

The European Union (EU) has the power to adopt restrictive measures, which are preventive, temporary and reversible. Restrictive measures are based on Article 29 of the Treaty on European Union (TEU) for decisions under the Common Foreign and Security Policy (CFSP), and Article 215 of the Treaty on the Functioning of the European Union (TFEU) for implementing those measures through EU regulations.

While the decision-making process you are referring to – where the Council can take decisions to impose restrictive measures on natural persons – rests on the above-mentioned legal bases, the rules regarding the deliberations of the Council are laid down in its Rules of Procedure, in particular Articles 6 to 10 thereof.

As regards respect for the right to be heard, according to the established case-law, ‘in the case of the initial decision placing a person’s or an entity’s name on the list of persons and entities whose funds are frozen, the Council is not required to inform the person or entity concerned beforehand of the grounds on which it intends to rely in order to list that person or entity. So that its effectiveness may not be jeopardised, such a measure must, by its very nature, be able to take advantage of a surprise effect and to apply immediately’¹.

Furthermore, in accordance with its obligations the Council consistently ensures the communication of its decisions, including the grounds for listing, to the listed persons and informs them about possible actions before the Court of Justice of the EU. This communication is done either directly, if the address is known, or through the publication of a notice, providing such persons with an opportunity to present observations, including through legal representation. In terms of judicial review, designated individuals are entitled to it under EU law, primarily under Article 47 of the Charter of Fundamental Rights of the European Union. That Article guarantees the right to an

¹ See judgment of 27 July 2022, *RT France v Council*, T 125/22, EU:T:2022:483, paragraph 80 and the case-law cited

effective remedy and a fair trial. Restrictive measures, such as asset freezes or travel bans, can be challenged before the Courts of the EU by the designated individuals and entities. The Courts ensure a review of the lawfulness of all Union acts in the light of the fundamental rights that form an integral part of the EU.

On 8 October 2024, the EU Council adopted a new restrictive measures framework targeting those responsible for destabilising activities against the EU and its Member States which undermine their fundamental values, security, independence and integrity, or those of international organisations and non-EU countries².

One of the grounds for applying restrictive measures under this framework are the use of information manipulation and interference. Disinformation is not a legal concept on the basis of which natural persons or entities may be entered on the lists.

However, specific and cumulative criteria need to be met. Not only must the use of information manipulation and interference be attributable to the person or entity concerned, but most importantly, the latter must be responsible for, implementing, supporting, benefitting from, involved in or facilitating actions or policies attributable to the Government of the Russian Federation which undermine or threaten democracy, the rule of law, stability or security in the Union or in one or several of its Member States, in an international organisation or in a third country, or which undermine or threaten the sovereignty or independence of one or several of its Member States, or of a third country. These criteria are assessed by the Council on a case-by-case basis, in the light of detailed evidence.

² Consolidated text: Council Decision (CFSP) 2024/2643 of 8 October 2024 concerning restrictive measures in view of Russia's destabilising activities: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02024D2643-20250626>