Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

7 April 2016*

(Appeal — Common foreign and security policy (CFSP) — Restrictive measures against the Syrian Arab Republic — Measures directed against persons and entities benefiting from or supporting the regime — Proof that inclusion on the lists is well founded — Set of indicia — Distortion of the sense of the evidence)

In Case C-193/15 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 27 April 2015,

Tarif Akhras, represented by S. Millar and S. Ashley, Solicitors, D. Wyatt QC, and R. Blakeley, Barrister,

appellant,

the other parties to the proceedings being:

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

defendant at first instance,

supported by:

European Commission, represented by D. Gauci and L. Havas, acting as Agents, with an address for service in Luxembourg,

intervener at first instance,

THE COURT (Third Chamber),

composed of L. Bay Larsen (Rapporteur), President of the Chamber, D. Šváby, J. Malenovský, M. Safjan and M. Vilaras, Judges,

Advocate General: P. Mengozzi,

Registrar: A. Calot Escobar,

having regard to the written procedure,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

* Language of the case: English.

gives the following

Judgment

1 By his appeal, Mr Akhras requests that the Court set aside the judgment of the General Court of the European Union of 12 February 2015, *Akhras* v *Council* (T-579/11, EU:T:2015:97; 'the judgment under appeal'), whereby the General Court dismissed his action for the annulment of:

— Council Implementing Decision 2012/172/CFSP of 23 March 2012 implementing Decision 2011/782/CFSP concerning restrictive measures against Syria (OJ 2012 L 87, p. 103);

— Council Implementing Regulation (EU) No 266/2012 of 23 March 2012 implementing Article 32(1) of Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2012 L 87, p. 45);

— Council Decision 2012/739/CFSP of 29 November 2012 concerning restrictive measures against Syria and repealing Decision 2011/782/CFSP (OJ 2012 L 330, p. 21);

— Council Implementing Decision 2013/185/CFSP of 22 April 2013 implementing Council Decision 2012/739 (OJ 2013 L 111, p. 77);

— Council Implementing Regulation (EU) No 363/2013 of 22 April 2013 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2013 L 111, p. 1);

— Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14);

— Council Implementing Decision 2014/730/CFSP of 20 October 2014 implementing Decision 2013/255 (OJ 2014 L 301, p. 36), and

— Council Implementing Regulation (EU) No 1105/2014 of 20 October 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2014 L 301, p. 7),

in so far as those acts concern Mr Akhras (together, 'the contested acts').

Background to the dispute and the contested acts

2 On 9 May 2011 the Council of the European Union adopted, on the basis of Article 29 TEU, Decision 2011/273/CFSP concerning restrictive measures against Syria (OJ 2011 L 121, p.11). As stated in recital 2 in the preamble of that decision, '[t]he Union strongly condemned the violent repression, including through the use of live ammunition, of peaceful protest in various locations across Syria, resulting in the death of several demonstrators, wounded persons and arbitrary detentions'. Recital 3 in the preamble of that decision was worded as follows:

'In view of the seriousness of the situation, restrictive measures should be imposed against [the Syrian Arab Republic] and against persons responsible for the violent repression against the civilian population in Syria.'

3 Article 3(1) and Article 4(1) of Decision 2011/273 provided for the adoption of restrictive measures against persons responsible for the violent repression against the civilian population in Syria and persons associated with them, as listed in the annex to that decision.

4 Council Regulation (EU) No 442/2011 of 9 May 2011 concerning restrictive measures in view of the situation in Syria (OJ 2011 L 121, p. 1) was adopted on the basis of Article 215 TFEU and of Decision 2011/273. Article 4(1) thereof provided for the freezing of 'all funds and economic resources belonging to, owned, held or controlled by the natural or legal persons, entities and bodies listed in Annex II'. Under Article 5(1) of that regulation, that annex was to consist of a list of persons, entities and bodies identified by the Council as being persons and entities responsible for the violent repression against the civilian population in Syria, and the persons, entities and bodies associated with them.

5 In recital 2 of Council Decision 2011/522/CFSP of 2 September 2011 amending Decision 2011/273 (OJ 2011 L 228, p. 16), the Council stated that the European Union condemned in the strongest terms the brutal campaign that Bashar Al-Assad and his regime were waging against their own people, which had led to the killing or injury of many Syrian citizens. Since the Syrian regime remained defiant with regard to calls from the Union and from the broad international community, the Union decided to adopt additional restrictive measures against it. Recital 4 of Decision 2011/522 was worded as follows:

'The restrictions on admission and the freezing of funds and economic resources should be applied to additional persons and entities benefiting from or supporting the regime, in particular persons and entities financing the regime, or providing logistical support to the regime, in particular the security apparatus, or who undermine the efforts towards a peaceful transition to democracy in Syria.'

6 Article 3(1) of Decision 2011/273, as amended by Decision 2011/522, also referred to 'benefiting from or supporting the regime'. Similarly, Article 4(1) of Decision 2011/273, as amended by Decision 2011/522, provided for the freezing of funds belonging to, inter alia, 'persons and entities benefiting from or supporting the regime, and persons and entities associated with them, as listed in the Annex …'.

7 By Decision 2011/522 the name of Mr Akhras was added to the list in the annex to Decision 2011/273. The reasons for his listing were as follows:

'Founder of the Akhras Group (commodities, trading, processing and logistics), Homs. Provides economic support for the Syrian regime.'

8 Council Regulation (EU) No 878/2011 of 2 September 2011 amending Regulation No 442/2011 (OJ 2011 L 228, p. 1) also amended the general listing criteria laid down in Article 5(1) of Regulation No 442/2011, in order to cover the persons and entities benefiting from or supporting the regime or the persons and entities associated with them. The name of Mr Akhras was added by the latter regulation to Annex II of Regulation No 442/2011. The reasons stated for his being listed in that annex were the same as those stated in the annex to Decision 2011/522.

9 Council Decision 2011/628/CFSP of 23 September 2011 amending Decision 2011/273 (OJ 2011 L 247, p. 17) and Council Regulation (EU) No 1011/2011 of 13 October 2011 amending Regulation No 442/2011 (OJ 2011 L 269, p. 18) maintained the listing of Mr Akhras in the list of persons and entities subject to restrictive measures and added information on his date and place of birth.

10 Council Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria and repealing Decision 2011/273 (OJ 2011 L 319, p. 56) repealed and replaced Decision 2011/273 and introduced further additional measures. Article 18(1) of Decision 2011/782 provided that the Member States should take the necessary measures to prevent the entry into, or transit through, their territories of the persons responsible for the violent repression against the civilian population in Syria, persons benefiting from or supporting the regime, and persons associated with them, as listed in Annex I to

that decision. Article 19(1) of that decision provided that 'All funds and economic resources belonging to, or owned, held or controlled by persons responsible for the violent repression against the civilian population in Syria, persons and entities benefiting from or supporting the regime, and persons and entities associated with them, as listed in Annexes I and II, shall be frozen'. The detailed rules relating to that freezing were set out in Article 19(2) to (7) of Decision 2011/782. Under Article 21(1) of that decision, those lists were to be established by the Council.

11 That decision maintained the listing of Mr Akhras in the list of persons and entities subject to restrictive measures, but did not alter the grounds for his listing.

12 Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 (OJ 2012 L 16, p. 1) repealed Regulation No 442/2011 and provides, in Article 15(1)(a) thereof, that the funds to be frozen include those of persons and entities benefiting from or supporting the regime, and persons and entities associated with them.

13 Regulation No 36/2012 maintained the listing of Mr Akhras in the list of persons and entities subject to restrictive measures, but did not alter the grounds for his listing.

14 By Implementing Decision 2012/172, the listing of Mr Akhras was maintained in the annex to Decision 2011/782. In addition, information on his passport number was added and his date of birth was corrected. The grounds stated for his listing were amended as follows:

'Prominent businessman benefiting from and supporting the regime. Founder of the Akhras Group (commodities, trading, processing and logistics) and former Chairman of the Homs Chamber of Commerce. Close business relations with President Al-Assad's family. Member of the Board of the Federation of Syrian Chambers of Commerce. Provided industrial and residential premises for improvised detention camps, as well as logistical support for the regime (buses and tank loaders).'

15 Implementing Regulation No 266/2012 maintained the listing of Mr Akhras in Annex II to Regulation No 36/2012. The information relating to him and the grounds stated for his listing in that annex are the same as to be found in the annex to Implementing Decision 2012/172.

16 Decision 2011/782 was repealed and replaced by Decision 2012/739. The latter decision maintained the listing of Mr Akhras in the list of persons and entities subject to restrictive measures, reproducing the information and grounds set out in the annex to Implementing Decision 2012/172 with regard to the appellant.

17 Implementing Decision 2013/185, with respect to the list in Annex I to Decision 2012/739, and Implementing Regulation No 363/2013, with respect to the list in Annex II to Regulation No 36/2012, maintained the listing of Mr Akhras in the list of persons and entities subject to restrictive measures, reproducing the information and grounds set out in the annex to Implementing Decision 2012/172 with regard to the appellant.

18 By Decision 2013/255 the Council adopted further restrictive measures against Syria. Mr Akhras is again listed in Annex I to that decision, on the same grounds as stated in paragraph 14 of this judgment.

19 Implementing Decision 2014/730 maintained the listing of Mr Akhras in the annex to Decision 2013/255 and amended the grounds for his listing as follows:

'Prominent businessman benefiting from and supporting the regime. Founder of the Akhras Group (commodities, trading, processing and logistics) and former Chairman of the Homs Chamber of Commerce. Close business relations with President Al-Assad's family. Member of the Board of the Federation of Syrian Chambers of Commerce. Provided logistical support for the regime (buses and tank loaders).'

20 Implementing Regulation No 1105/2014 maintained the listing of Mr Akhras in Annex II to Regulation No 36/2012. The information relating to him and the grounds stated for his listing in that annex are the same as to be found in the annex to Implementing Decision 2014/730.

The procedure before the General Court and the judgment under appeal

21 The action brought by Mr Akhras, as extended by later heads of claim, sought the annulment of Decisions 2011/522, 2011/628 and 2011/782, Regulations No 878/2011, No 1011/2011 and No 36/2012, and the contested acts.

22 Mr Akhras also claimed that the General Court should find that certain provisions of Decisions 2011/273 and 2013/255 and of Regulation No 442/2011 were not applicable to him.

23 In support of his action, Mr Akhras relied on three pleas in law claiming, respectively, a manifest error of assessment, a breach of certain fundamental rights and of essential procedural requirements, and breach of the rights of the defence.

24 The General Court upheld in part the third plea in law relied on by Mr Akhras and annulled, on the ground that the statement of reasons was insufficient, Decisions 2011/522, 2011/628 and 2011/782 and Regulations No 878/2011, No 1011/2011 and No 36/2012, in so far as those acts concern the appellant.

25 The General Court dismissed, for the remainder, the action brought by Mr Akhras. Further, the General Court held that each party should bear its own costs at first instance and ordered the appellant to bear the costs of an application for interim measures previously dismissed by order.

Forms of order sought by the parties

26 Mr Akhras claims that the Court should:

— set aside paragraphs 107 to 135 and 155 to 157 of the judgment under appeal;

— annul the contested acts, and

— order the Council to pay the costs at first instance and on appeal.

27 The Council contends that the Court should:

— dismiss the appeal, and

— order the appellant to pay the costs.

28 The European Commission submits that the Court should:

— dismiss the appeal, and

— order the appellant to pay the costs.

The appeal

Admissibility

Arguments of the parties

29 The Council, while stating that it fully understands the appellant's intentions as regards the substance of the appeal, considers that the appellant should have clearly referred, in the forms of order stated in the appeal, to the part of the decision of the General Court set out in the operative part that the appellant seeks to have set aside. In the absence of such a reference, the appeal is not submitted in a form that satisfies the requirements of Article 169(1) of the Rules of Procedure of the Court.

Findings of the Court

30 Under Article 169(1) of the Rules of Procedure of the Court, an appeal must seek to have set aside, in whole or in part, the decision of the General Court as set out in the operative part of the judgment under appeal.

31 In this case, it is apparent from points 1 and 2 of the operative part of the judgment under appeal that the General Court decided, first, to annul Decisions 2011/522, 2011/628 and 2011/782 and Regulations No 878/2011, No 1011/2011 and No 36/2012, in so far as those acts concern the appellant, and, second, to dismiss, for the remainder, the action brought by Mr Akhras.

32 It follows that the object of an appeal brought against the judgment under appeal can only be to call into question at least one of those two aspects of the decision of the General Court, contesting either the annulment of certain measures as ordered by the General Court or the dismissal, for the remainder, of the action brought by Mr Akhras (see, by analogy, the order in *Cytochrome Development* v *OHIM*, C-490/13 P, EU:C:2014:2122, paragraph 32). Conversely, an appeal which sought only a substitution of the grounds stated by the General Court for that decision, without requesting that that decision be wholly or partly set aside, would have to be considered, pursuant to Article 169(1) of the Court's Rules of Procedure, to be inadmissible (see, to that effect, the judgments in *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraphs 44 and 45, and *Council and Others* v *Vereeniging Milieudefensie* and *Stichting Stop Luchtverontreiniging Utrecht*, C-401/12 P to C-403/12 P, EU:C:2015:4, paragraphs 33 and 34).

33 In that regard, it must certainly be observed that the forms of order in the appeal brought by Mr Akhras do not explicitly refer to anything in the operative part of the judgment under appeal but rather to certain paragraphs in the statement of reasons set out by the General Court in support of that operative part.

34 Nonetheless, it is plain from the arguments set out in the appeal, from the paragraphs of the judgment under appeal that are referred to in the forms of order in the appeal, and from the fact that those forms of order also seek the annulment of the contested acts, that the aim of the appeal, as is

accepted by the Council and the Commission, is not merely to obtain a substitution of grounds, but to have the judgment under appeal set aside to the extent that it dismissed the action brought by Mr Akhras in so far as it concerns the annulment of the contested acts.

35 That being the case, it is clear that the aim of the appeal is to have the decision of General Court as it appears in the operative part of the judgment under appeal partly set aside and that the defects of form that affect the drafting of the forms of order in the appeal do not prevent the Court from carrying out its review of legality (see, by analogy, the judgment in *ISD Polska and Others* v *Commission*, C-369/09 P, EU:C:2011:175, paragraph 67, and order in *Fercal* v *OHIM*, C-324/13 P, EU:C:2014:60, paragraph 37).

36 It follows from the foregoing that the appeal is admissible.

The substance

Arguments of the parties

37 Mr Akhras relies on two grounds in support of his appeal, claiming, respectively, an error of law, in the acceptance of the proposition that it was open to the Council to apply a presumption that the heads of Syria's leading businesses supported the Syrian regime, and a distortion of the sense of the evidence submitted at first instance.

38 By his first ground of appeal, Mr Akhras claims that the General Court erred in law by accepting that the Council could apply a presumption the use of which was ruled out by the Court in *Anbouba* v *Council* (C-630/13 P, EU:C:2015:247) and *Anbouba* v *Council* (C-605/13 P, EU:C:2015:248). It follows from those judgments that the Council ought, on the contrary, to have put before the Courts of the European Union a set of indicia sufficiently specific, precise and consistent to establish that there was a sufficient link between the person subject to a freezing of his funds and the Syrian regime.

39 According to Mr Akhras, the Council did not however rely on such a set of indicia in this case.

40 Mr Akhras states that, while he accepted that he was a prominent businessman, that he had been in the past the Chairman of the Homs Chamber of Commerce and that he was a member of the Board of the Federation of Syrian Chambers of Commerce, he nonetheless denied the allegations made by the Council. Further, the Council has adduced no evidence in support of those allegations. That being the case, the General Court should have taken account of the fact that the Council had made a number of serious and disputed allegations that it had not even attempted to substantiate.

41 The appellant also claims that there was substantial evidence to prove that he had not supported the Syrian regime and that he had not benefited from it. In the light of that evidence, the General Court, taking into account the matters referred to by the Council in the context of that evidence, ought to have taken the view that the positions occupied by Mr Akhras within Syrian business organisations were not to be regarded as evidence of support for that regime.

42 By his second ground of appeal, the appellant claims that the General Court distorted the sense of the evidence submitted to it. The appellant also argues that the General Court erred in law by dealing with the evidence adduced piecemeal and in isolation, that it ignored important evidence and that it imposed on him a burden of proof that was unreasonable and unlawful.

43 Mr Akhras considers, in particular, that he had proved that he had been the owner of a newspaper opposing the regime that had been forcibly closed by the Syrian regime, and the Council had adduced no evidence to the contrary. By deciding, in paragraph 129 of the judgment under appeal, that the facts

alleged on this subject by the appellant were not proved, the General Court distorted the sense of the evidence: a report from the United States Department of State, the witness statement of the appellant and the weekly updates of the Arab Network for Human Rights.

44 According to Mr Akhras, the assertions of the General Court that he failed to demonstrate how the closure of his newspaper affected his business prosperity and that he could allow himself a degree of frankness with regard to the Syrian regime are also the product of a distortion of the sense of the material in the file. Moreover, having regard to the risks to which any critic of that regime is exposed, it was unreasonable to expect the appellant to provide more evidence of his opposition to that regime.

45 Further, the appellant's assertion that the lease which he signed with the port of Tartus (Syria) was abruptly terminated was examined in isolation in paragraph 130 of the judgment under appeal, whereas consideration of it ought to have been linked to the closure of the newspaper that he owned.

46 The General Court also distorted the evidence adduced by the appellant in holding, in paragraphs 131 and 132 of the judgment under appeal, that he had not established that he had clashed with political favourites of the regime. The General Court ignored, inter alia, the fact that Mr Akhras had clearly stated that he had been removed against his will from the position of Chairman of the Homs Chamber of Commerce. The General Court should also have taken into consideration the fact that none of the then current members of that Chamber of Commerce had been listed in the lists of persons and entities subject to restrictive measures and should not have stated, without any evidence, that membership of that body could only be explained by a certain proximity to the regime. Finally, the General Court imposed, in that regard, a burden of proof on the appellant that was unreasonable and unlawful.

47 Having regard to all the foregoing, in the opinion of the appellant the General Court's approach amounts, in reality, to holding that being a successful businessman is sufficient ground for inclusion in the lists of persons and entities subject to restrictive measures and that evidence to the contrary should be treated in isolation, because such evidence is suspect or insufficient. That approach is precisely the approach condemned by the Court in the judgments in *Anbouba* v *Council* (C-630/13 P, EU:C:2015:247) and *Anbouba* v *Council* (C-605/13 P, EU:C:2015:248).

48 The Council and the Commission submit that the Court should reject the two grounds relied on by Mr Akhras in support of his appeal.

Findings of the Court

49 By his two grounds of appeal, which can be examined together, Mr Akhras claims, in essence, that, in the judgment under appeal, the General Court disregarded the rules relating to the burden of proof in relation to restrictive measures by recognising the existence of a presumption that he supported the Syrian regime and that the consequence of that error in law must be that the judgment under appeal should be set aside, since the General Court could not hold, without distorting the sense of the evidence adduced by the appellant and without imposing on him a burden of proof that was unlawful and unreasonable, that his inclusion in the lists of persons and entities subject to restrictive measures was based on a set of indicia that was sufficiently specific, precise and consistent.

50 In that regard, it is necessary to examine, first, the general criteria for inclusion on the lists of persons subject to restrictive measures, second, the grounds stated for including Mr Akhras on such lists and, third, the evidence that his listing was well founded (see, to that effect, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 41; *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 40; and *Ipatau* v *Council*, C-535/14 P, EU:C:2015:407, paragraph 39).

51 First, as regards the general criteria which were adopted in this case for the purpose of applying restrictive measures, and for the defining of which the Council has a broad discretion (see, to that effect, the judgments in *Council* v *Manufacturing Support & Procurement Kala Naft*, C-348/12 P, EU:C:2013:776, paragraph 120; *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 42; and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 41), it is clear that Articles 18(1) and 19(1) of Decision 2011/782 targeted in particular persons and entities benefiting from or supporting the Syrian regime and persons and entities associated with them, while Article 15(1) of Regulation No 36/2012 targets in particular persons and entities benefiting from or supporting the regime, and persons and entities associated with them.

52 Neither Decision 2011/782 nor Regulation No 36/2012 contains definitions of the concepts of 'benefit' derived from the Syrian regime, of 'support' for that regime or of 'association' with the persons and entities benefiting from or supporting the Syrian regime. Nor do they contain any details regarding how those matters are to be proved (see, by analogy, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 43, and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 42).

53 It is therefore clear that neither Decision 2011/782 nor Regulation No 36/2012 establishes a presumption that the heads of the leading businesses of Syria provide support for the Syrian regime (see, by analogy, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 44, and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 43).

54 Notwithstanding the absence of any such explicit presumption in those measures, the General Court held, in paragraph 109 of the judgment under appeal, that Decision 2011/782, to which Regulation No 36/2012 refers, had confirmed the extension of the restrictive measures under Decision 2011/522 to the leading Syrian business figures because the Council considered that the heads of Syria's leading businesses could be classified as 'persons associated' with the Syrian regime, since the commercial activities of those businesses could not prosper without benefiting from favours from that regime and providing it with some support in return. The General Court concluded that, in so acting, the Council had sought to apply a presumption that the heads of Syria's leading businesses were supporting the Syrian regime.

55 That said, even though the General Court thus referred to the application of a presumption by the Council, it must, however, be determined whether, in the light of the review which it carried out of the lawfulness of the findings upon which the Council based its decision to include Mr Akhras on the list of persons subject to restrictive measures, the General Court in fact committed an error of law which should result in the judgment under appeal being set aside (see, to that effect, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 45, and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 44).

56 In that regard, it should be noted that the effectiveness of the judicial review guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union requires that, as part of the review of the lawfulness of the grounds which are the basis of the decision to include a person's name on the list of persons subject to restrictive measures, the Courts of the European Union are to ensure that that decision, which affects that person individually, is taken on a sufficiently solid factual basis. That entails, in this instance, a verification of the factual allegations in the summary of reasons underpinning the contested acts, in order to review whether those reasons, or, at the very least, one of those reasons, deemed sufficient in itself to support those acts, is substantiated (see, to that effect, the judgments in *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 119; *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 46; and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 45).

57 In this instance, in carrying out an assessment of the importance of what was at stake, which forms part of the review of the proportionality of the restrictive measures at issue, account may be taken of the context of those measures, of the fact that there was an urgent need to adopt such measures in order to put pressure on the Syrian regime to stop the violent repression against the population, and of the difficulty in obtaining more specific evidence in a State beset by civil war and an authoritarian regime (see, by analogy, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 47, and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 46).

58 As regards, second, the reasons stated, by Decision 2012/172 and Implementing Regulation No 266/2012, for the inclusion of Mr Akhras on the lists of persons and entities subject to restrictive measures, those reasons were that: he is a prominent businessman benefiting from and supporting the Syrian regime; he is the founder of the Akhras group; he is a former Chairman of the Chamber of Commerce of the city of Homs, he has close business relations with President Assad's family; he is a member of the Board of the Federation of Syrian Chambers of Commerce, he provided industrial and residential premises for improvised detention camps and logistical support for the regime. By Decision 2014/730 and Implementing Regulation No 1105/2014, the Council amended those reasons to remove the claim that he had provided industrial and residential premises for improvised detention camps.

59 In that regard, the General Court stated, in paragraph 127 of the judgment under appeal, that 'as the Council rightly observes, [the appellant] is a prominent businessman who is part of the economic ruling class in Syria. His status as a businessman and his leading positions in the networks of Syrian businessmen such as the Chambers of Commerce, and his role as a representative of Syrian businessmen, is an undeniable fact which, moreover, [the appellant] does not dispute'.

60 As regards, third, the review as to whether the inclusion of Mr Akhras on the lists of persons and entities subject to restrictive measures was well founded, that must be carried out by assessing whether his situation constitutes sufficient proof that he provided economic support for the Syrian regime or benefited from it. Such an appraisal must be carried out by examining the evidence not in isolation but in the context in which it fits (see, to that effect, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 51, and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 50).

61 Taking into consideration how difficult it is for the Council to produce evidence because of the state of war that prevails in Syria, the Council discharges the burden of proof that lies on it if it presents to the Courts of the European Union a set of indicia sufficiently specific, precise and consistent to establish that there is a sufficient link between the person subject to a measure freezing his funds and the Syrian regime (see, to that effect, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 53, and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 52).

62 In the light of the context surrounding the evidence on which the Council relies, the General Court was correct to hold that the position of Mr Akhras in Syrian economic life and the important offices held by him, currently or in the past, within the Homs Chamber of Commerce and the Board of the Federation of Syrian Chambers, constituted a set of indicia sufficiently specific, precise and consistent to establish that Mr Akhras was providing economic support to the Syrian regime or benefiting from it (see, by analogy, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 52, and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 51).

63 That conclusion cannot be invalidated by the fact that a number of the other claims made by the Council in Implementing Decision 2012/172, Implementing Regulation No 266/2012 and subsequent measures are disputed and have not in any way been proved.

64 It is apparent from, first, the Court's case-law that the inclusion of a person on a list such as those established by the contested acts can be justified if one of the reasons relied upon, deemed sufficient in itself to support that listing, is substantiated (see, to that effect, the judgment in *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, second, from Decision 2011/782, Regulation No 36/2012 and the contested acts that the fact that a person provides economic support to the Syrian regime or benefits from it is sufficient in itself to justify the inclusion of that person on the lists of persons and entities subject to restrictive measures.

65 On the other hand, it is conceivable that there are indicia that are sufficiently specific and precise, other than those referred to in paragraph 62 of this judgment, which are such as to call into question the truth of the allegation that Mr Akhras provided economic support to that regime or benefited from it.

66 It is therefore necessary, in order to determine whether the General Court reviewed to the requisite legal standard whether there was a sufficiently solid factual basis to support the inclusion of Mr Akhras on the lists of persons and entities subject to restrictive measures, to give a ruling on the appellant's arguments that the General Court disregarded the rules relating to the burden of proof and distorted the sense of some of the evidence in its examination of various claims made by Mr Akhras whereby he sought to establish that his business had, in fact, been hindered by the Syrian regime and that he had opposed that regime (see, by analogy, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraphs 54 and 55, and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraphs 53 and 54).

67 In that regard, it should be recalled that, according to the Court's settled case-law, the General Court has exclusive jurisdiction to find and appraise the relevant facts and, in principle, to examine the evidence it accepts in support of those facts. Provided that the evidence has been properly obtained and the general principles of law and the rules of procedure in relation to the burden of proof and the taking of evidence have been observed, it is for the General Court alone to assess the value which should be attached to the evidence produced to it. Save where the clear sense of the evidence has been distorted, that assessment does not therefore constitute a point of law which is subject as such to review by the Court of Justice (judgment in *InnoLux* v *Commission*, C-231/14 P, EU:C:2015:451, paragraph 59 and the case-law cited).

68 There is such distortion where, without recourse to new evidence, the assessment of the existing evidence is clearly incorrect. However, such distortion must be obvious from the documents on the Court's file, without there being any need to carry out a new assessment of the facts and the evidence (judgment in *Italy* v *Commission*, C-280/14 P, EU:C:2015:792, paragraph 52 and the case-law cited).

69 In that context, it must be observed, first, that the finding made by the General Court in paragraph 129 of the judgment under appeal, that the appellant had failed to demonstrate that the newspaper he owned could be regarded as an opposition newspaper, cannot be considered to be founded on a distortion of the sense of the evidence.

70 Admittedly, as stated by Mr Akhras, it is apparent both from the report of the United States Department of State and documents of the Arab Network for Human Rights produced at first instance that a number of issues of the newspaper concerned were seized by the Syrian authorities.

71 Nonetheless, it is plain that those documents do not explain whether the cause of that action was the fact that that newspaper expressed opposition to the regime. In particular, the quoted report does no more than refer to occasional criticism of the government's economic policies and performance, while describing that newspaper as one of a number of quasi-independent periodicals generally owned by persons linked to the Syrian Government.

72 That being the case, the interpretation proposed by the appellant is not the only possible interpretation of those documents, while the appellant's assertions in his sworn statement, annexed to the application at first instance, are not, by their nature, capable of calling into question that finding. The General Court cannot therefore be regarded as having clearly exceeded the limits of reasonable assessment of those documents or having construed them in a manner manifestly at odds with their wording.

73 In that context, the General Court's statement that, even if the newspaper concerned was hardly favourable to the regime, its closure does not appear to have had any impact on the businesses of Mr Akhras, suggesting that he could allow himself a degree of frankness with regard to the regime, must be deemed to be have been made only for the sake of completeness.

74 Consequently, there is no need to determine whether that statement is vitiated by a disregard of the rules on the taking of evidence, and the Court must therefore find that the arguments directed against that statement are, in any event, ineffective.

75 As regards, secondly, the finding made by the General Court in paragraph 130 of the judgment under appeal, concerning the termination of the lease that the appellant had signed with the port of Tartus, no valid criticism can be made of the General Court that it failed to examine the appellant's claims of a link with the closure of the newspaper that he owned, given that, on the one hand, it is apparent from paragraphs 69 to 74 of this judgment that the General Court had correctly held that it had not been demonstrated that that newspaper expressed opposition to the Syrian regime and, on the other, that that termination occurred eight years before the closure of that newspaper.

76 As regards, thirdly, the positions of responsibility held by the appellant in Syrian business organisations, it must admittedly be accepted that it is plain from the application at first instance and from the sworn statement annexed to it that, contrary to what was stated by the General Court in paragraph 131 of the judgment under appeal, Mr Akhras claimed that his removal from the position of Chairman of the Homs Chamber of Commerce was against his will and that he had objected to it.

77 That said, that error cannot invalidate the conclusion reached by the General Court. In order to assess the strength of the argument made by Mr Akhras that it was against his will that he was not re-elected Chairman of the Homs Chamber of Commerce, the General Court also referred to his position as a member of the Board of the Federation of Syrian Chambers of Commerce, that was still held by Mr Akhras, a position that the General Court held could only be explained by a certain proximity to the Syrian regime.

78 As regards the criticism made by Mr Akhras of the latter finding, it must be observed that that criticism calls into question findings of fact which fall exclusively within the jurisdiction of the General Court and which cannot therefore be examined by the Court in an appeal.

79 With respect to, fourth, the method adopted, in general, by the General Court, in order to assess the various claims made by the appellant and the evidence adduced in support of those claims, the fact that the General Court examined the various claims and various items of evidence in turn cannot, in itself, lead to the conclusion that the General Court disregarded the requirement that evidence should not be examined in isolation, but in its context.

80 That requirement does not prevent the General Court from examining individually whether the various claims made an applicant are factually accurate, provided that account is taken, in the examination of each of those claims and in their overall assessment as a set of indicia, of the context represented by the specific situation in Syria.

81 Last, the method adopted by the General Court cannot be regarded as imposing on the appellant a burden of proof that was unlawful and unreasonable, since that method did not make it impossible for the appellant to demonstrate that the inclusion of his name in the lists of persons and entities

subject to restrictive measures was not founded on a sufficiently solid factual basis, for example, by rebutting the Council's claims relating to his position in Syrian economic life or by producing sufficiently specific and precise evidence capable of indicating that he did not support the Syrian regime and that he did not benefit from it.

82 It is apparent from all the foregoing that the General Court undertook a review of whether the inclusion of the name of Mr Akhras in the lists of persons and entities subject to restrictive measures was well founded on the basis of a set of indicia relating to his situation and the positions occupied by him in the context of the Syrian regime that was not rebutted by him. Consequently, the reference, in the judgment under appeal, to a presumption of support for that regime cannot affect the legality of the judgment under appeal, since it is apparent from the findings made by the General Court that it undertook a review to the requisite legal standard of whether there existed a sufficiently solid factual basis for the inclusion of the name of Mr Akhras in the lists under consideration (see, by analogy, the judgments in *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 55, and *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 54).

83 In so doing, the General Court had due regard to the principles, stemming from the case-law referred to in paragraph 56 of this judgment, relating to the review of the legality of the reasons stated to be the basis for acts such as the contested acts.

84 Consequently, since the first ground of appeal, that the General Court erred in law, is not such as to require the judgment under appeal to be set aside, and since the second ground of appeal is in part inadmissible, in part unfounded and in part ineffective, the two grounds of appeal raised by Mr Akhras must be rejected.

85 It follows that the appeal must be dismissed in its entirety.

Costs

86 Under Article 184(2) of the Rules of Procedure of the Court, where the appeal is unfounded, the Court is make a decision as to the costs.

87 Under Article 138(1) of those rules, applicable to the procedure on appeal under Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

88 Since the Council applied for costs against Mr Akhras and since he has been unsuccessful, he must be ordered to bear his own costs and to pay the costs incurred by the Council.

89 In accordance with Article 140(1) of the Rules of Procedure of the Court, applicable to the procedure on appeal under Article 184(1) of those rules, the Commission shall bear its own costs.

On those grounds, the Court (Third Chamber) hereby:

1. **Dismisses the appeal;**

2. **Orders Mr Tarif Akhras 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.**

[Signatures]