



Press and Information

General Court of the European Union

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Judgments in Cases T-302/19 and T-303/19
Yanukovych v Council

The General Court annuls the Council's 2019 acts extending the fund-freezing measures imposed on Viktor Yanukovych, former President of Ukraine, and his son, Oleksandr Yanukovych

The Council failed to demonstrate that the rights of the defence and the right to effective judicial protection were respected in the criminal proceedings underlying that extension which are being conducted against those individuals by the Ukrainian authorities

Following the suppression of the demonstrations in Independence Square in Kiev (Ukraine) in February 2014, the Council of the European Union adopted restrictive measures against certain individuals in March 2014, including Mr Viktor Fedorovych Yanukovych, President of Ukraine at the time of those demonstrations, and his son, Mr Oleksandr Viktorovych Yanukovych, a Ukrainian businessman. Those measures, ordering the funds of the individuals listed to be frozen, were imposed on those two men, initially for one year, because they were subject to criminal proceedings in Ukraine for involvement in crimes in connection with the embezzlement of State funds and their illegal transfer outside Ukraine.

In March 2015, the Council extended the restrictive measures against the two men by one year on the ground that they were subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets. By judgments of 15 September 2016,¹ the General Court of the European Union annulled the March 2014 acts in so far as they related to the two individuals concerned, and dismissed their actions in so far as they related, inter alia, to the March 2015 acts. By judgments of 19 October 2017,² the Court of Justice dismissed the appeals brought by both men against the judgments of the General Court.

In March 2016, 2017 and 2018, the Council extended the restrictive measures against the two individuals concerned by one year on the ground that they were subject to criminal proceedings by the Ukrainian authorities, in particular for the misappropriation of public funds or assets. Those measures have been systematically annulled by the General Court.³

In March 2019, for the same reasons as those underpinning the 2018 acts, the application of the restrictive measures against the two men was once again extended by one year. The legality of that step has been challenged by them in the present cases before the General Court.⁴

By its judgments, delivered today, the General Court notes that, while the Council can base restrictive measures on the decision of an authority of a competent third State to initiate and conduct criminal proceedings relating to an offence of misappropriation of public funds of that

¹ Judgments of the General Court of 15 September 2016, *Yanukovych v Council* and *Yanukovych v Council*, [T-346/14](#) and [T-348/14](#) (see also [PR No 97/16](#)).

² Judgments of the Court of Justice of 19 October 2017, *Yanukovych v Council* and *Yanukovych v Council*, [C-598/16 P](#) and [C-599/16 P](#) (see also [PR No 108/17](#)).

³ Judgments of the General Court of 11 July 2019, *Yanukovych v Council* and *Yanukovych v Council*, Joined Cases [T-244/16](#) and [T-285/17](#) and Joined Cases [T-245/16](#) and [T-286/17](#) (see also [PR No 93/19](#)), and of 24 September 2019, *Yanukovych v Council* and *Yanukovych v Council*, [T-300/18](#) and [T-301/18](#).

⁴ On 5 March 2020 and 4 March 2021, the Council again extended the restrictive measures against Mr Viktor Fedorovych Yanukovych and Mr Oleksandr Viktorovych Yanukovych, who are challenging the legality of the corresponding acts of the Council in Cases [T-291/20](#), [T-292/20](#), [T-262/21](#) and [T-263/21](#), which are currently pending before the General Court.

State, the Council must nevertheless satisfy itself that the rights of the defence and the right to effective judicial protection were respected by that authority. In that context, the Council must show, in the act imposing the restrictive measures, that it has verified that the decision of the authority of the third State was taken in accordance with those rights.

In that regard, the Court notes that the Council referred in the 2019 acts to the reasons why it considered that the decision of the Ukrainian authorities to initiate and conduct criminal proceedings against the two individuals concerned had been adopted in accordance with their procedural rights.

As to whether those reasons were well founded, the Court finds that the Council took into account a series of judicial decisions relating to those criminal proceedings as part of the factual basis justifying the maintenance of the restrictive measures at issue. However, **the Council did not demonstrate that it had actually examined those decisions and that it was able to conclude from them that the essence of the procedural rights of the individuals concerned had been complied with.** Nor did the Council explain to what extent those decisions demonstrate that those rights were respected by the Ukrainian judicial authorities in the context of the commencement and pursuit of the criminal proceedings referred to above. In any event, **those decisions, which fall more generally within the scope of the criminal proceedings concerned, are not capable, alone, of demonstrating that the criminal proceedings in question were initiated and conducted in accordance with the rights of the defence and the right to effective judicial protection.**

Furthermore, the Court points out that where, as in the present cases, a person has been the subject of restrictive measures for several years on account, essentially, of the continuing conduct of the same preliminary investigation by the Prosecutor General's Office of Ukraine, the Council is required to verify whether that person's right to be tried within a reasonable time has been respected by the Ukrainian authorities before it decides whether or not to extend those measures again. Thus, the Council should at the very least have indicated the reasons for which it was able to conclude that the right of the individuals concerned to have their case heard within a reasonable time had been complied with, **failing which it cannot be concluded that the information available to the Council at the time of the adoption of the contested acts enabled it to verify whether the decision of the Ukrainian judicial authorities to initiate and conduct the criminal proceedings at issue had been taken and implemented in accordance with that right.**

In those circumstances, the Court states that **it cannot be established that, prior to the adoption of the contested acts, the Council satisfied itself that the Ukrainian judicial authorities complied with the rights of defence and the right to effective judicial protection of the individuals in question in the context of the criminal proceedings at issue.** Therefore, in deciding to maintain the names of both men on the list of persons subject to restrictive measures, **the Council made an error of assessment.** Consequently, the General Court **annuls the contested acts in so far as they relate to Mr Fedorovych Yanukovych and Mr Viktorovych Yanukovych.**

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 and ten 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 European Union 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.

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

The full text of the judgments ([T-302/19](#) and [T-303/19](#)) is published on the CURIA website on the day of delivery

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