



Reports of Cases

JUDGMENT OF THE GENERAL COURT (Fourth Chamber)

24 November 2021 *

(Common foreign and security policy – Restrictive measures against Syria – Freezing of funds – Errors of assessment)

In Case T-257/19,

Khaldoun Al Zoubi, residing in Damascus (Syria), represented by L. Cloquet, lawyer,

applicant,

v

Council of the European Union, represented by S. Kyriakopoulou and V. Piessevaux, acting as Agents,

defendant,

APPLICATION under Article 263 TFEU for annulment of Council Implementing Decision (CFSP) 2019/87 of 21 January 2019 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2019 L 18 I, p. 13), of Council Implementing Regulation (EU) 2019/85 of 21 January 2019 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2019 L 18 I, p. 4), of Council Decision (CFSP) 2019/806 of 17 May 2019 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2019 L 132, p. 36), of Council Implementing Regulation (EU) 2019/798 of 17 May 2019 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2019 L 132, p. 1), of Council Decision (CFSP) 2020/719 of 28 May 2020 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2020 L 168, p. 66), and of Council Implementing Regulation (EU) 2020/716 of 28 May 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2020 L 168, p. 1), in so far as those acts concern the applicant,

THE GENERAL COURT (Fourth Chamber),

composed of S. Gervasoni, President, L. Madise and J. Martín y Pérez de Nanclares (Rapporteur), Judges,

Registrar: B. Lefebvre, Administrator,

* Language of the case: English.

having regard to the written part of the procedure and further to the hearing on 21 October 2020, gives the following

Judgment¹

Background to the dispute and events subsequent to the bringing of the action

...

- 12 By Council Implementing Decision (CFSP) 2019/87 of 21 January 2019 implementing Decision 2013/255 (OJ 2019 L 18 I, p. 13), and by Council Implementing Regulation (EU) 2019/85 of 21 January 2019 implementing Regulation No 36/2012 (OJ 2019 L 18 I, p. 4) (together, ‘the initial measures’), the applicant’s name was inserted at line 268 of Table A of the lists of the names of the natural and legal persons, entities or bodies subject to restrictive measures set out in Annex I to Decision 2013/255 and in Annex II to Regulation No 36/2012 (together, ‘the lists at issue’), with the following reasons being given:

‘Leading businessperson operating in Syria, with interests and activities in multiple sectors of Syria’s economy; including his roles as Vice President of Aman Holding and majority shareholder of Fly Aman airline. In this capacity, he is linked to Samer Foz. Aman Holding is represented on the board of, and holds a majority stake in, “Aman [Dimashq]”, a joint venture in the construction of Marota City, a regime-backed luxury residential and commercial development. [Al Zoubi] benefits from and/or supports the regime through his position as Vice President of Aman Holding.’

...

- 16 On 17 May 2019, the Council adopted Decision (CFSP) 2019/806 amending Decision 2013/255 (OJ 2019 L 132, p. 36), which extended the application of the latter decision until 1 June 2020; on the same day, the Council also adopted Implementing Regulation (EU) 2019/798 implementing Regulation No 36/2012 (OJ 2019 L 132, p. 1) (together, ‘the 2019 maintaining acts’). The applicant’s name was maintained at a different line, line 286 of Table A of the lists at issue on the basis of reasons identical to those set out in the initial measures.

...

- 21 On 28 May 2020, the Council adopted Decision (CFSP) 2020/719 amending Decision 2013/255 (OJ 2020 L 168, p. 66), which extended the application of the latter decision until 1 June 2021, and Implementing Regulation (EU) 2020/716 implementing Regulation No 36/2012 (OJ 2020 L 168, p. 1) (together, ‘the 2020 maintaining acts’). The applicant’s name was maintained at

¹ Only the paragraphs of the present judgment which the Court considers it appropriate to publish are reproduced here.

line 286 of Table A of the lists at issue, for reasons that differ in part from those set out in the 2019 maintaining acts. The Council justified the adoption of restrictive measures concerning the applicant by giving the following reasons:

‘Leading businessperson operating in Syria, with interests and activities in multiple sectors of Syria’s economy, including his roles as Vice President of Aman Holding and majority shareholder of Fly Aman airline (until February 2019). In this capacity, he is linked to Samer Foz. Aman Holding is represented on the board of, and holds a majority stake in, Aman [Dimashq], a joint venture in the construction of Marota City, a regime-backed luxury residential and commercial development. [Al Zoubi] benefits from and/or supports the Syrian regime. Founding member of Asas Iron Company.’

...

Procedure and forms of order sought

- 23 By application lodged at the Court Registry on 15 April 2019, the applicant brought the present action for annulment of the initial measures in so far as they concern the applicant.
- 24 By separate document lodged at the Court Registry on 30 July 2019, the applicant modified the application under Article 86 of the Rules of Procedure of the General Court, with the result that the application also seeks annulment of the 2019 maintaining acts in so far as they concern the applicant. The applicant also reiterated the form of order set out in the application.
- 25 On 8 August 2019, the Council lodged the defence and the observations on the first statement of modification at the Court Registry.
- 26 The reply was lodged on 1 October 2019.
- 27 By decision of 17 October 2019, the President of the General Court, pursuant to Article 27(3) of the Rules of Procedure, reassigned the case to a new Judge-Rapporteur, attached to the Fourth Chamber.
- 28 The rejoinder was lodged on 8 January 2020.
- 29 The written part of the procedure was closed on 8 January 2020.
- 30 By way of measures of organisation of procedure provided for in Article 89(3)(a) of the Rules of Procedure, on 23 July 2020, the Court asked the Council to answer a series of questions. The Council replied to the questions within the prescribed period.
- 31 By separate document lodged at the Court Registry on 13 August 2020, the applicant, under Article 86 of the Rules of Procedure, modified the application a second time, with the result that the application also seeks annulment of the 2020 maintaining acts in so far as they concern the applicant. The applicant also reiterated the form of order set out in the application and in the first statement of modification and put forward new arguments.

- 32 By way of measures of organisation of procedure provided for in Article 89(3)(d) of the Rules of Procedure, on 30 September 2020, the Court asked the Council to produce a document. The Council complied with that request within the prescribed period. At the hearing on 21 October 2020, the applicant did not submit observations on the Council's replies to the various measures of organisation of procedure ordered by the Court.
- 33 On 2 October 2020, the Council submitted its observations on the second statement of modification.
- 34 The parties presented oral argument and replied to the questions put by the Court at the hearing on 21 October 2020.
- 35 The applicant claims that the Court should:
- annul the initial measures, the 2019 maintaining acts and the 2020 maintaining acts (together, 'the contested measures') in so far as they concern the applicant;
 - order the Council to pay the costs.
- 36 The Council contends that the Court should:
- dismiss the action;
 - order the applicant to pay the costs;
 - in the alternative, should the Court annul the contested measures in so far as they concern the applicant, order that the effects of Implementing Decision 2019/87 and of Decisions 2019/806 and 2020/719 be maintained in so far as they concern the applicant, until the annulment of Implementing Regulations 2019/85, 2019/798 and 2020/716 takes effect in so far as they concern the applicant.

Law

...

The first plea, alleging errors of assessment

- 39 In the first place, the applicant denies being a leading businessperson operating in Syria. In that regard, he disputes the evidence relied on by the Council in order to include his name on the lists at issue. In particular, the applicant argues that there is a clear distinction between the position he held as Head of Executive Directors of Aman Holding JSC and that of Vice President. In addition, the applicant claims that he has now resigned from that position. Next, he admits to being the founder and majority shareholder of Fly Aman LLC, but maintains that he has transferred his entire shareholding. In addition, the Council's description of the applicant as a 'leading businessman active in a variety of sectors in Syria and internationally' is, according to the applicant, unsubstantiated, since document WK 47/2019 INIT refers to only two companies which have their headquarters in Syria and where the Council was able to prove that the applicant worked as well as his alleged status. The applicant is not, he claims, directly or indirectly, involved in the Marota City project, with the result that he cannot have developed

expropriated land belonging to persons displaced by the conflict in Syria, which prevented them from returning to their homes. Furthermore, the tasks assigned to the applicant as an employee of Aman Holding – which is a shareholder of Aman Damascus JSC ('Aman Dimashq') with development rights over a portion of the plots of Marota City – never included overseeing the activities of Aman Dimashq, which was reserved to another employee, Mr Bashar Assi. Lastly, according to the applicant, the Marota City project does not in any way involve the development of expropriated land, with the result that neither the Marota City project as a whole nor Aman Dimashq can be described as ventures backed by the State.

- 40 In the second place, as regards the 2020 maintaining acts, the applicant challenges the new reason for listing his name relating to his status as founding member of Asas Iron Company, and submits, in that regard, that he was never the founder or owner of Asas Iron Company and has never been otherwise involved in, or even associated with, that company.
- 41 In the third place, the applicant submits that the Council has not produced sufficient information proving that he is associated with the Syrian regime. In addition, the evidence relating to the applicant's obtaining Lebanese citizenship proves that he is not part of the inner cadre of businesspersons who are close to the Syrian regime and that he is in no way associated with that regime.
- 42 In the fourth place, the applicant argues that much of the evidence concerns Mr Samer Foz or other companies related to Mr Foz but in which the applicant is not involved, such as Aman Dimashq. Furthermore, none of the evidence in document WK 47/2019 INIT expressly refers to the applicant's supposed link to the Syrian regime. However, the applicant admits that, as a mere employee of Aman Holding, he did previously maintain a professional relationship with Mr Foz.
- 43 The Council disputes the applicant's arguments.

Preliminary observations

...

- 51 It should be borne in mind that the general listing criteria laid down in Article 27(1) and Article 28(1) of Decision 2013/255, as amended by Decision 2015/1836, which are reproduced, as regards the freezing of funds, in Article 15(1)(a) of Regulation No 36/2012, as amended by Regulation 2015/1828, provide that persons and entities benefiting from or supporting the Syrian regime are to be subject to restrictive measures. Similarly, Article 27(2)(a) and (3) and Article 28(2)(a) and (3) of Decision 2013/255, as amended by Decision 2015/1836, reproduced, as regards the freezing of funds, in Article 15(1a)(a) and (1b) of Regulation No 36/2012, as amended by Regulation 2015/1828, provide that the category of 'leading businesspersons operating in Syria' is subject to restrictive measures, unless there is sufficient information that they are not, or are no longer, associated with the regime or do not exercise influence over it or do not pose a real risk of circumvention.
- 52 It should be inferred from the reasons for including the applicant's name on the lists at issue, referred to in paragraphs 12 and 21 above, that his name was included and maintained on the lists at issue by reason of, first, his status as a leading businessperson operating in Syria and, secondly, his association with the Syrian regime. In other words, the listing of the applicant's name is based, first, on the criterion defined in Article 27(2)(a) and Article 28(2)(a) of Decision 2013/255, as amended by Decision 2015/1836, and in Article 15(1a)(a) of Regulation No 36/2012,

as amended by Regulation 2015/1828 (criterion of a leading businessperson operating in Syria), and, secondly, on the criterion defined in Article 27(1) and Article 28(1) of that decision and in Article 15(1)(a) of that regulation (criterion of association with the regime).

- 53 In that regard, it should be pointed out that, while the Council stated in its pleadings that the applicant was included on the lists at issue solely on the basis of the listing criterion laid down in Article 27(2)(a) and Article 28(2)(a) of Decision 2013/255, as amended by Decision 2015/1836, it nevertheless stated at the hearing that the applicant had been listed on the basis of three listing criteria. In addition to the two criteria mentioned in paragraph 52 above, the Council stated that the applicant was listed because of his links to Mr Foz. Consequently, his listing is also based on the criterion defined in the last sentence of Article 27(2) and the last sentence of Article 28(2) of Decision 2013/255, as amended by Decision 2015/1836, and in the last sentence of Article 15(1a) of Regulation No 36/2012, as amended by Regulation 2015/1828 (persons and entities associated with persons and entities falling within one of the criteria for inclusion on the EU lists). However, in the reasons for listing given by the Council in the contested measures, the second sentence of those reasons – which states that the applicant, ‘in this capacity, ... is linked to Samer Foz’ – can be understood only by reference to the first sentence, which relates to the leading businessperson criterion. Consequently, the applicant’s name was indeed included and maintained on the lists at issue on the basis of the two criteria mentioned in paragraph 52 above.

...

The status of leading businessperson operating in Syria

- 81 It is necessary to ascertain whether all of the evidence submitted by the Council discharges the burden of proof incumbent on it under the case-law referred to in paragraph 46 above and thus constitutes a set of indicia sufficiently specific, precise and consistent to support the first reason for listing.
- 82 In that regard, the Council took the view that the applicant is a leading businessperson operating in Syria because of his interests and activities in multiple sectors of Syria’s economy. As regards the initial measures and the 2019 maintaining acts, the evidence from document WK 47/2019 INIT relates to two main activities, namely, first, the applicant’s status as majority shareholder of the airline Fly Aman and, secondly, his position as Vice President of Aman Holding, a company represented on the board of Aman Dimashq, which is a joint venture in the Marota City project. Reference is also made to the applicant’s links to Mr Foz. As regards the 2020 maintaining acts, in addition to the evidence referred to above, the additional evidence from document WK 3600/2020 REV 1 mentions the fact that the applicant is a founding member of Asas Iron Company.
- 83 It is therefore necessary to examine each of those elements.

– Status as majority shareholder of Fly Aman

...

- 85 It is apparent from the articles published on the websites ‘meirss.org’, ‘Aliqtisadi’ and ‘7al.net’, reproduced in document WK 47/2019 INIT, that the applicant is the majority shareholder of Fly Aman and in that respect owns 90% of the shares in that company. In addition, the article

published on the Syrian website '7al.net' states that he founded, in cooperation with businessman Mr Assi, a new airline, Fly Aman. According to that website, the Syrian Ministry of Internal Trade and Consumer Protection ratified Fly Aman's articles of association. Lastly, it is also apparent from the article from the website 'Aliqtisadi', contained in document WK 3600/2020 REV 1, that the applicant is the chairman and co-founder of Fly Aman.

- 86 The applicant disputes this and claims that he does not own any shares in Fly Aman because he transferred his entire shareholding. In that regard, he produces Fly Aman's registration certificate of 28 May 2018 and Fly Aman's articles of association, ratified on 22 February 2018, from which it is apparent, in essence, that he was initially the majority shareholder of Fly Aman together with company B. He also produces Resolution 2274/169/12/3 of 14 February 2019 of the Syrian Ministry of Internal Trade and Consumer Protection referring to a registered letter sent by Fly Aman. Resolution 2274/169/12/3 states that the applicant's shareholding in Fly Aman was transferred in part to company B (whose shareholding is now 20%) and in part to shareholders C and D, which each have a shareholding representing, in total, 80% of the shares in Fly Aman.
- 87 It should be borne in mind that, in accordance with settled case-law, the legality of an EU measure must be assessed on the basis of the elements of fact and of law existing at the time when the measure was adopted (see judgments of 3 September 2015, *Inuit Tapiriit Kanatami and Others v Commission*, C-398/13 P, EU:C:2015:535, paragraph 22 and the case-law cited, and of 4 September 2015, *NIOC and Others v Council*, T-577/12, not published, EU:T:2015:596, paragraph 112 and the case-law cited).
- 88 In the present case, as regards the initial measures, it should be noted that the transfer of the applicant's shares in Fly Aman, as confirmed by Resolution 2274/169/12/3, occurred after those measures were adopted. Accordingly, Resolution 2274/169/12/3 cannot call into question the legality of the initial measures, in accordance with the case-law referred to in paragraph 87 above. Furthermore, Fly Aman's articles of association of 22 February 2018 confirm that the applicant was, when the initial measures were adopted, the majority shareholder of Fly Aman. In any event, as the Council rightly states, the applicant's claim that he no longer owns any shares confirms that he did once own them. Accordingly, that part of the reasons for the initial measures is well founded.
- 89 As regards the 2019 maintaining acts, it should be borne in mind that, in reviewing the legality of the listing of a person or entity on lists drawn up by the Council, it is for the EU judicature to determine whether the facts alleged are made out in the light of the information or evidence provided by the competent EU authority and to assess the probative value of that information or evidence in the light of any observations submitted in relation to them by, among others, the person or entity concerned, as recalled in paragraph 48 above. Thus, the EU judicature may rely on all of the evidence, both inculpatory and exculpatory, which has been submitted to it by the parties during the judicial proceedings. In that regard, it is apparent from recital 15 of Decision 2015/1836 that 'all listing decisions should be made on an individual and case-by-case basis taking into account the proportionality of the measure'.
- 90 It is apparent from the file that the applicant demonstrated that he had transferred his shares in Fly Aman. In that regard, the applicant produced Resolution 2274/169/12/3, which predates the adoption of the 2019 maintaining acts. It is also clear that the Council acknowledged, in the 2020 maintaining acts, the fact that, as from February 2019, the applicant was no longer a majority

shareholder of Fly Aman. The statement of reasons for the 2020 maintaining acts reflects the content of Resolution 2274/169/12/3 since it mentions the actual date on which that shareholding was transferred, namely 'February 2019'.

- 91 In addition, the fact that, when adopting the 2019 maintaining acts, the Council could not have been aware of Resolution 2274/169/12/3, in view of its limited distribution to a few administrative bodies, cannot restrict the EU judiciary's review of the legality of the listing of the applicant's name. Similarly, the assessment of the legality of including the applicant's name on the lists at issue cannot be restricted because the applicant did not refer to Resolution 2274/169/12/3 in his exchanges with the Council during the reconsideration procedure which took place prior to the adoption of the 2019 maintaining acts (see, to that effect, judgment of 26 October 2012, *Oil Turbo Compressor v Council*, T-63/12, EU:T:2012:579, paragraphs 21 to 24). Consequently, it must be concluded that the applicant has demonstrated, in the present proceedings, that he was no longer a majority shareholder of Fly Aman on the date of adoption of the 2019 maintaining acts.
- 92 Accordingly, that part of the reasons for the 2019 maintaining acts is unfounded.
- 93 As regards the 2020 maintaining acts, it should be noted that the Council maintained the applicant's name on the lists at issue because of his status as majority shareholder, citing, however, the date of transfer of the applicant's shares in February 2019.
- 94 In the present case, it is not apparent from document WK 3600/2020 REV 1 that the Council submitted sound and consistent evidence from which it could reasonably be concluded that the applicant maintained links to Fly Aman although he no longer held shares in that company on the date of adoption of the 2020 maintaining acts. The three articles from the websites 'Eqtsad News', 'Alqtisadi' and 'newturkpost.com' were either accessed or published after Resolution 2274/169/12/3, but do not make reference to the transfer of shareholdings or to the existence of other links between Fly Aman and the applicant. Document WK 3600/2020 REV 1 therefore contains no evidence capable of justifying the fact that, despite the disposal of shares in February 2019, it was necessary to maintain that reference in the reasons for listing. It should also be noted that, at the hearing, although the Council maintained that, despite the fact that the applicant had given up that shareholding, this constituted evidence that he was still a leading businessperson operating in Syria, it did not substantiate its claim.
- 95 Accordingly, that part of the reasons for the 2020 maintaining acts is unfounded.
- 96 It follows that, as regards the part of the reasons relating to the applicant's majority shareholding in Fly Aman, only that concerning the reasons for the initial measures is well founded.

– *The position of Vice President of Aman Holding*

- 97 It is apparent from the extract from the blog 'Salon Syria' of 7 June 2018 and the article from the website 'meirss.org', taken from document WK 47/2019 INIT, that the applicant is the Vice President of Aman Holding, which is confirmed by the articles from the websites 'Eqtsad News', 'Alqtisadi' and 'newturkpost.com', contained in document WK 3600/2020 REV 1. In addition, the article from the website '7al.net', contained in document WK 47/2019 INIT, describes the applicant as being an employee of a company owned by Mr Foz.

98 However, without being challenged on this point by the Council, the applicant denies having held the position of Vice President of Aman Holding and claims that he was the Head of Executive Directors of Aman Holding. In order to demonstrate this, he has produced his employment contract, dated 18 January 2017. In support of his claim, he has also produced Aman Holding's articles of association and 'outdated' registration certificate, which clearly demonstrates a distinction between, on the one hand, the board of directors on which he did not sit and, on the other, the executive directors, which included him. The applicant is described there as the Head of Executive Directors. Consequently, the applicant has properly demonstrated, with the help of his employment contract of 18 January 2017 as well as Aman Holding's articles of association and registration certificate from the Syrian administration, the reliability of which has not, moreover, been disputed by the Council, that he did not occupy the position of Vice President of Aman Holding.

99 It follows that the part of the reasons for the contested measures relating to the applicant occupying the position of Vice President of Aman Holding is unfounded.

– *The participation of Aman Holding – which is represented on the board of Aman Dimashq, a joint venture in the construction of Marota City – in a luxury residential and commercial development project backed by the Syrian regime*

100 As a preliminary point, it must be understood, as the Council confirmed at the hearing, that the reasons for the contested measures in French stating that 'Aman Holding est représentée au conseil d'administration d'Aman [Dimashq] (dans lequel il détient une participation majoritaire)' (Aman Holding is represented on the board of Aman [Dimashq] (in which he has a majority stake)) contains a translation error. Contrary to what might be understood, it is Aman Holding which owns a majority shareholding within Aman Dimashq and not the applicant. Accordingly, it is not disputed between the parties that the applicant has no stake in Aman Dimashq.

101 First of all, the applicant maintains that the only connection which might exist between him and the Marota City project lies in the fact that Aman Holding is a shareholder of the joint venture Aman Dimashq. In that regard, it is apparent from the applicant's pleadings that Aman Holding owns 40% of the shares in Aman Dimashq and that the other shareholders of that joint venture, Foz for Trading and Damascus Cham Holding, hold 11% and 49% of the shares in that joint venture, respectively. On that basis, it can be inferred from that division of the shares that Aman Holding has a certain decision-making power on the board of Aman Dimashq.

102 Next, without it being necessary to analyse the Marota City project in detail, it should be borne in mind that, in paragraph 99 above, it was determined that the Council had erroneously relied on the applicant's position as Vice President of Aman Holding to demonstrate his status as a leading businessperson operating in Syria. It follows that, a fortiori, the Council cannot plead the participation of the applicant, as Vice President of Aman Holding, in the Marota City project in order to prove such status.

103 In any event, as the Court acknowledged in paragraph 98 above, the applicant has properly demonstrated that he occupied the position of Head of Executive Directors within Aman Holding and not that of Vice President. In that regard, it must be noted that the applicant is well placed in the company's organisation chart, that a certain degree of authority has been delegated to him and that he is responsible for supervising the executive directors and thus executing Aman Holding's strategic decisions, but he remains an employee of Aman Holding, which is not disputed by the Council. Furthermore, the applicant rightly claims that the tasks entrusted to him as an

employee of Aman Holding never included supervision of Aman Dimashq's activities. That task is reserved to another employee, namely Mr Assi, who, for that purpose, was appointed chairman of the board of Aman Dimashq in order to keep Aman Holding's board of directors informed of Aman Dimashq's development, which is, in essence, confirmed by the page taken from Damascus Cham Holding's website 'Damacham.sy'. It is therefore common ground between the parties that the applicant does not sit on the board of Aman Dimashq. Moreover, it is indeed apparent from Mr Assi's employment contract, dated 4 October 2017 and produced by the applicant, that his position as project manager is carried out under the direction of, inter alia, the Head of Executive Directors of Aman Holding. Nevertheless, neither documents WK 47/2019 INIT and WK 3600/2020 REV 1 nor the Council's pleadings prove that there was a supervisory relationship between the applicant and Mr Assi in relation to the conduct of the Marota City project on the date of adoption of the contested measures. Accordingly, the Council has not shown that the applicant's duties within Aman Holding include the exercise of decision-making responsibilities in the context of Aman Holding's majority shareholding on the board of Aman Dimashq.

- 104 It follows that the part of the reasons for the contested measures relating to the applicant's participation, as Vice President of Aman Holding, in the Marota City project is unfounded.

– *The applicant's links to Mr Foz*

- 105 As a preliminary point, it should be borne in mind, as stated in paragraph 53 above, that the second sentence of the reasons for listing and maintaining the applicant's name on the lists at issue, according to which he 'in this capacity, ... is linked to Samer Foz', can be understood only by reference to the first sentence, which refers to the activities carried out by the applicant, in particular his status as majority shareholder of Fly Aman and Vice President of Aman Holding. It should be inferred from this that the applicant's links to Mr Foz, in the context of his professional activities, were regarded by the Council as evidence of his status as a leading businessperson operating in Syria. Furthermore, it should be noted that Mr Foz's name was inserted, then maintained, at line 278 of Table A of the lists at issue, on account of, first, his status as a leading businessperson operating in Syria and, secondly, his association with the Syrian regime, in accordance with the criteria set out in paragraph 52 above.
- 106 Next, in the first place, it should be noted that the applicant's close proximity to Mr Foz is mentioned in the articles from the websites 'aawsat.com', which describes him as the director of his office, and 'meirss.org', taken from document WK 47/2019 INIT. In addition, it is apparent from the article from the website 'Eqtsad News', produced as part of document WK 3600/2020 REV 1, that the applicant is a business associate of Mr Foz.
- 107 In the second place, it should be borne in mind that it has been determined, in paragraph 99 above, that the applicant is not Vice President of Aman Holding. In addition, he has produced a registration certificate for Aman Holding, dated September 2019, and an exchange of correspondence between him and that company, showing that from 22 January 2019 he no longer held the position of Head of Executive Directors of Aman Holding.
- 108 It follows that, as regards the initial measures, the links between the applicant and Mr Foz come down to the fact that the applicant was a majority shareholder of Fly Aman. At the hearing, the applicant submitted that Fly Aman was created on the instructions of Mr Foz and that the creation of that company occurred within the framework of his professional relationship, since Mr Foz was his employer at the time. The Council has not adduced, within the meaning of the

case-law referred to in paragraph 46 above, as part of document WK 47/2019 INIT, a sufficiently specific, precise and consistent set of indicia capable of sufficiently substantiating the argument that the link between the applicant and Mr Foz went beyond the mere professional relationship that might exist between an employer and his or her employee, in order to justify regarding the applicant, who is associated with Mr Foz, as a leading businessperson operating in Syria.

- 109 As regards the 2019 maintaining acts and the 2020 maintaining acts, it should be noted that, since the applicant was no longer a majority shareholder of Fly Aman from February 2019 and resigned from his position as Head of Executive Directors of Aman Holding, any close ties to Mr Foz which he may have had because of those positions are, in any event, no longer established. Accordingly, the Council has failed to prove that the applicant, on account of his professional activities, has links to Mr Foz.
- 110 Consequently, in the contested measures, the Council could not rely on the links between the applicant and Mr Foz to demonstrate the applicant's status as a leading businessperson operating in Syria.

– *The constitution of Asas Iron Company*

- 111 As regards the new part of the reasons contained in the 2020 maintaining acts, it is apparent from the articles from the websites 'Eqtsad News' and 'Aliqtisadi' taken from document WK 3600/2020 REV 1, that the applicant is, respectively, a founding member and a member of the board of Assas lil-Hadid. In that regard, it should be noted that, as the applicant submits, the summaries of the articles from those websites produced by the Council indicate the name 'Asas Iron Company' instead of 'Assas lil-Hadid'. It is, however, the same company. The first name is the English translation of the second name, which corresponds to the entity's Arabic name. Asas Iron Company's articles of association, ratified by the representative of its founders and by the Syrian Ministry of Internal Trade and Consumer Protection, as well as its registration certificate of 6 November 2019, produced by the applicant, confirm that the two names correspond.
- 112 Next, the applicant denies being a founding member of Asas Iron Company. He maintains that he was never the founder or owner of that company and that he was never otherwise involved in it or even associated with it, since he is not part of its 'management and directory bodies'.
- 113 In that regard, the applicant has produced Asas Iron Company's registration certificate and articles of association, in which his name does not appear. Furthermore, according to Article 5 of those articles of association, the owners of Asas Iron Company are Mr E and Mr F. They each own 500 shares, representing 50% of the total shares in the undertaking, valued at SYP 1.5 thousand million (approximately EUR 3.03 million). Furthermore, according to Asas Iron Company's articles of association, the capital amounts to SYP 3 thousand million (approximately EUR 6.06 million), which also corresponds to the amount entered on that company's registration certificate. Therefore, the applicant has properly demonstrated that he was not the founder of Asas Iron Company.
- 114 That conclusion cannot be invalidated by the Council's argument which seeks to challenge the relevance of Asas Iron Company's articles of association and registration certificate produced by the applicant, and which asserts, in essence, that that evidence shows that, from 6 November 2019, the applicant was no longer one of the company's owners. It maintains that, by Resolution No 832 of 19 March 2019 of the Syrian Ministry of Internal Trade and Consumer Protection, produced by the applicant, the company's legal form was changed. Asas Iron

Company, which was a single-member limited liability company, thus became Asas Iron Company, a limited liability company, after the owner of the capital ceded 50% of his shares. Asas Iron Company's articles of association and registration certificate do not confirm the identity of the company's founding shareholders between the date on which that company was created, namely 30 March 2017, and the date of Resolution No 832, that is to say, before the company's change of legal form. In other words, the Council claims that the applicant could have been registered as the sole founding member of the single-member limited liability company before disposing of his shares so that he would no longer appear in the official documents relating to Asas Iron Company, without adducing any evidence in support of its claim.

- 115 In that regard, it is clear that, even if the applicant had in fact been the founder of Asas Iron Company, it is apparent from the documents he has produced that, at the date of adoption of the 2020 maintaining acts, he was no longer associated with that company.
- 116 It follows from the foregoing that the applicant has properly demonstrated that, on the date of adoption of the 2020 maintaining acts, first, he did not own any shares in Asas Iron Company and, secondly, he was not named as a founding member of that company.
- 117 Accordingly, the Council could not rely on the applicant's status as founding member of Asas Iron Company in order to regard him as a leading businessperson operating in Syria.

– Conclusion on the applicant's status as a leading businessperson operating in Syria

- 118 In the first place, as regards the initial measures, it must be concluded from all of the foregoing that the Council has adduced a sufficiently specific, precise and consistent set of indicia to prove that the applicant was a majority shareholder of Fly Aman. By contrast, the Council made clerical errors in including the applicant's name on the lists at issue because of his status as Vice President of Aman Holding, since, as is apparent from paragraph 98 above, the applicant has demonstrated that he was the Head of Executive Directors of that company. Consequently, since he is not Vice President of Aman Holding, the applicant does not participate, by virtue of those positions, in the Marota City project and has no links to Mr Foz. Moreover, the Council has not demonstrated, by sufficiently specific, precise and consistent evidence, the link between the applicant's status as majority shareholder of Fly Aman and Mr Foz.
- 119 In the second place, as regards the 2019 maintaining acts, in addition to the considerations mentioned in paragraph 118 above, the Council made a clerical error since the applicant has demonstrated that, from 14 February 2019, he no longer held shares in Fly Aman's capital. Consequently, the applicant had no links to Mr Foz on that basis.
- 120 In the third place, as regards the 2020 maintaining acts, in addition to the considerations mentioned in paragraphs 118 and 119 above, the Council made a clerical error in that the applicant has adduced evidence, first, that he did not own any shares in Asas Iron Company and, secondly, that he was not a founding member of that company.
- 121 It follows from all of the foregoing that, contrary to the reasons for including the applicant's name on the lists set out in the initial measures, the applicant does not have 'interests and activities in multiple sectors of Syria's economy'. As is apparent from paragraph 118 above, the Council is only able to demonstrate that, as regards the initial measures, the applicant has interests in Fly Aman, which is insufficient to satisfy the criterion of a leading businessperson operating in Syria. Furthermore, as regards the 2019 maintaining acts and the 2020 maintaining acts, the Council has

not succeeded in demonstrating that the applicant was, at the date of adoption of those acts, a leading businessperson operating in Syria. Accordingly, the first reason for listing is not sufficiently substantiated.

122 It is therefore necessary to examine the second reason for listing.

Association with the Syrian regime

123 As a preliminary point, the Court notes that it is apparent from the initial measures and the 2019 maintaining acts that the applicant supports the Syrian regime and benefits from it on account of his position as Vice President of Aman Holding, whereas, pursuant to the 2020 maintaining acts, he does so on account of all of his activities and interests, as mentioned in the reasons for listing.

124 In addition, it is clear that the reasons why the applicant is regarded by the Council as supporting and benefiting from the Syrian regime are, in essence, the same as those which led it to regard him as a leading businessperson operating in Syria.

125 In that regard, it cannot be excluded that, for a specific person, the reasons for listing might overlap to a certain extent, in that a person may be considered to be a leading businessperson operating in Syria and also regarded as benefiting, in the course of his or her activities, from the Syrian regime or supporting it through those same activities. That is apparent, specifically, from the fact that, as is established in recital 6 of Decision 2015/1836, close association with the Syrian regime and support to it by that category of persons are one of the reasons for which the Council decided to establish that category. The fact remains that, even in such a situation, those are separate criteria (judgment of 23 September 2020, *Kaddour v Council*, T-510/18, EU:T:2020:436, paragraph 77).

126 In the present case, in the first place, as regards the initial measures and the 2019 maintaining acts, it must be concluded from the findings in paragraphs 99 and 104 above that, since the applicant was not Vice President of Aman Holding at the date of adoption of the contested measures, he cannot be regarded as benefiting from the Syrian regime on that basis nor as supporting it on account of his participation in the Marota City project.

127 In the second place, as regards the 2020 maintaining acts, the Court found, first, in paragraph 126 above, that the applicant could not be regarded as benefiting from the Syrian regime by virtue of his position as Vice President of Aman Holding. Secondly, as is apparent from the article from the website ‘7al.net’, the applicant created an airline although the civil aviation sector in Syria is experiencing great difficulties as a result of the military operations which have resulted in the cessation of tourist traffic and the termination of services at certain airports. However, the Court determined, in paragraph 96 above, that the applicant is no longer the majority shareholder of Fly Aman. Moreover, it is not apparent from any of the evidence contained in documents WK 47/2019 INIT and WK 3600/2020 REV 1 that the applicant benefits, in his capacity as majority shareholder and subsequently as former majority shareholder of that company, from the Syrian regime or that he supports it.

128 It must therefore be concluded that the Council has not adduced a specific, precise and consistent set of indicia capable of demonstrating that the applicant supports and/or benefits from the Syrian regime. Accordingly, the second reason for including the applicant’s name on the lists at issue on account of his association with the Syrian regime is not sufficiently substantiated, with the result that the listing of the applicant’s name is unfounded as regards the contested measures.

129 Therefore, the first plea must be upheld and, accordingly, the contested measures must be annulled in so far as they concern the applicant, without it being necessary to examine the second, third, fourth, fifth and sixth pleas raised in support of the action.

...

On those grounds,

THE GENERAL COURT (Fourth Chamber)

hereby:

- 1. Annuls Council Implementing Decision (CFSP) 2019/87 of 21 January 2019 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria, Council Implementing Regulation (EU) 2019/85 of 21 January 2019 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, Council Decision (CFSP) 2019/806 of 17 May 2019 amending Decision 2013/255/CFSP concerning restrictive measures against Syria, Council Implementing Regulation (EU) 2019/798 of 17 May 2019 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, Council Decision (CFSP) 2020/719 of 28 May 2020 amending Decision 2013/255/CFSP concerning restrictive measures against Syria and Council Implementing Regulation (EU) 2020/716 of 28 May 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, in so far as those acts concern Mr Khaldoun Al Zoubi;**
- 2. Orders the Council of the European Union to pay the costs.**

Gervasoni

Madise

Martín y Pérez de Nanclares

Delivered in open court in Luxembourg on 24 November 2021.

[Signatures]