Judgment of the Court in Case C-147/25 | Inter Rao Lietuva

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The existence of control over a company by a person subject to EU restrictive measures must be supported by objective and sufficiently solid evidence

The autocratic nature of Russia's political regime does not, in itself, constitute sufficiently solid evidence capable of proving that the President of Russia exerts control over a company

The company Inter Rao Lietuva operated in Lithuania as an independent importer and supplier of electricity. In 2022, its funds were frozen after it was included on a list of persons with links to persons subject to EU restrictive measures, in this case the President of Russia. [1] That listing by the competent Lithuanian authority was based, inter alia, on the fact that that company is indirectly owned by Inter Rao, a company incorporated under Russian law whose main shareholders are undertakings indirectly owned by Russia.

Inter Rao Lietuva challenged the freezing of its funds. The Supreme Administrative Court of Lithuania, hearing the case at last instance, decided to refer the matter to the Court of Justice. It seeks to ascertain whether that freezing of funds may be ordered without hearing the company concerned. It also raises questions concerning its powers of scrutiny in the context of threats to national security, in this case Russian influence, whether direct or indirect, over the Lithuanian energy sector. Lastly, it enquires about the standard of proof that must be met in order to demonstrate the existence of links with persons subject to EU restrictive measures.

In its judgment, the Court recalls that **restrictive measures, imposed by an EU regulation, are directly applicable in all Member States** and do not require any national implementing measures. A measure freezing the funds of legal persons because, *inter alia*, those funds belong to or are controlled by persons subject to EU restrictive measures does not therefore amount to a national sanction or an additional sanction over and above the restrictive measures imposed by the Council of the European Union. Rather, it constitutes implementation of those measures. **In doing so, the national authority is required to respect the fundamental rights guaranteed by the Charter of Fundamental Rights of the European Union.**

Against that background, the Court recalls its case-law concerning EU authorities and observes that **the requirements arising from the general principle relating to the right to good administration must apply in the same way to national authorities**. Thus, prior communication would be liable to jeopardise the effectiveness of fund-freezing measures. For the same reasons, it is also not appropriate to hear the person or entity subject to restrictive measures beforehand. However, the grounds must be communicated as soon as possible thereafter so that the persons concerned can exercise their right to bring an action.

In addition, when reviewing the legality of the national measure, the national courts must satisfy themselves that that measure rests on a sufficiently solid factual basis, which entails a verification of the facts alleged in the statement of reasons. **However, there is no need for national courts to assess whether there is a threat to national security** when reviewing the lawfulness of an asset-freezing measure implementing restrictive measures imposed by EU law.

Furthermore, where the national measure is based on the existence of control over a company by a person subject to EU restrictive measures, national courts must satisfy themselves that the competent national authority has proven such control, on an objective and sufficiently solid basis, by direct evidence or by a sufficiently specific, precise and consistent set of indicia. In the present case, the national authorities argued that Inter Rao Lietuva is in a situation in which the Russian President is able to influence its decisions, as the case may be in the absence of any legal ties or links in terms of ownership or equity participation.

In that regard, the fact that Russia's political regime is 'autocratic and oligarchic, taking the form of effective and genuine, albeit informal, control … over … economic operators in that State', with the result that 'it must be concluded that the President of [Russia] is, by virtue of his *de facto* unlimited powers … able to exert genuine and effective control over persons and undertakings operating in Russia', does not constitute sufficiently solid evidence capable of establishing the existence of control over that company. However, the referring court may take into account all the information or circumstances relating to the reality and effectiveness of the control, even of an informal nature, exerted by that person over the company incorporated under Russian law, provided that that information or those circumstances are supported by objective and sufficiently solid evidence.

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 of the European Union about the interpretation of EU law or the validity of an EU act.

The General Court has jurisdiction to deal with requests for a preliminary ruling coming exclusively within the following areas (1) the common system of value added tax (VAT), (2) excise duties, (3) the Customs Code, (4) the tariff classification of goods under the Combined Nomenclature, (5) compensation and assistance to passengers in the event of denied boarding or delay or cancellation of transport services, or (6) the system for greenhouse gas emission allowance trading. The Court of Justice has jurisdiction to deal with all other requests for a preliminary ruling.

Neither the Court of Justice nor the General Court decides the national dispute itself. It is for the national court or tribunal to resolve the case in accordance with the ruling by the Court of Justice or by the General Court, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

The full text and, as the case may be, an abstract of the judgment is published on the CURIA website on the day of delivery.

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[1] Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, as amended by Council Decision 2022/660/CFSP of 21 April 2022, and 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, as amended by Council Implementing Regulation (EU) 2022/658 of 21 April 2022.