



**DEC 14, 2021**

**THE COURT OF ODENSE**

# Criminal conviction for supply of jet fuel in breach of EU sanctions

The Court of Odense has ruled in criminal proceedings against two companies and a director for supplying a total of approximately 172,000 tonnes of jet fuel for use in Syria in violation of EU sanctions. The two companies have been punished with fines, while the director has been sentenced to a suspended prison sentence.

The criminal proceedings centred on the whether, contrary to EU Regulation No 36/2012 of 18 January 2012 as amended by Regulation No 1323/2014 of 12 December 2014 concerning restrictive measures in the light of the situation in Syria, T1, had deliberately or in the alternative negligently supplied jet fuel for use in Syria, where a civil war was pending during the period. T2, the parent company of T1, as well as T3, chairman of T1 and T2 CEO, were both charged with intentional or subsidiary negligent complicity in the last eight jet fuel deals that took place between February and May 2017. Prior to that, on 23 December 2016, the Danish Business Authority had contacted T1 in writing and informed, among other things, that the Agency had received a notification of T1's possible complicity in violation of sanctions against Syria in the transport of jet fuel, which the Agency would investigate further. In this context, the Danish Business Authority invited T1 to

provide information on whether the company had in any way helped to transport jet fuel to Syria. By letter of reply of 26 January 2017, T1 Business Authority announced that it had not participated in the sale, transport of jet fuel, etc. or other prohibited activities in relation to Syria.

In all 33 deals, with delivery in the eastern Mediterranean, T1 had sold jet fuel to two Russian companies, each of which was a general agent for the Russian Navy. In all cases, the deals were from T1's branch office in Kaliningrad, Russia. Some of the trades had been reloading the fuel in the space sea through so-called ship-to-ship operations. Based on trade documents, emails, unloading documents and AIS data, the court found that, after receiving the jet fuel from T1, the Russian companies had passed on the jet fuel in the Syrian port of Port Banias, after which the jet fuel had been used by the Russian Air Force for military operations in Syria. The Court found that the supplies objectively constituted infringements of EU sanctions.

The court's majority found that for all 33 deals, T1 must have realized it was overwhelmingly likely that the jet fuel would be used by the Russian military in Syria. Thus, the majority considered that T1 committed an intentional infringement of EU sanctions for all 33 deals, emphasising, inter alia, that the deals were concluded by Russian employees at T1's branch office in Kaliningrad, where Russian intervention in Syria may have been known. It was also emphasised that prior to October 2015 the two Russian companies had not purchased jet fuel from T1, on the amount of jet fuel supplied, and on T1's knowledge that the two companies were general agents of the Russian Navy, which is why the jet fuel should be used by the Russian military. The court's minority found that it was only from September 2016, when one Russian company was sanctioned by US authorities, that T1 committed an intentional violation of EU sanctions. The minority considered that, prior to this, T1 negligently violated the sanctions, since for these deals it should have realised that the Russian companies were supplying jet fuel for use in Syria in violation of EU sanctions.

The Court of Justice unanimously found that both T2 and T3 for the last 8 deals, which took place in February to May 2017, had contributed to a negligent violation of EU sanctions, since, following the Danish Business Authority's approach to T1 in December 2016 and following an internal investigation by the group, T2 and T3 should have realised that, following the Danish Business Authority's request to T1

in December 2016 and following an internal investigation by the group, it should have been recognised that, through the Russian company, jet fuel was supplied for use in Syria in contravention of EU sanctions, and that T2 and T3 could and should have stopped the trades.

The prosecution had demanded that the three defendants be convicted under the indictment, arguing that T1 should be fined DKK 319 million, equivalent to about half of the amount for which jet fuel had been sold (turnover), that T2 should be fined DKK 81 million in accordance with the same principle for the 8 deals, this company was charged and that T3 for the same 8 trades should be punishable by imprisonment for 2 years. The defence lawyers had demanded acquittal and had argued that any fine imposed on the companies should be meted out on the basis of the companies' profits from the deals, which accounted for less than 3 per cent of turnover.

In the court's judgment, T1 was fined DKK 30 million and T2 was fined DKK 4 million. Both fines are meted out on the basis of the companies' profits from the deals, so that the fine for T1's intentional infringement of the rules is measured at about twice the profit, while the fine for T2's negligent infringement is meted out to roughly equal to the profit of the last 8 trades. T3 has been sentenced to four months in prison, which has been suspended. In so doing, the Court of First Instance pointed out, inter alia, that T3 was punished solely for a negligent infringement of the penalties and for the duration of proceedings. In addition, T1 confiscated the proceeds of the trades, which are valued by the court at approx. DKK 15.65 million.