



Reports of Cases

JUDGMENT OF THE GENERAL COURT (Grand Chamber)

13 September 2023*

(Common foreign and security policy – Restrictive measures taken in view of the situation in Venezuela – Prohibition on the sale, supply, transfer or export of certain goods and services – Right to be heard – Obligation to state reasons – Material inaccuracy of the facts – Manifest error of assessment – Public international law)

In Case T-65/18 RENV,

Bolivarian Republic of Venezuela, represented by F. Di Gianni, P. Palchetti, C. Favilli and A. Scalini, lawyers,

applicant,

v

Council of the European Union, represented by M. Bishop and A. Antoniadis, acting as Agents,

defendant,

THE GENERAL COURT (Grand Chamber),

composed of M. van der Woude, President, S. Papasavvas, D. Spielmann, A. Marcoulli, R. da Silva Passos, M. Jaeger, S. Frimodt Nielsen, H. Kanninen, S. Gervasoni, N. Póltorak, I. Reine (Rapporteur), T. Pynnä, E. Tichy-Fisslberger, W. Valasidis and S. Verschuur, Judges,

Registrar: I. Kurme, Administrator,

having regard to the written part of the procedure,

having regard to the judgment of 22 June 2021, *Venezuela v Council (Whether a third State is affected)* (C-872/19 P, EU:C:2021:507),

further to the hearing on 3 March 2023,

gives the following

* Language of the case: English.

Judgment

- 1 By its action pursuant to Article 263 TFEU, the Bolivarian Republic of Venezuela seeks the annulment of (i) Articles 2, 3, 6 and 7 of Council Regulation (EU) 2017/2063 of 13 November 2017 concerning restrictive measures in view of the situation in Venezuela (OJ 2017 L 295, p. 21) ('the contested regulation'), (ii) Council Implementing Regulation (EU) 2018/1653 of 6 November 2018 implementing the contested regulation (OJ 2018 L 276, p. 1), in so far as that implementing regulation concerns it, and (iii) Council Decision (CFSP) 2018/1656 of 6 November 2018 amending Decision (CFSP) 2017/2074 concerning restrictive measures in view of the situation in Venezuela (OJ 2018 L 276, p. 10), in so far as that decision concerns it.

Background to the dispute

- 2 On 13 November 2017, the Council of the European Union adopted Decision (CFSP) 2017/2074 concerning restrictive measures in view of the situation in Venezuela (OJ 2017 L 295, p. 60). First, that decision contains, in essence, a prohibition on exporting to Venezuela weapons, military equipment, or any other equipment which might be used for internal repression, as well as monitoring equipment, technology or software. Secondly, it contains a prohibition on providing Venezuela with financial services, technical services, or services of another nature related to that equipment and technology. Thirdly, it provides for the possibility of putting measures in place for the freezing of the funds and economic resources of persons, entities and bodies. On the date of its adoption, Decision 2017/2074 did not yet contain the name of any person or entity.
- 3 According to recital 1 thereof, Decision 2017/2074 was adopted because of the Union's deep concern regarding the continuing deterioration of democracy, the rule of law and human rights in Venezuela.
- 4 On 13 November 2017, the Council also adopted the contested regulation on the basis of Article 215 TFEU and Decision 2017/2074.
- 5 Article 2 of the contested regulation states:
 - '1. It shall be prohibited:
 - (a) to provide, directly or indirectly, technical assistance, brokering services and other services related to the goods and technology listed in the EU Common List of Military Equipment ("the Common Military List") and to the provision, manufacture, maintenance and use of goods and technology listed in the Common Military List to any natural or legal person, entity or body in, or for use in, Venezuela;
 - (b) to provide, directly or indirectly, financing or financial assistance related to the goods and technology listed in the Common Military List, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of such items, or for the provision of related technical assistance, brokering services and other services, directly or indirectly to any person, entity or body in, or for use in, Venezuela.

...’

6 Article 3 of the contested regulation provides:

‘It shall be prohibited:

- (a) to sell, supply, transfer or export, directly or indirectly, equipment which might be used for internal repression as listed in Annex I, whether or not originating in the Union, to any natural or legal person, entity or body in, or for use in, Venezuela;
- (b) to provide technical assistance and brokering and other services related to the equipment referred to in point (a), directly or indirectly to any natural or legal person, entity or body in, or for use in, Venezuela;
- (c) to provide financing or financial assistance, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, related to the equipment referred to in point (a), directly or indirectly to any natural or legal person, entity or body in, or for use in, Venezuela.’

7 Article 4 of the contested regulation provides that, by way of derogation from Articles 2 and 3 of that regulation, the competent authorities of the Member States may authorise certain transactions under such conditions as they deem appropriate.

8 Under Article 6 of the contested regulation:

‘1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, equipment, technology or software identified in Annex II, whether or not originating in the Union, to any person, entity or body in Venezuela or for use in Venezuela, unless the competent authority of the relevant Member State, as identified on the websites listed in Annex III, has given prior authorisation.

2. The competent authorities of the Member States, as identified on the websites listed in Annex III, shall not grant any authorisation under paragraph 1 if they have reasonable grounds to determine that the equipment, technology or software in question would be used for internal repression by Venezuela’s government, public bodies, corporations or agencies, or any person or entity acting on their behalf or at their direction.

3. Annex II shall include equipment, technology or software intended primarily for use in the monitoring or interception of internet or telephone communications.

...’

9 Article 7(1) of the contested regulation states:

‘Unless the competent authority of the relevant Member State, as identified on the websites listed in Annex III, has given prior authorisation in accordance with Article 6(2), it shall be prohibited:

- (a) to provide, directly or indirectly, technical assistance or brokering services related to the equipment, technology and software identified in Annex II, or related to the installation, provision, manufacture, maintenance and use of the equipment and technology identified in Annex II or to the provision, installation, operation or updating of any software identified in Annex II, to any person, entity or body in Venezuela or for use in Venezuela;
 - (b) to provide, directly or indirectly, financing or financial assistance related to the equipment, technology and software identified in Annex II to any person, entity or body in Venezuela or for use in Venezuela;
 - (c) to provide any telecommunication or internet monitoring or interception services of any kind to, or for the direct or indirect benefit of, Venezuela’s government, public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction.’
- 10 Article 8 of the contested regulation provides, in addition, for the freezing of financial assets belonging to certain natural or legal persons, entities or bodies ‘listed in Annexes IV and V [to that regulation]’. On the date of adoption of the contested regulation, those annexes did not mention the name of any person or entity.
- 11 Under Article 20 of the contested regulation, the restrictive measures apply:
- ‘(a) within the territory of the Union, including its airspace;
 - (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
 - (c) to any person inside or outside the territory of the Union who is a national of a Member State;
 - (d) to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State;
 - (e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.’
- 12 By application lodged at the Registry of the General Court on 6 February 2018, as amended by a document lodged on 17 January 2019, the Bolivarian Republic of Venezuela brought an action seeking the annulment, by the General Court, of (i) the contested regulation, (ii) Implementing Regulation 2018/1653, and (iii) Decision 2018/1656, in so far as the provisions of those acts concerned it.
- 13 By separate document lodged at the Court Registry on 3 May 2018, the Council raised an objection of inadmissibility pursuant to Article 130 of the Rules of Procedure of the General Court.

- 14 By judgment of 20 September 2019, *Venezuela v Council* (T-65/18, EU:T:2019:649) ('the initial judgment'), the General Court held, regarding the contested regulation, that, by its action, the Bolivarian Republic of Venezuela was targeting Articles 2, 3, 6 and 7 of that regulation. The General Court then dismissed the action in that regard as inadmissible, on the ground that the Bolivarian Republic of Venezuela was not directly concerned by the contested regulation and that, accordingly, it did not have *locus standi*. Consequently, the General Court dismissed the action as inadmissible with regard to Implementing Regulation 2018/1653. Regarding Decision 2018/1656, which amends Decision 2017/2074, the action was held to be inadmissible on the ground that the Bolivarian Republic of Venezuela had not requested the annulment of Decision 2017/2074 in its application initiating the proceedings.
- 15 By judgment of 22 June 2021, *Venezuela v Council (Whether a third State is affected)* (C-872/19 P, EU:C:2021:507) ('the judgment on appeal'), the Court of Justice, having considered, as a preliminary point, that the General Court had given a final ruling on the action brought by the Bolivarian Republic of Venezuela inasmuch as that action sought the annulment of Implementing Regulation 2018/1653 and Decision 2018/1656, set aside the initial judgment in so far as it had dismissed that action inasmuch as it sought the annulment of Articles 2, 3, 6 and 7 of the contested regulation.
- 16 The Court of Justice held that the restrictive measures at issue directly affected the legal situation of the Bolivarian Republic of Venezuela. Accordingly, the Court upheld the single ground of the appeal and set aside the initial judgment in that regard.
- 17 In accordance with the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union, the Court of Justice considered that it had the necessary information to enable it to give final judgment on the admissibility of the action brought by the Bolivarian Republic of Venezuela.
- 18 Thus, first, the Court held that the Bolivarian Republic of Venezuela had an interest in bringing proceedings. Second, it held that it followed from the very wording of Articles 2, 3, 6 and 7 of the contested regulation that the prohibitions laid down by those provisions – without prejudice to the derogation or authorisation measures for which they provided and which were not at issue in the dispute – did not entail implementing measures for the purposes of the fourth paragraph of Article 263 TFEU.
- 19 The Court of Justice therefore held that 'the conditions laid down in the third limb of the fourth paragraph of Article 263 TFEU [were] fulfilled' and that, accordingly, the action brought by the Bolivarian Republic of Venezuela before the General Court was admissible inasmuch as it sought the annulment of Articles 2, 3, 6 and 7 of the contested regulation.
- 20 The Court of Justice, reserving the costs, has referred the case back to the General Court so that it may examine it as to the substance.

Forms of order sought by the parties after referral back

- 21 The Bolivarian Republic of Venezuela claims that the Court should:
- annul (i) the contested regulation, (ii) Implementing Regulation 2018/1653, and (iii) Decision 2018/1656, in so far as their provisions concern it;

- order the Council to pay the costs.
- 22 The Council contends that the Court should:
- dismiss the action;
 - order the Bolivarian Republic of Venezuela to pay the costs.

Law

- 23 In support of its action, the Bolivarian Republic of Venezuela raises four pleas in law, alleging (i) infringement of the right to be heard, (ii) failure to fulfil the obligation to state reasons, (iii) material inaccuracy of the facts, as well as a manifest error in assessing the political situation in Venezuela, and (iv) that unlawful countermeasures have been imposed and there has been an infringement of international law.

Preliminary observations

The scope of the dispute

- 24 It should be borne in mind that, under Article 61 of the Statute of the Court of Justice of the European Union, applicable to the General Court by virtue of the first paragraph of Article 53 of that Statute, if the appeal is well founded and the case is referred back to the General Court for it to rule on the dispute, the General Court is bound by the decision of the Court of Justice on points of law. Thus, once the Court of Justice has set aside a judgment or an order and referred the case back to the General Court, the latter is seised, pursuant to Article 215 of its Rules of Procedure, of the case by the judgment of the Court of Justice and must rule on all the pleas in law in support of annulment raised by the applicant, apart from those elements of the operative part not set aside by the Court of Justice and the considerations on which those elements are essentially founded, as those elements have acquired the authority of *res judicata* (judgments of 18 November 2020, *H v Council*, T-271/10 RENV II, EU:T:2020:548, paragraph 38, and of 21 December 2021, *Gmina Miasto Gdynia and Port Lotniczy Gdynia-Kosakowo v Commission*, T-263/15 RENV, not published, EU:T:2021:927, paragraph 26).
- 25 In the judgment on appeal, the Court of Justice set aside the initial judgment in so far as it had dismissed as inadmissible the action brought by the Bolivarian Republic of Venezuela seeking the annulment of Articles 2, 3, 6 and 7 of the contested regulation. In addition, it is apparent from paragraphs 75 and 76 of the judgment on appeal that the Court of Justice has given a final ruling on the admissibility of the action in so far as it concerns those articles.
- 26 Moreover, as the Court of Justice indicated in paragraph 20 of the judgment on appeal, the initial judgment has become final as regards the inadmissibility of the action with regard to Implementing Regulation 2018/1653 and Decision 2018/1656.
- 27 In paragraph 82 of the reply, lodged after the delivery of the judgment on appeal, the Bolivarian Republic of Venezuela repeats, in its first head of claim, its request for annulment of Implementing Regulation 2018/1653 and Decision 2018/1656. However, as a final decision on

the admissibility of that head of claim, inasmuch as it seeks the annulment of those acts, has been made in the initial judgment, the request for annulment of those acts, in so far as it is repeated in the reply, must be rejected as inadmissible.

- 28 Accordingly, in the present case, it is for the General Court to give a ruling exclusively on the merits of all the pleas in law relied on by the Bolivarian Republic of Venezuela in support of its request for annulment of Articles 2, 3, 6 and 7 of the contested regulation.

The nature of the restrictive measures at issue

- 29 As a preliminary point, it should be noted that the application – general or individual – of the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation has a decisive impact on the type and extent, not only of the review to be carried out by the General Court, but also of the rights to which the Bolivarian Republic of Venezuela might be entitled. Accordingly, it is necessary to determine whether those restrictive measures are of general or individual application.
- 30 In that regard, it should be borne in mind that a regulation introducing restrictive measures may contain, on the one hand, restrictive measures of general application, the scope of which is determined by reference to objective criteria, and, on the other, individual restrictive measures, targeting identified natural or legal persons (see, to that effect, judgment of 6 September 2018, *Bank Mellat v Council*, C-430/16 P, EU:C:2018:668, paragraphs 55 and 56).
- 31 In the present case, it should be noted that the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation constitute, in accordance with Article 215(1) TFEU, measures interrupting or reducing economic relations with a third country as regards certain goods – namely equipment which might be used for internal repression and communication equipment which could be misused – and services. Those measures do not target identified natural or legal persons, but apply to objectively determined situations and to a category of persons viewed generally and in the abstract.
- 32 Contrary to the Bolivarian Republic of Venezuela’s assertions, the mere reference to ‘Venezuela’s government’ in Article 6(2) and Article 7(1)(c) of the contested regulation cannot call that finding into question. Indeed, it must be pointed out that those provisions do not refer to the Bolivarian Republic of Venezuela but, as regards Article 6(2) of that regulation, ‘Venezuela’s government, public bodies, corporations or agencies, or any person or entity acting on their behalf or at their direction’ and, as regards Article 7(1)(c) thereof, ‘Venezuela’s government, public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction [or for their direct or indirect benefit]’, that is to say, general and abstract categories of persons or entities. Thus, the Bolivarian Republic of Venezuela is not targeted by name by those provisions.
- 33 This is why the Court of Justice held, in paragraph 92 of the judgment on appeal, that the contested regulation was of general application, ‘in that it [contained] provisions such as Articles 2, 3, 6 and 7 thereof [prohibiting] general and abstract categories of addressees from carrying out certain transactions with entities which [were] also referred to in a general and abstract manner’.
- 34 Accordingly, the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation constitute restrictive measures of general application.

35 It is in the light of those considerations that it is necessary to examine the pleas in law raised by the Bolivarian Republic of Venezuela.

The first plea in law, alleging infringement of the right to be heard

36 The Bolivarian Republic of Venezuela submits that it had the right to be heard prior to the adoption of the contested regulation by virtue of general international law and the fundamental principles of the European Union, in particular Article 41(2)(a) of the Charter of Fundamental Rights of the European Union, especially as it has *locus standi*. Given that it is affected by the restrictive measures at issue, there is nothing to prevent the application of that right in the present case.

37 In particular, the Bolivarian Republic of Venezuela criticises the fact that the Council adopted the contested regulation without either informing it, or hearing it beforehand, as regards, inter alia, the alleged breaches of the Venezuelan Constitution, democratic principles and human rights.

38 The Council disputes the line of argument relied on by the Bolivarian Republic of Venezuela.

39 It should be noted that, in accordance with settled case-law, the right to be heard in an administrative procedure concerning a specific person, which must be observed, even in the absence of any rules governing the procedure in question, cannot be transposed to the procedure provided for in Article 29 TEU and that provided for in Article 215 TFEU leading, as in the present case, to the adoption of measures of general application (see judgment of 13 September 2018, *Rosneft and Others v Council*, T-715/14, not published, EU:T:2018:544, paragraph 133 and the case-law cited). There is no provision that requires the Council to inform any person potentially affected by a new criterion of general application of the adoption of that criterion (judgment of 17 February 2017, *Islamic Republic of Iran Shipping Lines and Others v Council*, T-14/14 and T-87/14, EU:T:2017:102, paragraph 98).

40 The Bolivarian Republic of Venezuela relies on Article 41(2)(a) of the Charter of Fundamental Rights. It should be noted, however, that that provision applies to ‘individual [measures]’ taken in respect of a person, with the result that it cannot be relied on in connection with the adoption of measures of general application, as in the present case.

41 The Bolivarian Republic of Venezuela also relies on a judgment of the International Court of Justice of 25 September 1997 (*Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)*), judgment, ICJ Reports 1997, p. 7, paras 83 and 84). However, that judgment relates exclusively to the specific context of countermeasures being imposed, which will be examined in the context of the fourth plea in law.

42 In addition, the contested regulation is an act of general application which reflects a choice made by the Union in the field of international policy. The interruption or reduction of economic relations with a third country pursuant to Article 215(1) TFEU forms part of the very definition of the common foreign and security policy (CFSP) as set out in the second subparagraph of Article 24(1) TEU, inasmuch as such a reduction or interruption involves the adoption of measures in response to a particular international situation, at the discretion of the Union authorities, in order to influence such a situation. Hearing the third country concerned, prior to the adoption of a regulation implementing such an external policy choice, would be tantamount to requiring the Council to conduct discussions similar to international negotiations with that

country, which would negate the desired effect of imposing economic measures with regard to that country, namely exerting pressure on that country in order to bring about a change in its behaviour.

- 43 Furthermore, the fact that the Bolivarian Republic of Venezuela is directly concerned by Articles 2, 3, 6 and 7 of the contested regulation cannot, in itself, confer on it the right to be heard (see, to that effect, judgments of 14 October 1999, *Atlanta v European Community*, C-104/97 P, EU:C:1999:498, paragraphs 34 and 35, and of 11 September 2002, *Alpharma v Council*, T-70/99, EU:T:2002:210, paragraph 388).
- 44 Accordingly, having regard to the foregoing, it must be concluded that, in the present case, the Bolivarian Republic of Venezuela cannot rely on the right to be heard with regard to the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation.
- 45 The first plea in law must therefore be rejected.

The second plea in law, alleging failure to fulfil the obligation to state reasons

- 46 In the first place, the Bolivarian Republic of Venezuela submits that the contested regulation does not contain a sufficient statement of reasons. It argues that that regulation contains vague and general recitals. According to the Bolivarian Republic of Venezuela, in view of the interference in its internal affairs represented by the restrictive measures, the Council should have provided a more developed statement of reasons.
- 47 In the second place, it argues that the contested regulation, even read in conjunction with Decision 2017/2074, neither contains nor lists items of evidence to support imposing the restrictive measures. Consequently, the Bolivarian Republic of Venezuela is unable to assess whether the restrictive measures are well founded; nor is it in a position to provide an adequate response thereto.
- 48 The Council disputes the arguments relied on by the Bolivarian Republic of Venezuela.
- 49 It is settled case-law that the extent of the obligation to state reasons depends on the nature of the measure in question, and that, in the case of measures intended to have general application, the statement of reasons may be limited to indicating the overall situation which led to the measure's adoption, on the one hand, and the general objectives which it is intended to achieve, on the other (judgments of 19 November 1998, *Spain v Council*, C-284/94, EU:C:1998:548, paragraph 28; of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 120; and of 17 September 2020, *Rosneft and Others v Council*, C-732/18 P, not published, EU:C:2020:727, paragraph 68).
- 50 It should be borne in mind that the obligation to state reasons is an essential procedural requirement, as distinct from the question whether the reasons given are correct, which goes to the substantive legality of the contested measure (judgment of 14 July 2021, *Cabello Rondón v Council*, T-248/18, EU:T:2021:450, paragraph 45 (not published)).
- 51 In the present case, regarding the overall situation which led to the adoption of the restrictive measures, it is apparent from recital 1 of the contested regulation that, 'in view of the continuing deterioration of democracy, the rule of law and human rights in Venezuela, the Union has repeatedly expressed concern and called on all Venezuelan political actors and institutions to

work in a constructive manner towards a solution to the crisis in the country while fully respecting the rule of law and human rights, democratic institutions and the separation of powers’.

- 52 In addition, it is apparent from recital 3 of the contested regulation that that regulation was adopted in order to implement, at EU level, Decision 2017/2074. Moreover, in recital 2 of the contested regulation, reference is made to restrictive measures which are set out in that decision and reproduced in Articles 2, 3, 6 and 7 of that regulation. Accordingly, the reasons relied on in Decision 2017/2074 which supported those measures being put in place constitute the context for the adoption of those measures, which the Bolivarian Republic of Venezuela was able to understand on reading the contested regulation.
- 53 Thus, it follows from recital 1 of Decision 2017/2074 that the Union was ‘deeply concerned at the continuing deterioration of democracy, the rule of law and human rights in Venezuela’, which was further expanded on in recitals 2 to 7 of that decision.
- 54 What is more, it is apparent from recital 8 of Decision 2017/2074 that, ‘in view of the risk of further violence, excessive use of force and violations or abuses of human rights, it is appropriate to impose restrictive measures in the form of an arms embargo as well as specific measures to place restrictions on equipment that might be used for internal repression and to prevent the misuse of communication equipment’.
- 55 Consequently, the overall situation which led to the adoption of the restrictive measures was amply explained by the Council and could not have been unknown to the Bolivarian Republic of Venezuela.
- 56 Regarding the objectives which the restrictive measures are intended to achieve, it follows from recital 8 of Decision 2017/2074 that those measures are intended to prevent the risk of further violence, excessive use of force and violations or abuses of human rights.
- 57 Furthermore, it should be noted that the fact that the Bolivarian Republic of Venezuela was in a position to understand the reasons supporting the adoption of those restrictive measures is confirmed by the content of the third plea in the present action, in which it has been able to identify the specific facts forming the basis for the adoption of those measures and to contest the accuracy of those facts as well as the assessment carried out by the Council in that regard. It follows that the statement of reasons forming the basis for the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation enabled the Bolivarian Republic of Venezuela to understand and contest the reasons for the measures concerned and also enabled the General Court to exercise its power of review regarding the legality of those measures.
- 58 The second plea in law must therefore be rejected.

The third plea in law, alleging material inaccuracy of the facts, as well as a manifest error in assessing the political situation in Venezuela

- 59 The Bolivarian Republic of Venezuela emphasises that the restrictive measures at issue were adopted because of (i) the breach, by the Venezuelan authorities, of the Venezuelan Constitution, the rule of law, and the separation of powers, (ii) the imprisonment of political opponents in Venezuela and the breach of democratic principles, and (iii) human rights violations by the Venezuelan authorities. Those violations allegedly include the excessive use of force by the

Venezuelan police and armed forces, as well as the impairment of the right to demonstrate peacefully. The Bolivarian Republic of Venezuela disputes the Council's assessment regarding those elements.

- 60 In particular, first, the Bolivarian Republic of Venezuela complains that the facts relied on by the Council are inaccurate.
- 61 Second, it contests the assessment of those facts by the Council, in relation to the political situation in Venezuela.
- 62 The Council disputes the arguments relied on by the Bolivarian Republic of Venezuela.
- 63 According to settled case-law, as regards the general rules defining the procedures for giving effect to restrictive measures, the Council has a broad discretion as to what to take into consideration for the purpose of adopting such economic and financial measures on the basis of Article 215 TFEU, consistent with a decision adopted on the basis of Chapter 2 of Title V of the EU Treaty, in particular Article 29 TEU. Because the EU judicature may not substitute its own assessment of the evidence, facts and circumstances justifying the adoption of such measures for that of the Council, the review which it carries out must be restricted to checking that the rules governing procedure and the statement of reasons have been complied with, that the facts are materially accurate, and that there has been no manifest error of assessment of the facts or misuse of power. That limited review applies, especially, to the assessment of the considerations of appropriateness on which such measures are based (see judgment of 25 January 2017, *Almaz-Antey Air and Space Defence v Council*, T-255/15, not published, EU:T:2017:25, paragraph 95 and the case-law cited; see also, to that effect, judgment of 13 September 2018, *Rosneft and Others v Council*, T-715/14, not published, EU:T:2018:544, paragraph 155).
- 64 It follows that the review by the EU judicature of the assessment of the facts is to be restricted to reviewing whether there has been a manifest error of assessment. By contrast, the review of whether the facts are materially accurate calls for verification of (i) the factual allegations made and (ii) whether there is a sufficiently solid factual basis, with the result that the judicial review carried out in that regard cannot be restricted to assessing the cogency of the facts in the abstract (see, to that effect and by analogy, judgment of 14 July 2021, *Cabello Rondón v Council*, T-248/18, EU:T:2021:450, paragraph 64 (not published)).
- 65 In that regard, it should be borne in mind that, in the present case, Articles 2, 3, 6 and 7 of the contested regulation reproduce, in essence, the political position of the Union expressed in Articles 1, 3 and 5 of Decision 2017/2074, in order to implement it at EU level. As has been indicated in paragraphs 52 and 56 above, for the purpose of analysing the restrictive measures imposed by the contested regulation, account must be taken of the reasons for adopting those measures as set out in Decision 2017/2074, in particular in recital 8 thereof.
- 66 Thus, it is apparent from recitals 1 and 8 of that decision, reproduced in paragraphs 53 and 54 above, that the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation, read in the light of those recitals, are based on the continuing deterioration of democracy, the rule of law and human rights in Venezuela and on the occurrence of violence, excessive use of force and violations or abuses of human rights, the recurrence of which it was necessary to prevent by means of those restrictive measures. Accordingly, it is necessary to review the legality of those measures in that specific context.

- 67 In the first place, regarding the material accuracy of the facts, in its statement of defence, the Council puts forward a number of items of evidence intended to establish the accuracy of the facts forming the basis for the adoption of the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation.
- 68 First, the Council relies on a Human Rights Watch call of 11 September 2017 for ‘[Union] action in response to human rights abuses in Venezuela’.
- 69 Secondly, it cites a press release, dated 31 August 2017, from the Inter-American Commission on Human Rights.
- 70 Thirdly, it relies on a report of the Organization of American States (OAS) of 19 July 2017.
- 71 Fourthly, the Council relies on a report of the OAS of 25 September 2017.
- 72 In essence, those items of evidence, which come from credible sources, refer, in detail, to the brutal repression, by the regime of the Bolivarian Republic of Venezuela, of dissidents and opponents to that regime. In particular, reference is made therein to mass arrests of opponents, to civilians being brought before military courts, to serious violence and numerous murders being committed in relation to demonstrators, to abuses of detainees constituting acts of torture, and to attacks made on the National Assembly, as well as to infringement of the right to demonstrate peacefully, the right to vote and freedom of expression, in particular through attacks on, and the detention of, journalists. In addition, the government announced that arms would be distributed to civilian militias, encouraging them to confront demonstrators. Next, it is also apparent from the Council’s items of evidence that the Prosecutor General of Venezuela was dismissed on 5 August 2017 while investigating, inter alia, security forces that had allegedly fired on demonstrators, that she has been forbidden to leave Venezuela, and that her accounts have been frozen. Moreover, the National Constituent Assembly created a commission which civil society organisations regarded as a mechanism for persecuting dissidents. Lastly, the OAS cited statements made by the then President of the Bolivarian Republic of Venezuela, who, on 24 June 2017, before the armed forces, had asked: ‘What would happen if the [Partido Socialista Unido de Venezuela (United Socialist Party of Venezuela)] made a call for a civil-military armed rebellion to arrest the leaders of the Opposition, [and to] dissolve the National Assembly ...?’ In addition, on 27 June 2017, at a promotional event of the National Constitutional Assembly, the then President stated: ‘If Venezuela were to fall into chaos and violence, and the Bolivarian revolution [were to be] destroyed, we would go to combat [and] we would never give up[;] what we failed to achieve with votes, we would do with weapons.’
- 73 In the reply, in order to contest the facts described by the Council, the Bolivarian Republic of Venezuela puts forward a number of items of evidence, in particular a report drawn up in the context of the United Nations, a decision adopted by the United Nations Human Rights Council, and resolutions adopted by the United Nations General Assembly.
- 74 In that regard, it must be pointed out that almost all of those items of evidence do not relate to the Bolivarian Republic of Venezuela; still less to events in that country. The only item of evidence relied on by the Bolivarian Republic of Venezuela which concerns that country relates to the economic and humanitarian situation in Venezuela in 2021. Furthermore, the Bolivarian Republic of Venezuela has not identified the information set out in those items of evidence which is capable of calling into question the accuracy of the facts relied on by the Council.

- 75 In addition, in order to demonstrate that the Venezuelan institutions and judicial authorities have been particularly active in prosecuting abuses or offences that have been committed, the Bolivarian Republic of Venezuela also relies on two internal government reports, which are not supported by any other item of evidence originating from sources outside that government and whose probative value must, accordingly, be regarded as low (see, to that effect, judgment of 3 February 2021, *Ilunga Luyoyo v Council*, T-124/19, not published, EU:T:2021:63, paragraph 110). Moreover, at the hearing and in its written pleadings, the Bolivarian Republic of Venezuela did not rely on any international source which might support its argument. In any event, it must be pointed out that, in essence, those reports are based on actions of the Venezuelan Public Prosecutor's Office carried out under the leadership of the Prosecutor General who, as is apparent from paragraph 72 above, was dismissed by the Venezuelan government on 5 August 2017 and has been the subject of restrictive measures. In addition, those reports do not refer to the result of the investigations conducted internally; nor do they mention that those investigations concerned persons in authority forming part of Venezuela's security forces.
- 76 Accordingly, it must be concluded that the Bolivarian Republic of Venezuela has not shown that the facts on the basis of which the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation were adopted are vitiated by material inaccuracies. The facts relied on by the Council have a solid factual basis which the Bolivarian Republic of Venezuela has been unable to call into question.
- 77 In the second place, regarding the Council's assessment of the political situation in Venezuela on the basis of the facts supporting the adoption of the restrictive measures at issue, the Bolivarian Republic of Venezuela puts forward the items of evidence described in paragraph 73 above which, in its view, describe the internal situation in that country. However, it does not provide even the slightest detail regarding the relevance of those items of evidence or the conclusion to be drawn therefrom. Thus, its arguments and those items of evidence appear to be a means of disputing the appropriateness of adopting the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation.
- 78 As is apparent from the case-law cited in paragraph 63 above, the EU judicature is to carry out a limited review in that regard. It should be emphasised that, having regard to Article 29 TEU, which authorises the Council to adopt 'decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature', first, the contested regulation is of general application reflecting the approach of the Union to a matter relating to the CFSP and, second, it is not for the General Court to substitute its own assessment regarding that matter for that expressed by the Council. In particular, the Council has a broad political discretion as regards defining that approach of the Union (see, to that effect, judgment of 1 March 2016, *National Iranian Oil Company v Council*, C-440/14 P, EU:C:2016:128, paragraph 77).
- 79 In addition, it is necessary to reject the arguments relied on by the Bolivarian Republic of Venezuela concerning the provisions of national legislation guaranteeing the right to demonstrate peacefully or its purported engagement with international mechanisms in working to strengthen the human rights system.
- 80 Indeed, the question which arises in the present case is not whether the texts in force formally guarantee respect for human rights in Venezuela. Although those texts cannot be disregarded, as is apparent from paragraph 72 above, the Council relied on credible and reliable information in order to assess the situation in Venezuela. In view of that information, the Council was able to consider that, on the date of adoption of the contested regulation, violence, excessive use of

force, human rights violations, and threats to democracy in Venezuela were sufficiently well established and that there were risks of such incidents recurring. In those circumstances, the Council was able to conclude, without making a manifest error of assessment, that there were threats to democracy, the rule of law and human rights in Venezuela (see paragraph 66 above).

- 81 Consequently, it is necessary to reject the arguments relied on by the Bolivarian Republic of Venezuela alleging a manifest error in assessing the political situation in that country.
- 82 In the light of the foregoing, the third plea in law must be rejected.

The fourth plea in law, alleging that unlawful countermeasures have been imposed and there has been an infringement of international law

- 83 The Bolivarian Republic of Venezuela submits that the contested regulation imposes unlawful countermeasures on it, thereby infringing customary international law and the World Trade Organization (WTO) Agreements. It argues that, by that regulation, the Union was responding to alleged breaches of democratic principles and the Venezuelan Constitution. For this reason, the Union decided to suspend its obligations under the WTO Agreements. Moreover, the imposed embargo is not proportionate and constitutes interference in the internal affairs of the Bolivarian Republic of Venezuela. In addition, the Council should have taken account of the restrictive measures previously imposed on the Bolivarian Republic of Venezuela by the United States of America.
- 84 The Bolivarian Republic of Venezuela argues that if, as the Council maintains, the restrictive measures which have been imposed on it are not countermeasures, the Council was not entitled to adopt those restrictive measures without obtaining prior authorisation from the United Nations Security Council. It maintains that such unilateral measures are contrary to international law, as can be seen from the resolutions of the United Nations General Assembly, and the Council does not have the power to adopt them.
- 85 The Council disputes the arguments relied on by the Bolivarian Republic of Venezuela.
- 86 In the present case, in the first place, the Bolivarian Republic of Venezuela relies on an alleged infringement of customary international law owing to (i) unlawful countermeasures being imposed by the Council, involving a breach of the principle of non-interference in its internal affairs, (ii) the restrictive measures at issue being adopted without the prior authorisation of the United Nations Security Council, and (iii) an alleged breach of the principle of proportionality.
- 87 In that regard, it should be borne in mind that, as is apparent from Article 3(5) TEU, the Union is to contribute to the strict observance and the development of international law. Consequently, when it adopts an act, it is bound to observe international law in its entirety, including customary international law, which is binding upon the institutions of the Union (judgment of 21 December 2011, *Air Transport Association of America and Others*, C-366/10, EU:C:2011:864, paragraph 101; see also, to that effect, judgment of 3 September 2008, *Kadi and Al Barakaat International Foundation v Council and Commission*, C-402/05 P and C-415/05 P, EU:C:2008:461, paragraph 291 and the case-law cited).
- 88 It should be noted that the principles of customary international law may be relied upon by an individual for the purposes of the examination by the EU judicature of the validity of an act of the Union in so far as, first, those principles are capable of calling into question the competence of the

Union to adopt that act and, second, the act in question is liable to affect rights which the individual derives from European Union law or to create obligations under European Union law in his or her regard (judgment of 21 December 2011, *Air Transport Association of America and Others*, C-366/10, EU:C:2011:864, paragraph 107).

89 However, since a principle of customary international law does not have the same degree of precision as a provision of an international agreement, judicial review must necessarily be limited to the question whether, in adopting the act in question, the institutions of the Union made manifest errors of assessment concerning the conditions for applying those principles (judgment of 21 December 2011, *Air Transport Association of America and Others*, C-366/10, EU:C:2011:864, paragraph 110).

90 In the present case, first, regarding the alleged imposing of unlawful countermeasures by the Council, it should be borne in mind that Article 49 – relating to the object and limits of countermeasures – of the Draft articles on Responsibility of States for Internationally Wrongful Acts, as adopted in 2001 by the United Nations International Law Commission, provides:

‘1. An injured State may only take countermeasures against a State which is responsible for an internationally wrongful act in order to induce that State to comply with its obligations under Part Two.

2. Countermeasures are limited to the non-performance for the time being of international obligations of the State taking the measures towards the responsible State.

3. Countermeasures shall, as far as possible, be taken in such a way as to permit the resumption of performance of the obligations in question.’

91 In that connection, it should be borne in mind that, as is apparent from paragraphs 53 and 56 above, the contested regulation was adopted in a context of reacting to the continuing deterioration of democracy, the rule of law and human rights in Venezuela, with the aim of preventing the risk of further violence, excessive use of force and violations or abuses of human rights. Neither the contested regulation nor Decision 2017/2074, the implementation of which it is intended to ensure, refer to the infringement by the Bolivarian Republic of Venezuela of a rule of international law or to the temporary non-performance by the Union of an international obligation towards the Bolivarian Republic of Venezuela. Therefore, as is – rightly – asserted by the Council, the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation were not intended as a reaction to an internationally wrongful act imputable to the Bolivarian Republic of Venezuela through the temporary non-performance of the Union’s international obligations. Moreover, the Union has not filed the instruments giving notice of such non-performance provided for by the case-law of the International Court of Justice (see, to that effect, *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)*, judgment, ICJ Reports 1997, p. 7, para. 84). Furthermore, in response to a question put by the General Court at the hearing, the Bolivarian Republic of Venezuela claimed not to have committed any internationally wrongful act and argued that, accordingly, the contested acts did not constitute countermeasures.

92 It follows that the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation do not constitute countermeasures for the purposes of Article 49 of the Draft articles on Responsibility of States for Internationally Wrongful Acts. Consequently, the alleged breach of the principle of non-interference in the internal affairs of the Bolivarian Republic of Venezuela must be rejected.

- 93 Accordingly, the argument relied on by the Bolivarian Republic of Venezuela based on the judgment of the International Court of Justice of 25 September 1997 (*Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)*), judgment, ICJ Reports 1997, p. 7, paras 83 and 84), according to which a third State has the right to be informed before another State adopts countermeasures, is ineffective, in so far as Articles 2, 3, 6 and 7 of the contested regulation do not constitute countermeasures for the purposes of the rules of customary international law.
- 94 Therefore, the arguments relied on by the Bolivarian Republic of Venezuela alleging infringement of customary international law in view of the alleged imposing of unlawful countermeasures must be rejected.
- 95 Secondly, regarding the argument based on the restrictive measures at issue having been adopted without the prior authorisation of the United Nations Security Council, it should be borne in mind that there is nothing in Article 29 TEU or Article 215 TFEU to permit the inference that the powers conferred on the Union by those provisions are limited to the implementation of measures decided by the United Nations Security Council. On the contrary, those Treaty provisions give the Council the power to adopt acts containing independent restrictive measures, distinct from measures specifically recommended by the United Nations Security Council (see, to that effect, judgment of 13 September 2018, *Rosneft and Others v Council*, T-715/14, not published, EU:T:2018:544, paragraph 159 and the case-law cited).
- 96 In addition, it should be noted that, in accordance with Article 38(1)(b) of the Statute of the International Court of Justice, the existence of an international custom is subject to the condition that there is ‘a general practice accepted as law’. However, the Bolivarian Republic of Venezuela has not established the existence of such a general practice requiring authorisation to be obtained from the United Nations Security Council prior to the adoption, by the Council, of restrictive measures.
- 97 Both the resolutions of the United Nations General Assembly referred to by the Bolivarian Republic of Venezuela and the resolutions of the United Nations Human Rights Council were adopted with a significant number of negative votes or abstentions, in particular on the part of Member States of the European Union. Thus, the resolutions relied on by the Bolivarian Republic of Venezuela cannot be considered to reflect ‘a general practice accepted as law’.
- 98 Accordingly, the arguments relied on by the Bolivarian Republic of Venezuela alleging that the Council did not have the power to adopt the contested regulation without the prior authorisation of the United Nations Security Council must be rejected.
- 99 Thirdly, regarding the alleged breach of the principle of proportionality, according to settled case-law, that principle is part of the general principles of EU law and requires that the means implemented by a provision of EU law be suitable for achieving the legitimate objectives pursued by the piece of legislation concerned and that they not go beyond what is necessary to achieve those objectives (see judgment of 3 February 2021, *Ilunga Luyoyo v Council*, T-124/19, not published, EU:T:2021:63, paragraph 193 and the case-law cited).
- 100 In addition, first, it should be borne in mind that, with regard to judicial review of compliance with the principle of proportionality, the Court of Justice considers that the European Union legislature must be allowed a broad discretion in areas which involve political, economic and social choices on its part, and in which it is called upon to undertake complex assessments. It has concluded

from this that the legality of a measure adopted in those areas can be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue (judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 146).

- 101 In that regard, it must be pointed out that there is a reasonable relationship between, on the one hand, the restrictive measures consisting in a prohibition on the sale, supply, transfer or export of equipment which might be used for internal repression and services related to that equipment and to military equipment, and, on the other, the objective pursued, which is to prevent the risk of further violence, excessive use of force and violations or abuses of human rights.
- 102 Second, the restrictive measures provided for in Articles 2, 3, 6 and 7 of the contested regulation are limited, in essence, to a prohibition on the sale, supply, transfer or export of equipment which might be used for internal repression and services related to that equipment and to military equipment to any natural or legal person, entity or body in, or for use in, Venezuela. Moreover, Articles 4, 6 and 7 of the contested regulation provide for the possibility, for the competent authorities of the Member States, to grant certain authorisations by way of derogation from the restrictive measures at issue. Accordingly, those measures are not manifestly inappropriate; nor do they go beyond what is necessary to achieve the objective pursued.
- 103 Therefore, the principle of proportionality has not been disregarded.
- 104 It follows that all the arguments relied on by the Bolivarian Republic of Venezuela alleging infringement of customary international law must be rejected.
- 105 In the second place, the Bolivarian Republic of Venezuela does not argue that the contested regulation refers expressly to provisions of the WTO Agreements. In that regard, that regulation does not contain any reference to those agreements.
- 106 In addition, the Bolivarian Republic of Venezuela has not indicated by which acts or on what occasion the Union intended to implement, by means of the contested regulation, any particular obligation assumed in the context of the WTO.
- 107 Regarding the compatibility with the General Agreement on Tariffs and Trade (GATT) of the restrictions imposed by the contested regulation, it should be noted that, according to settled case-law, given their nature and structure, the WTO Agreements are not, in principle, among the rules in the light of which the EU judiciary is to review the legality of acts of the institutions of the Union. It is only where the Union intended to implement a particular obligation assumed in the context of the WTO, or where the act of the Union refers expressly to specific provisions of the WTO Agreements, that it is for the EU judiciary to review the legality of that act in the light of the WTO rules (see judgment of 13 September 2018, *PSC Prominvestbank v Council*, T-739/14, not published, EU:T:2018:547, paragraph 133 and the case-law cited; see also, to that effect, judgments of 22 June 1989, *Fediol v Commission*, 70/87, EU:C:1989:254, paragraphs 19 to 22, and of 7 May 1991, *Nakajima v Council*, C-69/89, EU:C:1991:186, paragraphs 29 to 32).
- 108 Accordingly, the arguments relied on by the Bolivarian Republic of Venezuela alleging infringement of the WTO Agreements must be rejected as unfounded.
- 109 In the third place, the Bolivarian Republic of Venezuela submits that the measures adopted by the Council produce effects in its territory, that is to say, outside the territory of the Union. Consequently, it argues that both the assessment of the situation in Venezuela which the Council

carried out in seeking to establish whether there were human rights violations within the Bolivarian Republic of Venezuela and the effects of the measures adopted following that assessment involve exercising extraterritorial jurisdiction. As the International Court of Justice has emphasised on several occasions, the exercise of extraterritorial jurisdiction is manifestly contrary to international law. In particular, the Bolivarian Republic of Venezuela makes reference to a judgment of the International Court of Justice of 14 February 2002 (*Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*), judgment, ICJ Reports 2002, p. 3).

- 110 In that regard, it should be noted that Article 29 TEU authorises the Council to adopt ‘decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature’. That article specifies that ‘Member States shall ensure that their national policies conform to the Union positions’. In addition, Article 215(1) TFEU provides that the Council may adopt a decision which ‘provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries’. It follows that the implied, but clear, objective of such measures is to have an impact on the third State concerned, as can be seen from paragraphs 68 and 69 of the judgment on appeal. Accordingly, those provisions confer on the Council the power to adopt restrictive measures such as those provided for in Articles 2, 3, 6 and 7 of the contested regulation.
- 111 In addition, as the Council rightly contends, as is apparent from Article 20 of the contested regulation, cited in paragraph 11 above, the restrictive measures at issue concern persons and situations falling within the jurisdiction of the Member States *ratione loci* or *ratione personae*.
- 112 The reference made by the Bolivarian Republic of Venezuela to the judgment of the International Court of Justice of 14 February 2002 (*Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*), judgment, ICJ Reports 2002, p. 3) is irrelevant, in so far as that case concerned a situation different from that of the present case. Indeed, that case concerned an international arrest warrant issued by the Kingdom of Belgium in respect of the Minister for Foreign Affairs of the Democratic Republic of the Congo with a view to his arrest and extradition to the Kingdom of Belgium owing to alleged crimes constituting ‘serious violations of international humanitarian law’. However, there is nothing in the present case to show that the Union has exercised its powers on the territory of, or against persons explicitly falling within the jurisdiction of, the Bolivarian Republic of Venezuela.
- 113 On the contrary, the Council’s power to adopt restrictive measures falls within the sphere of independent measures of the Union adopted in the context of the CFSP, in accordance with the objectives and values of the Union as set out in Article 3(5) TEU and Article 21 TEU, namely (inter alia) the objective of promoting, in the wider world, democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, and respect for the principles of the United Nations Charter and international law. They are intended, inter alia, to ensure (i) fulfilment of the *erga omnes partes* obligations to respect the principles derived from general international law and international instruments of a universal or quasi-universal nature, in particular Article 1 of the United Nations Charter, (ii) respect for fundamental rights, in particular the prohibition of torture, (iii) respect for democratic principles and (iv) protection of the rights of the child. There is a common ‘legal interest’ in the rights in question being protected (see, to that effect and by analogy, *Barcelona Traction, Light and Power Company, Limited*, judgment, ICJ Reports 1970, p. 3, paras 33 and 34, and *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, judgment, ICJ Reports 2012, p. 422, paras 68 to 70).

- 114 Accordingly, the arguments relied on by the Bolivarian Republic of Venezuela in that regard must be rejected.
- 115 In the fourth place, regarding the complaints put forward by the Bolivarian Republic of Venezuela based on (i) the Council's obligation to take account of restrictive measures imposed by third States, including the United States of America, (ii) the nature of the restrictive measures at issue, which constitute unilateral restrictive measures contrary to international law, and (iii) the use of coercion harmful to the right to development and the human rights of the population of the Bolivarian Republic of Venezuela, it should be noted that those complaints have been raised for the first time in the reply.
- 116 Under Article 84(1) of the Rules of Procedure, no new plea in law may be introduced in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the procedure.
- 117 According to case-law, Article 84(1) of the Rules of Procedure is also applicable to complaints or arguments (see, to that effect, judgment of 14 July 2021, *AQ v eu-LISA*, T-164/19, not published, EU:T:2021:456, paragraph 59 and the case-law cited) which do not constitute an amplification of pleas or complaints put forward in the application.
- 118 It is not apparent from the case file that the complaints listed in paragraph 115 above are based on matters of law or of fact which have come to light in the course of the procedure.
- 119 Accordingly, those complaints are inadmissible pursuant to Article 84 of the Rules of Procedure.
- 120 Consequently, in the light of the foregoing, the fourth plea in law must be rejected, and the action must therefore be dismissed in its entirety.

Costs

- 121 According to Article 133 of the Rules of Procedure, a decision as to costs is to be given in the judgment which closes the proceedings. Under Article 219 of those rules, it is for the General Court, when it rules after the Court of Justice has set the judgment aside and referred the case back to the General Court, to decide on the costs relating, first, to the proceedings instituted before it and, second, to the proceedings on the appeal before the Court of Justice. Lastly, under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.
- 122 In the present case, the Court of Justice, in the judgment on appeal, set aside the initial judgment and reserved the costs. It is therefore necessary to decide, in the present judgment, on the costs relating to (i) the initial proceedings before the General Court, (ii) the proceedings on the appeal before the Court of Justice, and (iii) the present proceedings after referral back.
- 123 As the Council was unsuccessful in the proceedings on the appeal before the Court of Justice, it must be ordered to bear its own costs and to pay those incurred by the Bolivarian Republic of Venezuela in connection with those proceedings.

124 As the Bolivarian Republic of Venezuela has been unsuccessful on the merits in the proceedings referred back to the General Court, on the basis of the arguments which it had put forward in the proceedings before the General Court prior to the appeal, it must be ordered to pay the costs of both of those sets of proceedings.

On those grounds,

THE GENERAL COURT (Grand Chamber)

hereby:

- 1. Dismisses the action;**
- 2. Orders the Council of the European Union to bear its own costs and to pay those incurred by the Bolivarian Republic of Venezuela in relation to the proceedings on the appeal before the Court of Justice in Case C-872/19 P;**
- 3. Orders the Bolivarian Republic of Venezuela to pay the costs relating to the proceedings referred back to the General Court in Case T-65/18 RENV, as well as those relating to the initial proceedings before the General Court in Case T-65/18.**

van der Woude	Papasavvas	Spielmann
Marcoulli	da Silva Passos	Jaeger
Frimodt Nielsen	Kanninen	Gervasoni
Póltorak	Reine	Pynnä
Tichy-Fisslberger	Valasidis	Verschuur

Delivered in open court in Luxembourg on 13 September 2023.

V. Di Bucci
Registrar

S. Papasavvas
President