Reports of Cases

JUDGMENT OF THE GENERAL COURT (First Chamber, Extended Composition)

20 December 2023 *

(Common foreign and security policy – Restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine – Freezing of funds – List of persons, entities and bodies subject to the freezing of funds and economic resources – Restriction on entry into the territory of the Member States – List of persons, entities and bodies subject to restrictions on entry into the territories of the Member States – Inclusion and maintenance of the applicant's name on the lists – Definition of 'leading businesspersons' – Article 2(1)(g) of Decision 2014/145/CFSP – Obligation to state reasons – Rights of the defence – Error of assessment – Proportionality – Equal treatment – Right to property – Freedom to conduct a business – Right to private life – Application of restriction on entry to a national of a Member State – Free movement of Union citizens)

In Case T-313/22,

Roman Arkadyevich Abramovich, residing in Nemchinovo (Russia), represented by T. Bontinck, A. Guillerme, S. Bonifassi, M. Brésart, L. Burguin, J. Goffin, J. Bastien, R. Lööf, lawyers, and C. Zatschler, Senior Counsel,

applicant,

v

Council of the European Union, represented by M. Bishop and M.-C. Cadilhac, acting as Agents,

defendant,

supported by

European Commission, represented by J.-F. Brakeland, C. Giolito, L. Puccio and M. Carpus Carcea, acting as Agents,

intervener,

THE GENERAL COURT (First Chamber, Extended Composition),

composed of D. Spielmann, President, V. Valančius, R. Mastroianni (Rapporteur), M. Brkan and I. Gâlea, Judges,

Registrar: H. Eriksson, Administrator,

* Language of the case: French.

having regard to the written part of the procedure, in particular:

– the application lodged at the Registry of the General Court on 25 May 2022;

– the decision of 16 August 2022 granting the Commission leave to intervene in support of the Council;

– the statements of modification lodged at the Court Registry on 24 November 2022, 23 March 2023 and 17 May 2023;

further to the hearing on 12 July 2023,

having regard, further to the departure from office of Judge Valančius on 26 September 2023, to Article 22 and Article 24(1) of the Rules of Procedure of the General Court,

gives the following

Judgment

1 By his action, the applicant, Mr Roman Arkadyevich Abramovich, seeks, first, under Article 263 TFEU, annulment of (i) Council Decision (CFSP) 2022/429 of 15 March 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 87I, p. 44), and of Council Implementing Regulation (EU) 2022/427 of 15 March 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 87I, p. 1) (together, 'the initial acts'); (ii) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149), and of Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1) (together, 'the maintaining acts of September 2022'); (iii) Council Decision (CFSP) 2023/572 of 13 March 2023 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2023 L 75I, p. 134), and of Council Implementing Regulation (EU) 2023/571 of 13 March 2023 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2023 L 75I, p. 1) (together, 'the maintaining acts of March 2023'); and (iv) Council Decision (CFSP) 2023/811 of 13 April 2023 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2023 L 101, p. 67), and of Council Implementing Regulation (EU) 2023/806 of 13 April 2023 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2023 L 101, p. 1) (together, 'the maintaining acts of April 2023' and, together with the maintaining acts of September 2022 and of March 2023, 'the maintaining acts'),

in so far as those acts (together, 'the contested acts') concern the applicant and, second, under Article 268 TFEU, compensation in respect of the harm he claims to have suffered as a result of the adoption of the initial acts.

Background to the dispute

2 The applicant is a businessperson of Russian, Israeli and Portuguese nationality.

3 On 17 March 2014, the Council of the European Union adopted, on the basis of Article 29 TEU, Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 16). On the same date, it adopted, on the basis of Article 215(2) TFEU, Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6).

4 On 21 February 2022, the President of the Russian Federation signed a decree recognising the independence and sovereignty of the self-proclaimed 'Donetsk People's Republic' and the 'Luhansk People's Republic' and ordered that Russian military forces be deployed in those areas.

5 On 22 February 2022, the High Representative of the Union for Foreign Affairs and Security Policy published a declaration on behalf of the European Union condemning those actions, since they constituted a serious violation of international law. The High Representative announced that the European Union would respond to those latest violations by the Russian Federation by adopting additional restrictive measures as a matter of urgency.

6 On 23 February 2022, the Council adopted a first package of restrictive measures. Those measures concerned, first, restrictions applicable to economic relations with the areas not controlled by the governments of Donetsk and Luhansk; second, restrictions on access to capital markets, in particular by prohibiting the financing of the Russian Federation, its government and its central bank; and, third, the addition of members of the government, banks, businesspersons, generals and 336 Members of the Gosudarstvennaya Duma Federal'nogo Sobrania Rossiskoï Federatsii (State Duma of the Federal Assembly of the Russian Federation) to the list of persons, entities and bodies subject to restrictive measures.

7 On 24 February 2022, the President of the Russian Federation announced a military operation in Ukraine and, on the same day, Russian armed forces attacked Ukraine at a number of places in the country.

8 On 25 February 2022, the Council adopted a second package of restrictive measures. These included, first, a number of individual measures against politicians and businesspersons involved in undermining the integrity of Ukrainian territory; second, a number of restrictive measures applicable in the fields of finance, defence, energy, the aviation sector and the space industry; and third, a number of measures suspending the application of certain provisions of the agreement providing for facilitations for certain categories of citizens of the Russian Federation applying for short-stay visas.

9 On the same date, in view of the gravity of the situation in Ukraine, the Council adopted, first, Decision (CFSP) 2022/329 amending Decision 2014/145 (OJ 2022 L 50, p. 1) and, second, Regulation (EU) 2022/330 amending Regulation No 269/2014 (OJ 2022 L 51, p. 1) in order, inter

alia, to amend the criteria by which natural or legal persons, entities or bodies could be made subject to the restrictive measures at issue. According to recital 11 of Decision 2022/329, the Council considered that the criteria of designation should be amended to include persons and entities supporting and benefiting from the Russian Government as well as persons and entities providing a substantial source of revenue to it, and natural or legal persons associated with listed persons or entities.

10 Article 2(1) and (2) of Decision 2014/145, in the version amended by Decision 2022/329, provides as follows:

‘1. All funds and economic resources belonging to, or owned, held or controlled by:

…

(d) natural or legal persons, entities or bodies supporting, materially or financially, or benefiting from Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Ukraine;

…

(g) leading businesspersons or legal persons, entities or bodies involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine,

… shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies listed in the Annex.’

11 The detailed rules for such freezing of funds are set out in Article 2(3) to (6) of Decision 2014/145, as amended.

12 Article 1(1)(b) and (e) of Decision 2014/145, as amended, prohibits the entry into or transit through the territories of the Member States of natural persons who satisfy essentially the same criteria as those set out in Article 2(1)(d) and (g) of that decision.

13 Regulation No 269/2014, in the version amended by Regulation 2022/330, requires the adoption of measures for the freezing of funds and sets out the detailed rules for such freezing in terms essentially identical to those of Decision 2014/145, as amended. Article 3(1)(a) to (g) of that regulation, as amended, essentially reproduces Article 2(1)(a) to (g) of that decision.

14 In that context, by way of the initial acts, the Council added the applicant’s name to the lists of persons, entities and bodies subject to restrictive measures contained in the annex to Decision 2014/145, as amended, and in Annex I to Regulation No 269/2014, as amended (‘the lists at issue’).

15 The grounds for inclusion of the applicant's name on the lists at issue are as follows:

'[The applicant] is a Russian oligarch who has long and close ties to Vladimir Putin. He has had privileged access to the President, and has maintained very good relations with him. This connection with the Russian leader [has] helped him to maintain his considerable wealth. He is a major shareholder of the steel group Evraz, which is one of Russia's largest taxpayers.

He has therefore [benefited] from Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Ukraine. He is therefore a leading businessperson involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine.'

16 On 16 March 2022, the Council published a notice in the *Official Journal of the European Union* for the attention of the persons, entities and bodies subject to the restrictive measures provided for in Decision 2014/145, as amended, and in Regulation No 269/2014, as implemented by Implementing Regulation 2022/427 (OJ 2022 C 121I, p. 1). That notice stated, inter alia, that the persons concerned could submit a request to the Council, together with supporting documentation, that the decision to include their names on the lists at issue should be reconsidered.

17 By letter of 13 April 2022, the Council sent the material contained in the evidence pack bearing the reference WK 3624/2022 and dated 12 March 2022 ('the first WK pack'), on which it had based its decision, to the applicant.

18 On 25 May 2022, the applicant submitted a request that the initial acts be reconsidered.

Events subsequent to the bringing of the present action

19 On 14 September 2022, the Council adopted the maintaining acts of September 2022, by way of which the restrictive measures against the applicant were extended to 15 March 2023. In those acts, the Council justified the extension of those measures by reproducing all of the grounds contained in the initial acts.

20 By letter of 22 December 2022, with which was enclosed the evidence pack bearing the reference WK 17693/2022 and dated 15 December 2022 ('the second WK pack'), the Council informed the applicant that it was considering maintaining the restrictive measures against him, and invited him to submit observations.

21 By letter of 19 January 2023, the applicant submitted his observations on the fresh items of evidence.

22 By way of the maintaining acts of March 2023, the restrictive measures taken against the applicant were extended to 15 September 2023. By letter of 14 March 2023, the Council informed the applicant of its decision.

23 By way of the maintaining acts of April 2023, an amendment was made to certain language versions of the statement of reasons concerning the applicant and to the section headed 'identifying information' concerning him.

24 The grounds for inclusion of the applicant's name on the lists at issue were amended in the maintaining acts of April 2023 as follows:

'[The applicant] is a Russian oligarch who has long and close ties to Vladimir Putin. He has had privileged access to the President, and has maintained very good relations with him. This connection with the Russian leader has helped him to maintain his considerable wealth. He is a major shareholder of the steel group Evraz, which is one of Russia's largest taxpayers.

He has therefore been [benefiting] from Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Ukraine. He is also one of the leading Russian businesspersons involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine.'

25 By letter of 11 May 2023, the Council informed the applicant, in reply to the latter's letter of 4 May 2023, of the reasons for that amendment.

Forms of order sought

26 The applicant claims that the Court should:

– annul the contested acts, in so far as they concern him;

– order the Council to make a provisional payment of EUR 1 000 000 to the charitable foundation for victims of conflicts which is being established in connection with the sale of Chelsea FC, in respect of the non-material harm which the applicant claims to have suffered;

– order the Council to pay the costs.

27 The Council, supported by the European Commission, contends that the Court should:

– dismiss the application;

– order the applicant to pay the costs.

Law

28 In support of his action, the applicant raises four pleas in support of his claim for annulment, formally alleging (i) 'infringement of the right to effective judicial protection and of the obligation to state reasons'; (ii) 'manifest error of assessment'; (iii) 'infringement of the principles of equal treatment and of proportionality'; and (iv) 'infringement of fundamental rights'. He further alleges that the unlawfulness of the Council's conduct caused him harm in respect of which compensation should be paid. In his first two statements of modification, the applicant also raised arguments alleging 'infringement of the rights of the defence' and 'infringement by the Council of its obligation to review in the context of the adoption of the maintaining acts of September 2022 and of March 2023', which are essentially linked to the first plea in law, with the result that those arguments will be examined as a part of that plea.

The claim for annulment

The first plea in law

29 The first plea can be divided, in essence, into two parts, the first of which relates to the 'infringement of the right to effective judicial protection and of the obligation to state reasons', while the second comprises arguments raised by the applicant in the context of the first two statements of modification, which are specifically directed at the maintaining acts of September 2022 and of March 2023.

– *The first part of the first plea: 'infringement of the right to effective judicial protection and of the obligation to state reasons'*

30 The applicant claims that the information furnished by the Council does not allow him to defend himself properly. In particular, he criticises the Council for failing to specify the nature and scope of the 'ties' or 'relations' maintained with President Putin.

31 According to the applicant, the Council failed to provide him with reliable and credible information allowing him to determine the reasons for including and maintaining his name on the lists at issue, or the individual, specific and concrete reasons for which the Council took the view that the contested acts were justified.

32 In that connection, the applicant states that the items of evidence contained in the evidence pack, solely comprising press articles or extracts and screenshots of websites, do not make it possible to identify any act whatsoever of support or advantage received from President Putin.

33 Furthermore, the applicant criticises the Council for failing to identify the Russian decision-makers from whom he allegedly benefited.

34 Moreover, the applicant claims that the Council's allegations place him under an obligation to adduce evidence proving a negative, thereby reversing the burden of proof.

35 In his reply, the applicant highlights the lack of a factual basis contemporaneous to the adoption of the restrictive measures at issue. Furthermore, he criticises the Council for failing to consider the context and circumstances of the case, inasmuch as it fails to set out a body of sufficiently concrete, precise and consistent evidence to establish a sufficient connection between himself and the 'situations combated', namely actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

36 In his statements of modification, the applicant claims that none of the material allows the conclusion to be made that, in so far as concerns the steel group Evraz ('Evraz'), his status as shareholder in the parent company allows him to exert any influence on the situations combated by the restrictive measures. In that connection, the applicant states that the Council no longer relies on the items of evidence annexed to the letter of 22 December 2022, which refer generally to Evraz's business relations and, in particular, to contracts which its subsidiaries allegedly concluded with the National Guard of the Russian Federation. Furthermore, the items of evidence contained in the second WK pack – although, for the most part, these pre-date the maintaining acts of September 2022 – were not relied upon when those acts were adopted.

37 The Council, supported by the Commission, disputes the applicant's arguments.

38 According to settled case-law, the right to effective judicial protection, set out in Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'), requires that the person concerned must be able to ascertain the reasons upon which the decision taken in relation to him or her is based, either by reading the decision itself or by requesting and obtaining disclosure of those reasons (see judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 100 and the case-law cited).

39 The purpose of the obligation to state the reasons for an act adversely affecting a person, as provided for in the second paragraph of Article 296 TFEU, which is a corollary to the principle of respect for the rights of the defence, is, first, to provide the person concerned with sufficient information to make it possible to determine whether the act is well founded or whether it is vitiated by an error permitting its validity to be contested before the Courts of the European Union and, second, to enable those Courts to review the lawfulness of that act (see, to that effect, judgments of 15 November 2012, *Council* v *Bamba*, C-417/11 P, EU:C:2012:718, paragraphs 49 and 50, and of 22 April 2021, *Council* v *PKK*, C-46/19 P, EU:C:2021:316, paragraph 47 and the case-law cited).

40 The statement of reasons required by Article 296 TFEU and Article 41(2)(c) of the Charter must be appropriate to the nature of the act at issue and to the context in which it was adopted. The requirements to be satisfied by the statement of reasons depend on the circumstances of each case, in particular the content of the measure in question, the nature of the reasons given and the interest which the addressees of the measure, or other parties to whom it is of direct and individual concern, may have in obtaining explanations. In particular, it is not necessary for the reasoning to go into all the relevant facts and points of law or to provide a detailed answer to the considerations set out by the person concerned when consulted prior to the adoption of that same measure, since the question whether the statement of reasons is sufficient must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question (see judgments of 15 November 2012, *Council* v *Bamba*, C-417/11 P, EU:C:2012:718, paragraph 53 and the case-law cited, and of 22 April 2021, *Council* v *PKK*, C-46/19 P, EU:C:2021:316, paragraph 48 and the case-law cited).

41 Thus, first, the reasons given for a decision adversely affecting a person are sufficient if that decision was adopted in circumstances known to the party concerned which enable him or her to understand the scope of the measure concerning him or her. Second, the degree of precision of the statement of the reasons for a measure must be weighed against practical realities and the time and technical facilities available for taking the measure (see judgment of 27 July 2022, *RT France* v *Council*, T-125/22, EU:T:2022:483, paragraph 104 and the case-law cited).

42 Furthermore, it has been made clear in the case-law that the statement of reasons for an act of the Council which imposed a restrictive measure had not only to identify the legal basis for that measure but also the actual and specific reasons why the Council considered, in the exercise of its discretion, that such a measure had to be adopted in respect of the person concerned (see judgment of 27 July 2022, *RT France* v *Council*, T-125/22, EU:T:2022:483, paragraph 105 and the case-law cited).

43 Lastly, it must be borne in mind that the obligation to state reasons on which an act is based is an essential procedural requirement, to be distinguished from the question whether the reasons given are correct, which goes to the substantive lawfulness of the contested act. The reasoning on

which an act is based consists in a formal statement of the grounds on which that act is based. If those grounds are vitiated by errors, the latter will vitiate the substantive lawfulness of the act, but not the statement of reasons in it, which may be adequate even though it sets out reasons which are incorrect (see judgment of 5 November 2014, *Mayaleh* v *Council*, T-307/12 and T-408/13, EU:T:2014:926, paragraph 96 and the case-law cited). The same applies to the distinction to be drawn between the question of the statement of reasons and the evidence of the alleged conduct, which also concerns the substantive lawfulness of the act in question and involves assessing the truth of the facts set out in that act and the characterisation of those facts as evidence justifying the use of restrictive measures against the person concerned (see, to that effect, judgment of 6 October 2015, *Chyzh and Others* v *Council*, T-276/12, not published, EU:T:2015:748, paragraph 111 and the case-law cited).

44 As a preliminary point, as the applicant acknowledged at the hearing, it is clear that his arguments relating to the accuracy and the non-contemporaneous nature of the allegations set out in the reasons for listing, and to the content of the second WK pack, relate to the question whether the contested acts are well founded, and not to that of the existence of those reasons or whether they are sufficient. The same may be said of his argument relating to the alleged reversal of the burden of proof, which relates to the question whether the reasons for listing are well founded.

45 In the present case, in the first place, it should be noted that the general context which led the Council to adopt the restrictive measures at issue is clearly set out in the recitals of the contested acts, which refer, in particular, to the Russian Federation's unprovoked and unjustified military aggression against Ukraine. Similarly, the foundations in law on the basis of which those acts were adopted, namely Article 29 TEU and Article 215 TFEU, are clearly stated. The reasons for the contested acts are those set out in paragraphs 14 and 24 above. Thus the context and circumstances surrounding the adoption of those acts were well known to the applicant.

46 In the second place, it follows sufficiently clearly from a reading of the statement of reasons for the contested acts that the Council included the applicant's name on the lists at issue by relying on two criteria, to which explicit reference is made in the reasons for listing, namely those referred to in Article 2(1)(d) and (g) of Decision 2014/145, as amended (respectively, 'criterion (d)' and 'criterion (g)') (see paragraph 10 above), which, moreover, the applicant does not dispute.

47 In the third place, the reasons for listing referred to in paragraphs 15 and 24 above enabled the applicant to understand that his name had been included and maintained on the lists at issue on account, in particular, of the fact that he has maintained long and close ties with President Putin which, irrespective of their nature, has helped the applicant to maintain his considerable wealth, with the result that he has benefited from Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Ukraine. Furthermore, the applicant is identified as a major shareholder in Evraz's parent company, which is one of Russia's largest taxpayers, with the result that he is identified as being a leading businessperson involved in economic sectors providing or constituting a substantial source of revenue for the Government of the Russian Federation.

48 In that connection, as regards, more particularly, the allegedly vague and generic reference to Russian decision-makers, it should be observed, as the Council does, that, by referring to the 'Russian leader' in the singular, which makes it possible easily to identify President Putin as the Russian decision-maker from whom the applicant has benefited, the statement of reasons is sufficiently precise as a result.

49 Lastly, in the absence of any alteration to the reasons for listing and maintaining the applicant's name on the lists at issue, the applicant cannot take issue with the Council for not having made reference, in the statement of reasons for the maintaining acts, to the items of evidence which the Council sent to him by way of its letter of 22 December 2022.

50 In the light of the foregoing considerations, it must be held that the contested acts set out, to the requisite legal standard, the matters of fact and law on which, according to the Council, those acts are based.

51 The present part of the plea must therefore be rejected.

– *The second part of the first plea: 'infringement of the rights of the defence' and 'disregard by the Council of its obligation to review in the context of the adoption of the maintaining acts of September 2022 and of March 2023'*

52 The applicant essentially takes issue with the Council for not affording him the opportunity to be heard prior to the adoption of the maintaining acts of September 2022 and of March 2023, and for failing to give a substantive answer to a certain number of factors and arguments that he raised.

53 Furthermore, the applicant claims that the Council failed to reassess the need to maintain the restrictive measures at issue against him, that it referred to non-contemporaneous material, and that it disregarded changes in circumstances that have arisen since his name was included on the lists at issue, in so far as concerns, in particular, the role he allegedly played in various humanitarian efforts and in mediation between the parties, as well as his relations with President Putin.

54 The applicant takes the view that the maintaining acts of September 2022 and of March 2023 would not have been adopted had the Council reviewed his situation and heard him.

55 The Council, supported by the Commission, disputes the applicant's arguments.

56 The right to be heard in all proceedings, laid down in Article 41(2)(a) of the Charter, which is inherent in respect for the rights of the defence, guarantees every person the opportunity to make known his or her views effectively during an administrative procedure and before the adoption of a decision in relation to that person that is liable to affect his or her interests adversely (see judgment of 27 July 2022, *RT France* v *Council*, T-125/22, EU:T:2022:483, paragraph 75 and the case-law cited).

57 In a procedure relating to the adoption of the decision, in particular, to maintain the listing of the name of an individual in an annex to an act containing restrictive measures, respect for the rights of the defence and the right to effective judicial protection requires that the competent EU authority disclose to the individual concerned the evidence against that person available to that authority and relied on as the basis of its decision, so that that individual is in a position to defend his or her rights in the best possible conditions and to decide, with full knowledge of the relevant facts, whether there is any point in bringing an action before the Courts of the European Union. When that disclosure takes place, the competent EU authority must ensure that that individual is placed in a position in which he or she may effectively make known his or her views on the grounds advanced against him or her (see, to that effect, judgments of 18 July 2013,

Commission and Others v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraphs 111 and 112, and of 12 December 2006, *Organisation des Modjahedines du peuple d'Iran* v *Council*, T-228/02, EU:T:2006:384, paragraph 93).

58 The question whether there is an infringement of the rights of the defence must be examined in relation to the specific circumstances of the case, including the nature of the act at issue, the context in which it was adopted and the legal rules governing the matter in question (see, to that effect, judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 102 and the case-law cited).

59 The right to be heard prior to the adoption of acts maintaining the name of a person or entity on a list of persons or entities subject to restrictive measures must be respected where the Council has relied, in the decision to maintain the name of that person or entity on that list, on new evidence against that person or entity, namely evidence which was not included in the initial decision to include that name on that list (see judgment of 12 February 2020, *Amisi Kumba* v *Council*, T-163/18, EU:T:2020:57, paragraph 54 and the case-law cited; see also, to that effect, judgment of 7 April 2016, *Central Bank of Iran* v *Council*, C-266/15 P, EU:C:2016:208, paragraph 33).

60 As a preliminary point, it should be recalled that neither the legislation in question nor the general principle of respect for the rights of the defence confers the right to a hearing on the persons concerned, since the opportunity to submit their observations in writing is sufficient (see, to that effect and by analogy, judgments of 23 October 2008, *People's Mojahedin Organization of Iran* v *Council*, T-256/07, EU:T:2008:461, paragraph 93, and of 6 September 2013, *Bank Melli Iran* v *Council*, T-35/10 and T-7/11, EU:T:2013:397, paragraph 105).

61 Thus, when comments are made by the individual concerned on the summary of reasons, the competent EU authority is under an obligation to examine, carefully and impartially, whether the alleged reasons are well founded, in the light of those comments and any exculpatory evidence provided with those comments (judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 114).

62 In the present case, as regards the maintaining acts of September 2022, the Council published a notice on 16 March 2022 (see paragraph 16 above) for the attention of the persons and entities concerned, by way of which they were informed of the possibility of submitting a request for review by 1 June 2022. Thus the applicant was able to submit his first request for review on 25 May 2022, with the result that he had the opportunity to make his views known before those maintaining acts were adopted.

63 As regards the assessment of the need to maintain measures against the applicant, in its letter of 15 September 2022, the Council not only recalled the arguments put forward in its defence, given that the observations contained in the applicant's request for review were similar to the pleas relied upon in the application, but also provided additional clarifications concerning the ties between the applicant and President Putin, as well as his capacity as a major shareholder in Evraz, all of which justified maintaining the restrictive measures at issue against the applicant. Furthermore, the Council was able to note the absence of any change in circumstances, which is demonstrated, in particular, by the adoption of the maintaining acts of September 2022 on the basis of the same items of evidence as the initial acts. On that basis, the applicant's involvement in charitable works, humanitarian efforts and mediation cannot, in the light of the foregoing, be regarded as a change in circumstances.

64 Thus, the Council did not breach its obligation to review the applicant's situation before adopting the maintaining acts of September 2022.

65 As to the maintaining acts of March 2023, it should be noted that the Council informed the applicant, by letter of 22 December 2022, that it was considering maintaining his name on the lists at issue, on the basis of the same statement of reasons, and invited the applicant to submit observations, which he did by letter of 19 January 2023.

66 The applicant was thus able to submit his observations on the fresh items of evidence that the Council had sent to him by letter of 22 December 2022, together with the second WK pack.

67 It follows that the Council sent the fresh items of evidence to the applicant before adopting the maintaining acts of March 2023, and that he was able to have his view on that evidence heard before the restrictive measures were maintained against him.

68 Furthermore, it should be observed that, while the Council rejected the second request for review and decided to maintain the measures at issue against the applicant, this cannot demonstrate that the Council disregarded its obligation to review. In fact, first, no change in circumstances arose in the light of the adoption of the initial acts and, second, there was nothing to prevent the applicant from adducing fresh items of evidence, when making the second request for review, in support of the argument relating to changes in circumstances which had allegedly arisen since the inclusion of his name on the lists at issue. Furthermore, in its letter of 14 March 2023, the Council stated the reasons justifying the maintenance of the applicant's name on those lists, namely (i) his activity as a leading businessperson and (ii) his ties to President Putin.

69 As regards the alleged failure to give a substantive answer to certain of the applicant's arguments, it should be noted that, although for the rights of the defence and the right to be heard to be observed the EU institutions must enable the person concerned to make his or her views known effectively, those institutions cannot be required to accept them (see, to that effect, judgments of 7 July 2017, *Arbuzov* v *Council*, T-221/15, not published, EU:T:2017:478, paragraph 84, and of 27 September 2018, *Ezz and Others* v *Council*, T-288/15, EU:T:2018:619, paragraph 330).

70 The mere fact that the Council did not conclude that the extension of restrictive measures was not well founded, or even consider it useful to carry out verification in the light of the applicant's observations, does not mean that the Council did not take cognisance of those observations (see, to that effect, judgment of 27 September 2018, *Ezz and Others* v *Council*, T-288/15, EU:T:2018:619, paragraphs 330 and 331).

71 Finally, as to the applicant's argument regarding the non-contemporaneous nature of the fresh items of evidence, it must be held that, in so far as that argument is aimed at an error of assessment, it cannot be meaningfully put forward in support of the present part of the first plea.

72 In the light of the foregoing considerations, it must be found that the Council discharged its obligations concerning observance of the applicant's right to be heard during the procedure culminating in the adoption of the maintaining acts of September 2022 and of March 2023. Accordingly, the present part and, consequently, the first plea in its entirety must be rejected.

The second plea in law: 'manifest error of assessment'

73 The applicant argues, in essence, that the Council has failed to adduce specific, precise and consistent evidence capable of constituting a sufficiently solid factual basis to support the inclusion and maintenance of his name on the lists at issue pursuant to criteria (d) and (g).

74 The Council, supported by the Commission, disputes the applicant's arguments.

– *Preliminary observations*

75 As a preliminary point, it must be noted that the second plea in law must be regarded as alleging error of assessment, and not manifest error of assessment. While it is true that the Council has a degree of discretion to determine, on a case-by-case basis, whether the legal criteria on which the restrictive measures at issue are based are satisfied, the fact remains that the Courts of the European Union must ensure the review, in principle the full review, of the lawfulness of all EU acts (see judgment of 26 October 2022, *Ovsyannikov* v *Council*, T-714/20, not published, EU:T:2022:674, paragraph 61 and the case-law cited).

76 The effectiveness of the judicial review guaranteed by Article 47 of the Charter requires, inter alia, that the Courts of the European Union ensure that the decision by way of which restrictive measures were adopted or maintained, which affects the person or entity concerned individually, is taken on a sufficiently solid factual basis. That involves assessing the facts alleged in the statement of reasons on which that decision is based, with the consequence that judicial review cannot be restricted to an assessment of the cogency in the abstract of the reasons relied on, but must concern whether those reasons, or, at the very least, one of those reasons, deemed sufficient in itself to support that decision, is substantiated (see, to that effect, judgments of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 119, and of 5 November 2014, *Mayaleh* v *Council*, T-307/12 and T-408/13, EU:T:2014:926, paragraph 128).

77 Such an assessment must be carried out by examining the evidence and information not in isolation but in their context. The Council in fact discharges the burden of proof borne by it if it presents to the Courts of the European Union a sufficiently specific, precise and consistent body of evidence to establish that there is a sufficient link between the person or entity subject to a measure freezing funds and the regime or, in general, the situations being combated (see judgment of 20 July 2017, *Badica and Kardiam* v *Council*, T-619/15, EU:T:2017:532, paragraph 99 and the case-law cited; judgment of 26 October 2022, *Ovsyannikov* v *Council*, T-714/20, EU:T:2022:674, paragraphs 63 and 66).

78 It is the task of the competent EU authority to establish, in the event of challenge, that the reasons relied on against the person or entity concerned are well founded, and not the task of that person or entity to adduce evidence of the negative, that those reasons are not well founded. For that purpose, there is no requirement that the Council produce before the Courts of the European Union all the information and evidence underlying the reasons alleged in the act in respect of which annulment is sought. It is necessary that the information or evidence produced should support the reasons relied on against the person or entity concerned (judgments of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraphs 121 and 122, and of 28 November 2013, *Council* v *Fulmen and Mahmoudian*, C-280/12 P, EU:C:2013:775, paragraph 67; see, also, judgment of 1 June 2022, *Prigozhin* v *Council*, T-723/20, not published, EU:T:2022:317, paragraph 73 and the case-law cited).

79 In such a scenario, it is for the Courts of the European Union to verify the material accuracy of the facts alleged in the light of the information or evidence and assess the probative value of the latter in the light of the circumstances of the case and taking into account any observations submitted on them by the person or entity concerned (see, to that effect, judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 124).

80 As regards, more specifically, the review of legality carried out with regard to the maintenance of the name of the person concerned on the lists at issue, it should be recalled that restrictive measures are of a precautionary and, by definition, provisional nature, and their validity always depends on whether the factual and legal circumstances which led to their adoption continue to apply and on the need to persist with them in order to achieve their objective. Thus, when periodically reviewing those measures, it is for the Council to carry out an updated assessment of the situation and to take stock of the effects of those measures, with a view to determining whether they have made it possible to achieve the objectives pursued by the initial inclusion of the names of the persons and entities concerned on the list at issue or whether it is still possible to reach the same conclusion in relation to those persons and entities (see judgment of 27 April 2022, *Ilunga Luyoyo* v *Council*, T-108/21, EU:T:2022:253, paragraph 55 and the case-law cited; judgment of 26 October 2022, *Ovsyannikov* v *Council*, T-714/20, not published, EU:T:2022:674, paragraph 67).

81 It follows that, in order to justify maintaining a person's name on the list of persons and entities subject to restrictive measures, the Council is not prohibited from basing its decision on the same evidence justifying the initial inclusion, re-inclusion or previous maintenance of the applicant's name on that list, provided that (i) the grounds for listing remain unchanged and (ii) the context has not changed in such a way that that evidence is now out of date (see, to that effect, judgment of 23 September 2020, *Kaddour* v *Council*, T-510/18, EU:T:2020:436, paragraph 99). On that basis, changes in the context include the taking into consideration of, first, the situation in the country in respect of which the system of restrictive measures has been established as well as the specific situation of the person concerned (judgment of 26 October 2022, *Ovsyannikov* v *Council*, T-714/20, not published, EU:T:2022:674, paragraph 78; see also, to that effect, judgment of 23 September 2020, *Kaddour* v *Council*, T-510/18, EU:T:2020:436, paragraph 101) and, second, all of the relevant circumstances and, in particular, the achievement of the objectives pursued by the restrictive measures (judgment of 27 April 2022, *Ilunga Luyoyo* v *Council*, T-108/21, EU:T:2022:253, paragraph 56; see also, to that effect and by analogy, judgment of 12 February 2020, *Amisi Kumba* v *Council*, T-163/18, EU:T:2020:57, paragraphs 82 to 84 and the case-law cited).

82 It is in the light of those principles that it must be ascertained whether the Council erred in its assessment by deciding to include, then maintain, the applicant's name on the lists at issue, beginning with the examination of the application of criterion (g) to the applicant.

– *The application of criterion (g) to the applicant*

83 The applicant disputes, in general, the claim that the fact he is a major shareholder in Evraz implies either a significant contribution to the tax revenue of the Russian Federation in connection with the annexation of Crimea and the destabilisation of Ukraine, or close ties to the Russian Government.

84 In the first place, the applicant states that Evraz does not constitute a major source of revenue for the Russian Federation on account of the fact that the taxes paid by that company are allocated to the regional budget, which is unrelated to the federal budget.

85 In the second place, the applicant points to the negative effects on Evraz to which the Russian Government's actions in Ukraine have given rise.

86 In the third place, the applicant observes that he holds only 28.64% of the capital in Evraz's parent company, which does not make him a major shareholder or afford him the possibility of deciding that company's operations.

87 In the fourth place, the applicant claims that Evraz's activities are not confined to Russia, but are also carried on in the United States and Canada, as well as in the Czech Republic and Kazakhstan.

88 In the fifth place, the applicant points out that his personal tax contributions in Russia are not significant and that, consequently, he cannot be regarded as one of the Russian Federation's largest taxpayers. In that connection, he challenges the application of the 'sector of activity' criterion – which, he argues, is discriminatory – in order to determine the substantial source of revenue. He adds that the fact that Evraz supplies steel to the Russian national rail company cannot be decisive in demonstrating the provision of a substantial source of revenue to the Russian Government.

89 In the sixth and last place, the applicant disputes his being categorised as 'a leading businessperson' in Russia and states that his wealth has mostly been invested outside that country namely, in particular, in Israel, the United Kingdom, the United States and Canada and that, moreover, he has distinguished himself as a renowned philanthropist whose charity work extends throughout all of the countries in which he is active.

90 The Council, supported by the Commission, disputes the applicant's arguments.

91 In the present case, the reason relied on with regard to the applicant which is linked to criterion (g) relates to the fact that, since he is a major shareholder or one of the main shareholders in Evraz, which is one of Russia's largest taxpayers, he is a leading businessperson involved in economic sectors which provide or constitute a substantial source for revenue to the Government of the Russian Federation.

92 Criterion (g) employs the concept of 'leading businesspersons' in correlation with the exercise of an activity 'in economic sectors providing a substantial source of revenue to the [Russian] Government', with no other condition regarding ties, be they direct or indirect, with that government. The purpose of that criterion is in fact to exert maximum pressure on the Russian authorities so that they bring an end to their actions and policies destabilising Ukraine and the military aggression against that country.

93 There is a rational connection between the targeting of leading businesspersons involved in economic sectors providing a substantial source of revenue to the Russian Government, on the one hand, and the objective of the restrictive measures at issue, which is, in particular, to increase the pressure on the Russian Federation and to increase the costs of the latter's actions to undermine Ukraine's territorial integrity, sovereignty and independence, on the other hand (see, to that effect, judgment of 13 September 2018, *Rosneft and Others* v *Council*, T-715/14, not published, EU:T:2018:544, paragraph 157 and the case-law cited).

94 However, there is nothing in the recitals or the provisions of Decision 2014/145, as amended, or of Regulation No 269/2014, as amended, for it to be found that it is for the Council to demonstrate the existence of close ties or interdependence between the person whose name is on the lists at issue and the Russian Government or its actions undermining the territorial integrity, sovereignty and independence of Ukraine.

95 Such an interpretation would run counter not only to the wording of criterion (g) but also to the objective pursued.

96 First, having regard to the wording of criterion (g), it must be held that the persons targeted must be regarded as leading businesspersons on account of their importance in the economic sector in which they pursue their activity and the importance of that sector for the Russian economy (see, to that effect, judgment of 13 September 2018, *Rosneft and Others* v *Council*, T-715/14, not published, EU:T:2018:544, paragraph 157 and the case-law cited). Thus the concept of 'leading businessperson' must be understood as referring to the importance of those persons in the light, as the case may be, of their occupational status, the importance of their economic activities, the extent of their capital holdings or their functions within one or more of the companies in which they pursue those activities.

97 Second, the objective of the restrictive measures at issue is not to sanction certain persons or entities on account of their links to the situation in Ukraine or their ties with the Russian Government, but rather, as has been recalled in paragraph 93 above, to exert maximum pressure on the Russian authorities so that they bring an end to their actions and policies destabilising Ukraine, and to increase the costs of the Russian Federation's actions to undermine the territorial integrity, sovereignty and independence of Ukraine, and to promote the end to the crisis (see, to that effect, judgment of 27 July 2022, *RT France* v *Council*, T-125/22, EU:T:2022:483, paragraph 163 and the case-law cited).

98 Accordingly, criterion (g) must be interpreted as meaning that it is intended to apply, on the one hand, to 'leading businesspersons' in the sense described in paragraph 96 above and, on the other hand, that it is the economic sectors in which those persons are involved which must provide a substantial source of revenue to the Russian Government.

99 It is therefore in the light of that interpretation of criterion (g) that an assessment must be made as to whether the reasons relied on in the contested acts are well founded.

100 In the present case, since those reasons for including and maintaining the applicant's name on the lists at issue have remained unchanged, it is not necessary to make a distinction between the initial acts, on the one hand, and the maintaining acts, on the other, given that the verification of the information alleged in the statement of reasons as well as in the items of evidence, which are set out in the first and second WK packs, relates, in essence, to the same factual circumstances.

101 The reasons relied on in connection with the applicant, as regards criterion (g), relate to the fact that, at the time when the initial acts and the maintaining acts were adopted, he was a major or leading shareholder in Evraz, which is one of Russia's largest taxpayers and operates, in particular, in an economic sector which provides or constitutes a substantial source of revenue to the Russian Government.

102 It is apparent from the case file that the applicant directly holds 28.64% of the share capital in Evraz's parent company and only three other shareholders therein hold a share greater than 5%.

103 Although the applicant disputes being a major shareholder in Evraz as well as his power to decide the group's operations or control over it, it is common ground not only that he is one of the major shareholders in Evraz's parent company, but that he is also the principal shareholder therein, according to that company's prospectus, which was added to the case file by the applicant.

104 In fact, in Evraz's parent company, the applicant holds the highest percentage of voting rights of all four main shareholders – including himself – who, together, hold 63.35% of those rights, the remainder being free-float share capital, and have the capacity to exercise control over the election of directors, the declaration of dividends, the appointment of the board of directors and other policy decisions of that parent company. In that connection, as the Council points out, it should be noted that the board of directors of that parent company comprises 11 members, 6 of whom are independent non-executive directors, and that the applicant himself is entitled to appoint up to 3 directors. In any event, it should be noted that, even if the applicant's shareholding in the parent company in question, as a mere investor, constitutes a minority shareholding which does not allow him to exercise any form of control over that company, that shareholding is nevertheless significant having regard, in particular, to the fact that Evraz is one of the leading Russian groups in the steel and mining sector. It follows that, as a major shareholder in the parent company in question over a number of years, the applicant can be categorised as a leading businessperson on the basis of criterion (g).

105 As regards, more specifically, the 'leading' aspect with regard to the applicant, it should be stated that, in order to come under the category of 'leading businesspersons', as has been stated in paragraphs 96 and 97 above, criterion (g) does not require the existence of close ties or interdependence with the Russian Government or the President of the Russian Federation. Nor is it dependent on the imputability to the applicant of the decisions to continue the invasion of Ukraine or a direct or indirect link with the annexation of Crimea or the destabilisation of Ukraine, with the result that the applicant's argument relating to the absence of benefit from the Russian Government's activities in Ukraine must be rejected as unfounded.

106 It follows that the Council rightly considered that the applicant was a leading businessperson an account, in particular, of his professional status, the importance of his economic activities, the scale of his capital holdings in Evraz and, more particularly, his status as principal shareholder in the parent company of that group of companies (see paragraph 96 above).

107 Furthermore, the applicant essentially disputes that he is involved in activities in economic sectors providing a substantial source of revenue to the Russian Government within the meaning of criterion (g).

108 In that connection, it should be observed, as the Council does, that, contrary to the applicant's claim, the phrase 'providing a substantial source of revenue to the Government of the Russian Federation' set out in criterion (g) refers, in the light of the wording thereof, to the revenue from important economic sectors in the Russian Federation and not solely to the taxes paid by leading businesspersons. Although the wording of recital 11 of Decision 2022/329 states that the criteria of designation should be amended to include 'persons and entities … providing a substantial source of revenue to [the Government of the Russian Federation]', the fact remains that it cannot justify an interpretation of that criterion which runs counter to its wording, which is quite clear. Moreover, it must be stated that the interpretation put forward by the applicant would be contrary to the objective pursued by the restrictive measures at issue, which is to weaken the Russian Federation's ability to wage its war of aggression against Ukraine.

109 Furthermore, while it is true that neither Decision 2014/145, as amended, nor Regulation No 269/2014, as amended, defines the concept of 'substantial source of revenue', the fact remains that the use of the qualifying adjective 'substantial', which relates to the word 'source', means that that source must be significant and therefore not negligible.

110 What is more, although Evraz's own contribution to the budget of the Russian Federation may be useful in determining the economic importance of that company, in particular, in order to establish the applicant's status as a leading businessperson who is the main shareholder in its parent company, it is not decisive for the purposes of answering the question whether the economic sector in which the applicant is active provides a substantial source of revenue to the Russian Government.

111 In the present case, as regards the question whether the economic sector in which the applicant is involved through Evraz provides a substantial source of revenue to the Russian Government, it cannot validly be argued that that is not the case for the steel and mining sector.

112 Such a substantial source of revenue provided by the steel and mining sector to the Russian Government can in fact be inferred from the context and from item No 2 in the first WK pack indicating that, in 2016, that sector was the third most important sector in terms of tax revenue in Russia and that, amongst the 50 leading Russian taxpayers, 10 of these – including Evraz – belonged to that sector. It is also apparent from that item of evidence that, whereas the overall tax burden on the Russian economy declined in 2016, it increased from 12.4% to 12.9% for those taxpayers.

113 Furthermore, it is apparent from item No 10 in the first WK pack and the history of Evraz, added to the case file by the applicant, that the parent company of that group of companies is one of the largest vertically integrated steel and mining undertakings in the world, comprising numerous subsidiaries.

114 That is supported by the 2021 annual report of Evraz's parent company, added to the case file by the applicant, which sets out its revenue by sector of activity. It is apparent, in particular, from that report that steel activities brought in 12.5 billion United States dollars (USD), by also taking into account the revenue from that sector in North America (corresponding to USD 2.3 billion). More specifically, although that parent company pursues its activities in multiple sectors of the Russian economy, the revenue, from steel alone, which increased in Russia by 48.3% between 2020 and 2021, represents 66.3% of that company's total revenue. According to that report, that parent company is a 'leader in construction and railway product markets in Russia'. In fact it holds a 28% share of the Russian market for railway wheels and a 97% share of the market for trains.

115 Furthermore, it is apparent from the Evraz prospectus that, in 2018, that company was the fourth-largest crude steel producer in Russia and the largest manufacturer by volume of long products for the construction and railway industries in Russia and the Commonwealth of Independent States (CIS). The 2021 annual report of Evraz's parent company also states that 94.8% of the 71 210 employees of Evraz are employed in Russia and the CIS.

116 All of these factors thus allow it to be established that the economic sector in question – that is, the steel and mining sector – in which Evraz, in particular, operates, provides a substantial source of revenue to the Russian Government.

117 The circumstance, even if it were established, that the tax revenue from the steel and mining sector is primarily allocated to the budgets of local federal entities is irrelevant. Having regard to the objective of the restrictive measures at issue, as recalled in paragraph 93 above, the concept of 'revenue to the Government of the Russian Federation' cannot be given a restrictive interpretation, which would be confined to referring to the tax revenue allocated to that State's federal budget. Furthermore and in any event, even though that source of revenue is not intended for the federal budget or used directly by that government in order to support its military expenditure, the fact remains that that source allows that government, as a whole, without distinction as to whether that revenue comes from the federal budget or the regional budgets, to mobilise even more resources for its actions to compromise the territorial integrity, sovereignty and independence of Ukraine.

118 Moreover, the applicant's arguments based on more personal contextual factors, namely his humanitarian efforts and his role in peace negotiations, must be rejected as ineffective. Such factors are, in fact, not relevant in assessing whether the conditions under criterion (g), as set out in paragraphs 92 to 97 above, are satisfied in the present case,

119 Lastly, the complaint raised by the applicant in the second statement of modification that, by relying on the items of evidence contained in the second WK pack, the Council erred, when adopting the maintaining acts, with regard to the assessment of the contracts between Evraz subsidiaries and the National Guard of the Russian Federation and the bill on the war economy which compels undertakings such as Evraz to supply materials and services to the army cannot succeed. It is clear that it is only for the sake of completeness that the Council made reference to that material and that, inasmuch as it did not use that material in order to substantiate the maintaining acts, in so far as it is not directly linked to criterion (g), that complaint must be rejected as ineffective.

120 It must therefore be found that the Council has adduced a sufficiently specific, precise and consistent body of evidence capable of demonstrating that the economic sector in which the applicant is involved provides a substantial source of revenue to the Russian Government.

121 In the light of all of the foregoing, it must be held that the ground for including the applicant's name on the lists at issue, based on the status as a leading businessperson involved in economic sectors providing a substantial source of revenue to the Russian Government, corresponding to criterion (g), is sufficiently substantiated, with the result that, in the light thereof, the Council did not make an error of assessment in deciding to include then maintain the applicant's name on the lists at issue.

122 According to settled case-law, with regard to the review of the lawfulness of a decision adopting restrictive measures, and having regard to their preventive nature, if the Courts of the European Union consider that, at the very least, one of the reasons mentioned is sufficiently detailed and specific, that it is substantiated and that it constitutes in itself sufficient basis to support that decision, the fact that the same cannot be said of other such reasons cannot justify the annulment of that decision (see judgment of 28 November 2013, *Council* v *Manufacturing Support & Procurement Kala Naft*, C-348/12 P, EU:C:2013:776, paragraph 72 and the case-law cited).

123 Consequently, without there being any need to examine the merits of the other complaints raised by the applicant seeking to call into question the Council's assessment in the light of criterion (d), the second plea must be rejected as unfounded.

The third plea: infringement of the principles of equal treatment and proportionality

124 The third plea in law is divided into two parts, alleging (i) infringement of the principles of non-discrimination and equal treatment and (ii) infringement of the principle of proportionality.

– *The first part of the third plea: infringement of the principles of non-discrimination and equal treatment*

125 The applicant claims, in essence, that the restrictive measures at issue are discriminatory. In his view, first, the Council's interpretation of criterion (g) is too broad, since it allows any and all businesspersons, whatever their nationality, who are or have been involved in significant economic activities in Russia and who fulfil their tax obligations, to be sanctioned solely on that basis. Second, the Council's application of criterion (g) is discriminatory, in that it targets Russian businesspersons and companies while ignoring foreign companies, even though the latter also operate on Russian territory and contribute sums in the form of taxes and fees to the Russian Federation's budget. Third, the applicant takes the view that he has been sanctioned on account of factors over which he has no control, be it the amounts of tax to be paid, the allocation of tax revenue between the various regions and the federal government, or the use of the budget allocated to the latter. Having no tools at his disposal with which to influence Russian fiscal policy or the allocation of the proceeds of Evraz's activities, no restrictive measure concerning the applicant would alter that company's obligations as a Russian taxpayer.

126 The Council, supported by the Commission, disputes the applicant's arguments.

127 It should be recalled that, according to the case-law, the principle of equal treatment, which constitutes a fundamental legal principle, prohibits comparable situations from being treated differently or different situations from being treated in the same way, unless such difference in treatment is objectively justified (see judgments of 31 May 2018, *Kaddour* v *Council*, T-461/16, EU:T:2018:316, paragraph 152 and the case-law cited, and of 13 September 2018, *Vnesheconombank* v *Council*, T-737/14, not published, EU:T:2018:543, paragraph 161 and the case-law cited).

128 In the present case, in the first place, as regards the applicant's argument that the Council's interpretation of criterion (g) is too broad, since it essentially allows any and all businesspersons, whatever their nationality, who are or have been involved in significant economic activities in Russia and who fulfil their tax obligations, to be sanctioned solely on that basis, it should be noted that the applicant has failed to state in what way or against whom that allegedly overly broad interpretation of that criterion is discriminatory. Contrary to the applicant's arguments, not all businesspersons involved in a significant economic activity in Russia and paying or having paid taxes in that country on that basis are targeted, since only those who are involved in an economic sector providing a substantial source of revenue to the Russian Government can be covered by that criterion. In any event, the grounds on which the Council relied when adopting the contested acts are based on the finding that the applicant is a major shareholder in Evraz, one of the Russian Federation's biggest taxpayers. Thus, contrary to his claims, the applicant was made subject to the restrictive measures at issue further to an individual assessment, based on the actual evidence concerning him.

129 Furthermore, in the context of criterion (g), it is the economic sector – and not the businesspersons as such or the companies in which they are shareholders – which is identified as providing a substantial source of revenue to the Russian Government (see paragraph 98 above).

Thus, the payment of taxes by the applicant or by Evraz's parent company is not in itself covered. That criterion refers to all of the revenue generated by the economic sector in which the businessperson targeted is involved, and therefore includes, in particular but not only, the tax revenue generated by that sector.

130 In the second place, as regards the applicant's argument that the Council's application of criterion (g) is discriminatory, in that that criterion targets Russian businesspersons and undertakings whilst ignoring foreign undertakings, it is sufficient to note, as the Council does, that that criterion does not refer to the nationality of the persons designated, but to any natural person with the status of a leading businessperson within the meaning of that criterion. Consequently, the persons subject to the restrictive measures at issue may be of any nationality if they meet the criterion in question.

131 In those circumstances, even if the Council had not adopted measures for the freezing of funds against certain persons meeting criterion (g), or examined, carefully and impartially, all the relevant evidence relating to those persons, the applicant cannot successfully rely on that fact, because the principles of equal treatment and non-discrimination must be reconciled with the principle of legality (see, to that effect, judgment of 3 May 2016, *Post Bank Iran* v *Council*, T-68/14, not published, EU:T:2016:263, paragraph 135 and the case-law cited). In any event, it must be noted that it is apparent from the examination of the second plea that, in the context of the discretion that it has in order to establish whether the designation criteria have been met, the Council did not make an error of assessment in deciding to include and maintain the applicant's name on the lists at issue.

132 In the third place, it should be observed that the applicant has failed to explain why his alleged lack of influence on the allocation of Russian tax revenue or on the allocation of the proceeds of Evraz's activities might constitute an infringement of the principle of equal treatment, with the result that that argument must be rejected as unsubstantiated.

133 Accordingly, the present part of the plea in law must be rejected.

– *The second part of the third plea: infringement of the principle of proportionality*

134 The applicant claims that the restrictive measures at issue taken against him are inappropriate and disproportionate, in that they exert no pressure on the Russian authorities and also cannot be effective, given that the applicant has taken no part in any action in connection with the annexation of Crimea or the destabilisation of Ukraine.

135 In that regard, the applicant takes the view, first, that the restrictive measures at issue taken against him are not necessary in order to attain the objectives pursued, given that he was neither involved in nor consulted on any decision relating to the annexation of Crimea or the destabilisation of Ukraine. Moreover, he maintains that those measures are far removed from their alleged objective of influencing the Russian Federation's policy in Ukraine, having regard to the insubstantial contribution to the federal budget, and run the risk of having negative consequences for the applicant's activities outside Russia. Furthermore, he argues that those measures were adopted on account of his status as a shareholder in Evraz's parent company, which is not subject to any similar measures. Lastly, the applicant claims that the measures in question are disproportionate, since they prevent him from acting effectively as a channel of communication in the context of peace negotiations.

136 The Council, supported by the Commission, disputes the applicant's arguments.

137 The principle of proportionality, which is one of the general principles of EU law, and is reproduced in Article 5(4) TEU, requires that measures implemented through provisions of EU law be appropriate for attaining the legitimate objectives pursued by the legislation at issue and must not go beyond what is necessary to achieve them (judgments of 15 November 2012, *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraph 122, and of 1 June 2022, *Prigozhin* v *Council*, T-723/20, not published, EU:T:2022:317, paragraph 133).

138 Thus, when there is a choice between several appropriate measures, recourse must be had to the least onerous, and the disadvantages caused must not be disproportionate to the aims pursued (see, to that effect, judgment of 30 November 2016, *Rotenberg* v *Council*, T-720/14, EU:T:2016:689, paragraph 178 and the case-law cited).

139 With regard to judicial review of compliance with the principle of proportionality, the EU 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 follows that the lawfulness of a measure adopted in those areas may be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue (see, to that effect, judgment of 30 November 2016, *Rotenberg* v *Council*, T-720/14, EU:T:2016:689, paragraph 179 and the case-law cited).

140 In the present case, it should be observed that, in the light of the fundamental importance of the objectives pursued by the restrictive measures at issue, namely the protection of Ukraine's territorial integrity, sovereignty and independence and the promotion of a peaceful settlement of the crisis in that country, which are part of the wider objective of preserving peace, preventing conflicts and strengthening international security, in accordance with the objectives of the European Union's external action set out in Article 21(2)(c) TEU, the negative consequences resulting from the application thereof to the applicant are not manifestly disproportionate (see, to that effect and by analogy, judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 150).

141 It should also be noted that, in recitals 2 to 10 of Decision 2022/329, the Council refers to the continuing deterioration of the situation in Ukraine which culminated, on 24 February 2022, in the Russian Federation's aggression against Ukraine in blatant violation of the territorial integrity, sovereignty and independence of the latter State. Thus, it is on account of the worsening of the situation in Ukraine, characterised by the outbreak of the war of aggression waged by the Russian Federation, that the Council deemed it necessary to widen the circle of persons and entities subject to the restrictive measures at issue, in order to achieve the objectives pursued. It follows from such an approach, which is based on the progressive impairment of rights according to the effectiveness of the measures, that the proportionality of those measures is also established (see, by analogy, judgments of 28 November 2013, *Council* v *Manufacturing Support & Procurement Kala Naft*, C-348/12 P, EU:C:2013:776, paragraph 126, and of 25 January 2017, *Almaz-Antey Air and Space Defence* v *Council*, T-255/15, not published, EU:T:2017:25, paragraph 104).

142 Having regard to developments in the situation in Ukraine, by also targeting businesspersons who are involved in activities in economic sectors providing a substantial source of revenue to the Russian Government, the Council could legitimately expect that such actions would cease or

become too costly for those engaging therein, in order to promote an end to the blatant violation of the territorial integrity, sovereignty and independence of Ukraine (see, to that effect, judgment of 13 September 2018, *Rosneft and Others* v *Council*, T-715/14, not published, EU:T:2018:544, paragraph 157).

143 In the present case, in the context of the second plea, it has been established that the restrictive measures taken against the applicant were justified, on the ground that his situation supported the conclusion that he satisfied the conditions for the application of criterion (g). The designation of the applicant, as the principal shareholder in Evraz's parent company, in fact takes into account the sector of activity in which that company operates, irrespective of the question whether it too is targeted by individual sanctions as a legal person, or of what tax contribution the Russian Government might benefit from.

144 Moreover, the fact that the applicant was not involved in any decision relating to the annexation of Crimea or to the destabilisation of Ukraine is irrelevant, since he was not subject to restrictive measures for that reason, but because, in particular, he is a leading businessperson active in economic sectors which provide a substantial source of revenue to the Russian Government, which is responsible for the annexation of Crimea and the destabilisation of Ukraine. In that connection, it should be recalled that the importance of the objectives pursued by an EU act establishing a system of restrictive measures is such as to justify negative consequences, even of a substantial nature, for some operators, including those who are in no way responsible for the situation which led to the adoption of the measures in question (see, by analogy, judgments 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 361, and of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 150).

145 As to the appropriateness of the restrictive measures taken against the applicant, it should be noted that, in the light of objectives of general interest as fundamental for the international community as those referred to in paragraph 140 above, those measures cannot, in themselves, be regarded as inappropriate (see, to that effect, judgment of 2 December 2020, *Kalai* v *Council*, T-178/19, not published, EU:T:2020:580, paragraph 171 and the case-law cited).

146 In so far as concerns the necessity of the restrictive measures at issue, it should be held that other, less restrictive measures are not as effective in achieving the objectives pursued, namely bringing pressure to bear on Russian decision-makers responsible for the situation in Ukraine, particularly given the possibility of circumventing the restrictions imposed (see, to that effect, judgment of 30 November 2016, *Rotenberg* v *Council*, T-720/14, EU:T:2016:689, paragraph 182 and the case-law cited). In the present case, the applicant has failed to demonstrate that the Council could have envisaged the adoption of less restrictive measures that were just as appropriate as those provided for.

147 As to the applicant's argument relating to the repercussions for his involvement in peace negotiations, it must be borne in mind that Article 2(3) and (4) of Decision 2014/145, as amended, and Article 4(1), Article 5(1) and Article 6(1) of Regulation No 269/2014, as amended, provide for the possibility of authorising the use of frozen funds in order to meet basic needs or to meet certain commitments, and of granting specific authorisations permitting the release of funds, other financial assets or other economic resources. In accordance with Article 1(6) of that decision, the competent authority of a Member State may authorise listed persons to enter its territory, inter alia on urgent humanitarian grounds, or on grounds of attending intergovernmental meetings, and those promoted or hosted by the European Union, or hosted by

a Member State holding the Chairmanship in office of the Organization for Security and Co-operation in Europe (OSCE), where a political dialogue is conducted that directly promotes the policy objectives of the restrictive measures, including support for the territorial integrity, sovereignty and independence of Ukraine.

148 In the present case, as the Council rightly points out, involvement in peace negotiations and, more generally, the provision of humanitarian aid cannot influence the Council's assessment as to the need to take restrictive measures against the applicant or other leading Russian businesspersons in order to increase pressure on President Putin and his government.

149 In the light of the foregoing, it must be found that the restrictive measures at issue are neither discriminatory nor disproportionate.

150 The present part must therefore be rejected, as must the third plea in its entirety.

The fourth plea: infringement of fundamental rights

151 The applicant claims that the inclusion and maintenance of his name on the lists at issue constitute an unjustified and disproportionate restriction of his fundamental rights, which include, in particular, the right to property, the right to respect for private life and the freedom to conduct a business, as well as the right to free movement on the territory of the Member States. He takes the view that the adoption of the restrictive measures at issue also gave rise to an infringement of his right to the presumption of innocence and caused him non-material harm on account of the damage to his reputation.

152 The Council, supported by the Commission, disputes the applicant's arguments.

153 First of all, it should be noted that the right to respect for private life, the right to freedom to conduct a business, the right to property and the right to freedom of movement and of residence form part of the general principle of EU law and are enshrined in Articles 7, 16, 17 and 45 of the Charter, respectively.

154 Admittedly, the restrictive measures contained in the contested acts, in spite of the precautionary nature thereof, give rise to limitations on the exercise, by the applicant, of the fundamental rights referred to in paragraph 153 above.

155 However, the fundamental rights on which the applicant relies are not absolute rights, and the exercise thereof may be subject to limitations, under the conditions laid down in Article 52(1) of the Charter, according to which, first, 'any limitation on the exercise of the rights and freedoms recognised by [the Charter] must be provided for by law and respect the essence of those rights and freedoms' and, second, 'subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others'.

156 Consequently, in order to comply with EU law, a limitation on the exercise of the fundamental rights and freedoms must satisfy four conditions. First, it must be 'provided for by law', in the sense that the EU institution adopting measures liable to restrict the fundamental rights of a natural or legal person must have a legal basis for that purpose. Second, it must respect the essential content of those rights. Third, it must refer to an objective of general interest,

recognised as such by the European Union. Fourth, it must be proportionate (see judgment of 27 July 2022, *RT France* v *Council*, T-125/22, EU:T:2022:483, paragraphs 145 and 222 and the case-law cited).

157 It is clear that those four conditions are met in the present case.

158 In the first place, the limitations at issue are 'provided for by law', since they are laid down in acts which, in particular, are of general application and have a clear legal basis in EU law and sufficient foreseeability which, moreover, the applicant does not dispute.

159 In the second place, in so far as concerns the question whether the limitations at issue respect the 'essential content' of the fundamental rights on which the applicant relies, it is clear that the restrictive measures at issue are limited in time and are reversible. First, they apply for six months and are kept under constant review, as provided in the third paragraph of Article 6 of Decision 2014/145, as amended, and second, it is possible to grant exemptions to the restrictive measures applied, in so far as concerns both the freezing of funds and restrictions on admission to the territories of the Member States (see paragraph 147 above).

160 In the third place, the limitations at issue satisfy an objective of general interest, recognised as such by the European Union. They seek, in particular, to put pressure, directly and indirectly, on the Russian Government and decision-makers responsible for the invasion of Ukraine, in order to diminish their capacity to pursue their actions undermining the territorial integrity, sovereignty and independence of Ukraine, and to put an end to those actions in order to safeguard global and European stability. That is an objective which falls within those pursued under the CFSP and referred to in Article 21(2)(b) and (c) TEU, such as, in particular, the preservation of peace, prevention of conflicts and strengthening of international security and the protection of civilian populations (see, to that effect, judgment of 27 July 2022, *RT France* v *Council*, T-125/22, EU:T:2022:483, paragraph 226).

161 In the fourth place, as to the proportionate nature of the limitations at issue, it should be noted that, in the light of objectives of general interest as fundamental for the international community as those referred to in paragraph 140 above, the measures for the freezing of funds cannot, in themselves, be regarded as inappropriate. In so far as concerns the necessity of the restrictive measures at issue, it should be held that other, less restrictive measures are not as effective in achieving the objectives pursued, namely bringing pressure to bear on Russian decision-makers responsible for the situation in Ukraine, particularly given the possibility of circumventing the restrictions imposed (see, to that effect, judgment of 30 November 2016, *Rotenberg* v *Council*, T-720/14, EU:T:2016:689, paragraph 182 and the case-law cited).

162 Next, it must be borne in mind that Article 2(3) and (4) of Decision 2014/145, as amended, and Article 4(1), Article 5(1) and Article 6(1) of Regulation No 269/2014, as amended, provide for the possibility of authorising the use of frozen funds in order to meet basic needs or to meet certain commitments, and of granting specific authorisations permitting the release of funds, other financial assets or other economic resources.

163 In so far as concerns, more specifically, the alleged infringement, by Article 1 of Decision 2014/145, as amended, of the applicant's right, as a Portuguese national – and therefore a Union citizen – to move freely on the latter's territory, as enshrined in Article 21 TFEU and in Article 45(1) of the Charter, it should be observed that the applicant does not dispute the fact

that the adoption of acts under the CFSP, provided for by the Treaties, can limit the right to freedom of movement of Union citizens. The applicant in fact confines himself to claiming that the restriction of his freedom of movement is disproportionate.

164 It is, however, clear that the applicant has failed to explain in what way such a restriction is disproportionate in the light of the objective pursued. In his written pleadings, he merely makes a general reference to his line of argument under the plea alleging infringement of the principle of proportionality, without setting out the reasons for which the arguments presented in the context of that plea are relevant in order to substantiate a disproportionate infringement of his freedom of movement within the European Union. Consequently, the applicant's arguments alleging a disproportionate infringement of the free movement of Union citizens must be rejected as unsubstantiated.

165 As to the claim by way of which the applicant questions the possibility for the Council to adopt a restriction on free movement on the basis of Article 215 TFEU, even if such a claim were to constitute a separate argument, it is clear that that is also not substantiated and must be rejected. In any event, it should be noted that restrictions on freedom of movement are laid down solely in Article 1 of Decision 2014/145, as amended, and do not feature in Regulation No 269/2014, as amended. As is apparent from the citations of that decision, the latter was not adopted on the basis of Article 215 TFEU but on that of Article 29 TEU.

166 Furthermore, it should also be noted that the applicant has failed to substantiate at all the way in which the restrictive measures taken against him might infringe his right to respect for private life.

167 Lastly, as regards the alleged infringement of the applicant's right to the presumption of innocence – to which he refers in his written pleadings without, however, substantiating that claim with any specific arguments – it should be observed that, in so far as the effect of the restrictive measures taken against the applicant is not to confiscate his assets but, more simply, to freeze those assets as a precaution, it must be held that such measures are not, by their nature, criminal in any way and the effect thereof is therefore not to infringe the right to the presumption of innocence, recognised in Article 48(1) of the Charter, which requires that everyone who has been charged be presumed innocent until proved guilty according to law. As to the alleged non-material harm suffered on account of the damage to his reputation, also mentioned in the context of that complaint, it cannot be meaningfully relied upon in order to establish an infringement of the applicant's right to the presumption of innocence.

168 It must be found that the limitations at issue, which follow from the restrictive measures taken against the applicant in the contested acts, are not disproportionate and do not vitiate those acts due to any unlawfulness.

169 In the light of the foregoing, the fourth plea must be rejected and, accordingly, the application for annulment dismissed in its entirety.

The claim for compensation

170 The applicant seeks compensation in respect of the damage to his reputation, provisionally estimated at EUR 1 million.

171 The Council, supported by the Commission, disputes the applicant's arguments.

172 It is clear from the case-law that the non-contractual liability of the European Union for unlawful conduct on the part of its institutions or bodies, within the meaning of the second paragraph of Article 340 TFEU, depends on fulfilment of several conditions, namely the existence of a sufficiently serious breach of a rule of law intended to confer rights on individuals, the fact of damage, the existence of a causal link between the breach of the obligation resting on the author of the act and the damage sustained by the injured party (see judgment of 10 September 2019, *HTTS* v *Council*, C-123/18 P, EU:C:2019:694, paragraph 32 and the case-law cited).

173 The conditions for the European Union to incur non-contractual liability, which the EU judicature is not required to examine in any particular order, are cumulative, with the result that it is sufficient that one of these not be met in order for the action to be dismissed in its entirety (judgment of 1 February 2023, *Klymenko* v *Council*, T-470/21, not published, EU:T:2023:26, paragraph 62; see also, to that effect, judgment of 13 December 2018, *European Union* v *Kendrion*, C-150/17 P, EU:C:2018:1014, paragraph 118 and the case-law cited).

174 It is clear from all of the foregoing that the arguments that the applicant has put forward in order to establish the unlawfulness of the contested acts by way of which his name was included on the lists at issue must be rejected, with the result that the condition relating to the unlawfulness of the conduct alleged against the Council has not been met in the present case. Thus, since one of the conditions referred to in paragraph 172 above has not been met, the European Union cannot incur liability.

175 Consequently, the claim for compensation must be rejected as unfounded, without it being necessary to examine the fact of the damage or the existence of a causal link between that damage and the infringement of the obligation at issue. Accordingly, the action must be dismissed in its entirety.

Costs

176 Under Article 134(1) of the Rules of Procedure of the General Court, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the applicant has been unsuccessful, he must be ordered to pay the costs, in accordance with the form of order sought by the Council.

177 According to Article 138(1) of the Rules of Procedure, the Member States and institutions which have intervened in the proceedings are to bear their own costs. Consequently, the Commission must bear its own costs.

On those grounds,

THE GENERAL COURT (First Chamber, Extended Composition)

hereby:

1. **Dismisses the action;**

2. **Orders Mr Roman Arkadyevich Abramovich to bear his own costs and to pay those incurred by the Council of the European Union;**

3. **Orders the European Commission to bear its own costs.**

Spielmann Mastroianni Brkan

Delivered in public in Luxembourg on 20 December 2023.

[Signatures]

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