezing of funds and refusing entry into EU territory) against natural or legal persons whose activities are undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

In that context, the Council decided to freeze the funds of the Russian company Almaz-Antey Air and Space Defence ('Almaz-Antey') on the following grounds: 'Almaz-Antey is a Russian state-owned company. It manufactures anti-aircraft weaponry including surface-to-air missiles which it supplies to the Russian army. The Russian authorities have been providing heavy weaponry to separatists in Eastern Ukraine, contributing to the destabilization of Ukraine. These weapons are used by the separatists, including for shooting down airplanes. As a state-owned company, Almaz-Antey therefore contributes to the destabilization of Ukraine.' Almaz-Antey applied to the General Court to annul the continuation of the freezing of its funds for 2015 and 2016.¹

In today's judgment (the first concerning the freezing of funds of a Russian company in connection with the crisis in Ukraine²), **the Court dismisses the action brought by Almaz-Antey and thus upholds the freezing of that company's funds.**

The Court finds, first of all, that **the Council did not act disproportionately in deciding to freeze the funds of entities supporting, materially or financially, actions of the Russian Government which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine.** The freezing of funds of such entities makes it possible to reach the objective to prevent the escalation of the conflict in Ukraine. By targeting, first, persons and entities responsible for actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine and then, secondly, persons and entities materially or financially supporting such actions, the Council could legitimately expect that those actions cease or become more costly for those who undertake them, in order to promote a peaceful settlement of the crisis in Ukraine. Furthermore, such a freeze is necessary, given that alternative and less restrictive measures, such as a system of prior authorisation or an obligation to justify, a posteriori, how the funds transferred were used, are not as effective in achieving the goal pursued, particularly given the possibility of circumventing such restrictions.

As regards the merits of the grounds for the freeze, the Court upholds the Council's assessment that Almaz-Antey is a Russian state-owned company, owned and controlled by the Russian State, with very limited freedom of action compared with that State and largely dependent on it for its activities. The documents provided by the Council demonstrate, moreover, that Almaz-Antey

¹ Almaz-Antey did not challenge the freezing of its funds for the period from 31 July 2014 to 15 March 2015. It does, however, dispute the continuation of the freeze from 15 March 2015.

² To date, in the context of the crisis in Ukraine, the Court has ruled on the freezing of funds of Ukrainian nationals suspected of having misappropriated public funds or assets in Ukraine (see, inter alia, Press Release Nos: [129/15](#), [7/16](#) and [97/16](#)). In addition, on 30 November 2016, the Court ruled on the freezing of funds of a Russian natural person, [T-720/14](#), *Rotenberg v Council* see Press Release No [131/16](#).

manufactures anti-aircraft weaponry, including BUK M1-2 and M2E surface-to-air missiles and Aistenok radars, and that it supplies Russia with weaponry. The Council also established that Russia actually supplied weapons to the separatists in Eastern Ukraine. Thus, **by manufacturing weapons and military equipment and supplying them to the Russian State, which itself supplies weapons to the separatists in Eastern Ukraine, Almaz-Antey materially supports actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine.**

Furthermore, the Council produced numerous press articles reporting on the **shooting down of Ukrainian army aircraft and helicopters by the separatists**, including, in particular, a military cargo-plane transporting 49 soldiers. Those press articles, which come from several different sources and are sufficiently specific, precise and consistent as regards the facts there described, corroborate the existence of Russian involvement in the conflict in Ukraine, in particular through the supply of weapons and military equipment to the separatists in Eastern Ukraine. The Court further points out that Almaz-Antey has not called into question the purely factual information reported in those articles, nor has it even sought to establish in what way they are manifestly incorrect. As regards the **destruction of Malaysia Airlines flight MH17** killing 298 people on 17 July 2014, allegedly caused by a BUK missile, also manufactured by Almaz-Antey, the Court stated that the issue whether the destruction of that aeroplane must be imputed to the Ukrainian army or to the separatists is **irrelevant**, given that that incident was not decisive in the reasons given for the freezing of the funds of Almaz-Antey.

Finally, the Court considers that **the Council was not required to demonstrate positively that the weapons which Almaz-Antey produced were used in Ukraine by the separatists.** Such evidence would be difficult to provide, in particular in a conflict situation where it is sometimes difficult to establish exactly the specific responsibilities and the types of weapons used by each of the warring parties. Furthermore, the Court recalls that the existence merely of a risk that an entity may act reprehensibly may be sufficient to impose an asset freeze on it.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months 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](#) of the judgment is published on the CURIA website on the day of delivery

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