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Judgments of the Court in Case C-483/23 | T Trust and in Joined Cases C-428/24 | FZ AR and C-476/24 | SX (Freezing of assets in trust)

Restrictive measures: the freezing of assets held by a trust is compatible with EU law

The Court of Justice has heard three cases concerning the freezing of funds and economic resources linked indirectly, through trust structures,¹ to persons subject to restrictive measures taken by the European Union in view of Russia's military aggression against Ukraine.

In Case C-483/23, **companies B, A, C and D** are controlled by a Bermuda company, which is itself held by a trust governed by the legislation of Bermuda, the trustee of which is a Swiss company. The settlor of the trust was removed from the list of beneficiaries before being subject to sanctions in 2022. The Italian authorities nevertheless imposed a freezing measure on the companies and their assets, finding them to be substantially attributable to the settlor.

In Joined Cases C-428/24 and C-476/24, the first situation is that of the Italian company **FZ AR**, a member of an international group and held indirectly by a trust established in Bermuda. The original beneficial owner was ZU, who was subsequently replaced by his spouse, TU, sanctions having been imposed on both in 2022.

In the second case, the **yacht 'Sailing'**, which is in Italy, belongs to the company SX, itself controlled by a trust of which TU is the sole beneficiary.

In both cases, even though the terms of the trusts bar any transfer to persons subject to sanctions and any form of control by such persons, the authorities imposed freezing measures on the company FZ AR and on the yacht, finding that in practice they remained attributable to the trust beneficiary.

The companies concerned challenged those decisions before an Italian administrative court, claiming that the persons subject to sanctions had no power to dispose of the assets subject to freezing or any control over their management.

The Italian court referred questions to the Court of Justice in order to determine whether, in relation to EU restrictive measures, the concepts of 'belonging to' and of 'control' in respect of funds and economic resources can be extended to include the settlor or the beneficiaries of a trust, even where the trustees are not able to dispose of the assets in question.

In its judgments, the Court finds that EU law,² in the different language versions of the regulation at issue, covers a variety of legal relationships between the person or entity subject to sanctions and the funds and economic resources at issue, ranging from the most extensive legal relationship, namely ownership, to situations in which the person or entity can exercise *de facto* power over those funds and resources. In order to ensure the effectiveness of EU law, **the concepts of 'belonging to' and of 'control' must therefore be interpreted in such a way that they encompass all forms of power or influence exercised over those assets, including in the absence of any legal link between them and the person concerned.**

This means that **assets can be regarded as belonging to or being under the control of the settlor or the beneficiary** of a trust, **where those persons have power to use, benefit from or dispose of those resources or to have influence over them and over the decisions made by the trustee in relation to them.**

That interpretation is in line, first, with the **purpose** of the ‘freezing of funds and economic resources’, which is intended to **limit as much as possible the transactions that may be carried out with the assets concerned**, and, second, with the **objective of restrictive measures**, namely the **protection of Ukraine’s territorial integrity** and maintenance of international peace and security, which require that **any circumvention of those measures be prevented.**

In that regard, **indications that assets belong to or are controlled** by the beneficiary or the settlor **may be inferred from factual circumstances** ³ **or from the presence of needlessly complex legal structures.** ⁴

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 EU law or the validity of an EU 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 and, as the case may be, an abstract of the judgments ([C-483/23](#) and [C-428/24 and C-476/24](#)) is published on the CURIA website on the day of delivery.

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¹ According to the Convention on the Law Applicable to Trusts and on their Recognition, concluded in The Hague on 1 July 1985, ‘the term “trust” refers to the legal relationships created – *inter vivos* or on death – by a person, the settlor, when assets have been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose’.

² Article 2 of [Council Regulation \(EU\) No 269/2014](#) of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

³ The relevant factual circumstances concern the relationships between the beneficiary or settlor and the other persons involved in the trust, and the allocation of the economic resources in the trust to activities intended primarily, even if indirectly, for the beneficiary or the settlor.

⁴ Such indications include the fact that the beneficiary or settlor holds a majority of the capital of or voting rights in the trustee; the fact that certain entities are set up or change their identity shortly before sanctions come into force; and the relationships between the director of the companies subject to freezing measures and the beneficiary or settlor.