JUDGMENT OF THE GENERAL COURT (First Chamber)

8 November 2023 (*)

(Common foreign and security policy – Restrictive measures taken in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine – Freezing of funds – Inclusion of the applicant's name on the lists of persons, entities and bodies concerned – Concept of 'leading businessperson' – Obligation to state reasons – Error of assessment – Proportionality)

In Case T-282/22,

Dmitry Arkadievich Mazepin, residing in Moscow (Russia), represented by D. Rovetta, M. Campa, M. Moretto, V. Villante and A. Bass, lawyers,

applicant,

v

Council of the European Union, represented by J. Rurarz and P. Mahnič, acting as Agents,

defendant,

supported by

Republic of Latvia, represented by J. Davidoviča and K. Pommere, acting as Agents,

intervener,

THE GENERAL COURT (First Chamber),

composed of D. Spielmann, President, I. Gâlea and T. Tóth (Rapporteur), Judges,

Registrar: I. Kurme, Administrator,

having regard to the written part of the procedure,

further to the hearing on 11 September 2023,

gives the following

Judgment

1 By his action, the applicant, Mr Dmitry Arkadievich Mazepin, seeks, on the basis of Article 263 TFEU, annulment of Council Decision (CFSP) 2022/397 of 9 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 80, p. 31) and of Council Implementing Regulation (EU) 2022/396 of 9 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 80, p. 1) (together, 'the contested measures'), to the extent that those measures include his name on the lists annexed to those measures.

Background to the dispute

2 The applicant is a businessperson of Russian nationality.

3 The present case arises in the context of the restrictive measures decided upon by the European Union in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

4 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).

5 On the same date, the Council, acting on the basis of Article 215(2) TFEU, adopted 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).

6 On 25 February 2022, in view of the gravity of the situation in Ukraine, the Council adopted both Decision (CFSP) 2022/329 amending Decision 2014/145 (OJ 2022 L 50, p. 1) and also Regulation (EU) 2022/330 amending Regulation No 269/2014 (OJ 2022 L 50, p. 1), inter alia to amend the criteria according to which natural or legal persons, entities or bodies could be the subject of the restrictive measures in question. 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 benefitting from the Government of the Russian Federation as well as persons and entities providing a substantial source of revenue to it, and natural or legal persons associated with the listed persons or entities.

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

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

(a) natural persons responsible for, supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, or stability or security in Ukraine, or which obstruct the work of international organisations in 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,

and natural or legal persons, entities or bodies associated with them, as listed in the Annex, 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.'

8 The detailed rules governing that freezing of funds are laid down in the subsequent paragraphs of that article.

9 Article 1(1)(a) and (e) of Decision 2014/145, as amended, prevents the entry into or transit through the territories of the Member States of natural persons who meet criteria which are substantially identical to those set out in Article 2(1)(a) and (g) of that decision.

10 Regulation No 269/2014, in the version as amended by Regulation 2022/330 ('Regulation No 269/2014, as amended'), requires measures to be adopted for the freezing of funds and lays down the detailed rules governing that freezing of funds in terms which are identical, in essence, to those used in Decision 2014/145, as amended. Article 3(1)(a) to (g) of the regulation essentially reproduces Article 2(1)(a) to (g) of that decision.

11 In that context, on 9 March 2022, the Council adopted Decision 2022/397, on the basis of Article 29 TEU, and the Implementing Regulation 2022/396, on the basis of Article 215 TFEU.

12 The applicant's name was added to the list annexed to Decision 2014/145, as amended, and to the list in Annex 1 to Regulation No 269/2014, as amended, ('the lists at issue') by the contested measures on the following grounds:

'[The applicant] is the owner and CEO of the mineral fertiliser company Uralchem. Uralchem Group is a Russian manufacturer of a wide range of chemical products, including mineral fertilisers and ammoniac saltpetre. According to the company, it is the largest producer of ammonium nitrate as well as the second-largest producer of ammonia and nitrogen fertilisers in Russia. [The applicant] is thus 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.

On 24 February 2022, in the aftermath of the initial stages of Russian aggression against Ukraine, [the applicant], along with other 36 businesspeople, met with President … Putin and other members of the Russian government to discuss the impact of the course of action in the wake of Western sanctions. The fact that he was invited to attend this meeting shows that he is a member of the closest circle of [President] Putin and that he is supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty and

independence of Ukraine, as well as stability and security in Ukraine. It also shows that he is one of the leading businesspersons involved in economic sectors providing a substantial source of revenue to the Government of Russia, which is responsible for annexation of Crimea and destabilisation of Ukraine.

In December 2021 [the applicant] rewrote his Cyprus-based companies Uralchem Holding and CI-Chemical Invest, controlling "Uralchem", to Russian jurisdiction at special administrative district on Oktyabrsky Island of Kaliningrad Oblast.'

13 The Council published a notice for the attention of the persons subject to the restrictive measures provided for in the contested measures in the *Official Journal of the European Union* of 10 March 2022 (OJ 2022 C 114 I, 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 annexed to the contested measures be reconsidered.

14 By email of 21 April 2022, the applicant requested that the Council grant him access to the documents which had formed the basis for the adoption of the restrictive measures affecting him.

15 By letter of 28 April 2022, the Council replied to the applicant's request referred to in paragraph 14 above and sent the information in the file with the reference WK 3052/2022, dated 8 March 2022 ('the WK file').

Forms of order sought

16 The applicant claims that the Court should:

– annul the contested measures;

– order the Council to bear the costs of the proceedings.

17 The Council, supported by the Republic of Latvia, contends that the Court should:

– dismiss the action;

– order the applicant to pay the costs.

Law

18 In support of his action, the applicant raises four pleas in law, alleging, in essence, first, infringement of the right to effective judicial protection and of the obligation to state reasons, second, a manifest error of assessment and a failure to discharge the burden of proof, third, a failure to observe the principle of proportionality and infringement of fundamental rights and, fourth, a failure to observe the principle of equal treatment.

First plea in law, alleging infringement of the right to effective judicial protection and a failure to meet the obligation to state reasons

19 The applicant submits, in essence, that the statement of reasons in the contested measures does not make it possible for him to defend himself or to understand the criteria that the Council intends to apply, or even how and why those criteria are applicable to him. The statement of reasons is either almost absent or contradictory, is not in accordance with the requirements for specificity, or, in any event, is incomplete. Furthermore, neither the statement of reasons in the contested measures nor the documents contained in the WK file make it possible for the applicant to identify the individual, specific and concrete reasons so as to provide him with sufficient information to make it possible to determine whether the contested measures are well founded.

20 First, the applicant submits that the Council failed to identify the economic sector allegedly providing a substantial source of revenue to the Government of the Russian Federation and failed to adduce evidence that such revenue had been provided. The Council failed to explain how and to what extent the economic sectors in which the applicant is involved constitute a 'substantial source of revenue' for that government. He adds that he cannot understand how two private companies, namely Uralchem and Uralkali, could be regarded as a 'substantial source of revenue' for the Government of the Russian Federation given that the only way in which they contribute to the national budget is through taxes.

21 Second, the applicant claims that it is not clear from the statement of reasons what specific conduct the restrictive measures are a response to and whether that conduct consists of support for or implementation of actions or

policies that undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, as well as stability and security in Ukraine. In particular, he states that he does not understand why being invited to a meeting with President Putin means that he supports or implements Russia's actions or polices in Ukraine.

22 Third, in the reply, the applicant argues that it is not evident from reading the reasoning which criteria have been applied to him. He adds that, since the WK file was sent to him only after his name was added to the lists at issue and at his express request, that file cannot supplement a deficient statement of reasons in the contested measures.

23 The Council, supported by the Republic of Latvia, disputes the merits of that plea.

24 According to settled case-law, the right to effective judicial protection affirmed in the third paragraph of 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. That is without prejudice to the power of the court having jurisdiction to require the authority concerned to disclose that information, so as to make it possible for him or her 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 his or her applying to the court having jurisdiction, and in order to put the latter fully in a position to review the lawfulness of the decision in question (see 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 100 and the case-law cited, and of 21 January 2016, *Makhlouf* v *Council*, T-443/13, not published, EU:T:2016:27, paragraph 38).

25 In addition, the Court notes that the statement of reasons required by Article 296 TFEU must disclose in a clear and unequivocal fashion the reasoning followed by the institution which adopted the measure in such a way as to enable the persons concerned to ascertain the reasons for the measure for the purpose of assessing whether it is well founded and to enable the court having jurisdiction to exercise its power of review (see judgment of 1 June 2022, *Prigozhin* v *Council*, T-723/20, not published, EU:T:2022:317, paragraph 25 and the case-law cited).

26 The statement of reasons required by Article 296 TFEU must be appropriate to the measure at issue and 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. Consequently, the reasons given for a measure adversely affecting a person are sufficient if that measure was adopted in a context which was known to that person and which enables him or her to understand the scope of the measure concerning him or her (see judgment of 1 June 2022, *Prigozhin* v *Council*, T-723/20, not published, EU:T:2022:317, paragraph 26 and the case-law cited).

27 Lastly, the Court notes that the question of the statement of reasons, which concerns an essential procedural requirement, is separate from that of the evidence of the alleged conduct, which concerns the substantive legality 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 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).

28 In the present case, the statement of reasons relied on vis-à-vis the applicant in the contested measures is the statement of reasons set out in paragraph 12 of the present judgment.

29 In the first place, the Court finds that the general context that led the Council to adopt the restrictive measures at issue is set out in the recitals of the contested measures. Similarly, those measures clearly indicate the legal basis on which they were adopted by the Council, namely Article 29 TEU and Article 215 TFEU respectively.

30 In the second place, as the Council correctly points out and contrary to what is argued by the applicant, it is clear, from reading the statements of reasons of the contested measures, that the Council had included his name on the lists at issue on the basis of criteria concerning:

– 'natural persons responsible for, supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, or stability or security in Ukraine, or which obstruct the work of international organisations in Ukraine' (the criterion laid down in Article 2(1)(a) of

Decision 2014/145, as amended, in Article 3(1)(a) of the Regulation No 269/2014, as amended, and, in essence, in Article 1(1)(d) of Decision 2014/145, as amended; 'the (a) criterion');

– 'leading 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, and natural or legal persons … associated with them' (the criterion laid down in Article 2(1)(g) of Decision 2014/145, as amended, in Article 3(1)(g) of Regulation No 269/2014, as amended, and, in essence, Article 1(1)(e) of Decision 2014/145, as amended; 'the (g) criterion').

31 The Council stated that the applicant was the owner and CEO of the company Uralchem and that he had attended a meeting with President Putin on 24 February 2022. From the above, the Council drew the conclusion that, first, the applicant 'is thus 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' and that, second, he 'is supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, as well as stability and security in Ukraine'. As that corresponds to the wording of the (a) criterion and the (g) criterion, the applicant cannot legitimately claim that the reasoning did not make it clear what criteria had been applied to him.

32 In the third place, contrary to what the applicant claims, the Court finds that the specific and concrete reasons which led the Council to include the applicant's name on the lists at issue are set out in a sufficiently clear manner to enable the applicant to understand them.

33 First, turning to the (a) criterion, the reasoning of the contested measures states that, given that the applicant attended the meeting of 24 February 2022, he is within the inner circle of President Putin and is supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, as well as stability and security in Ukraine. Second, turning to the (g) criterion, the reasoning of the contested measures clearly states that the applicant must be regarded as a leading businessperson involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation. That classification as a leading businessperson follows entirely unambiguously from the fact that he is the owner and CEO of the company Uralchem, given the significance of that undertaking in Russia, and from the fact that he was invited to attend the meeting with President Putin on 24 February 2022. Third, with regard to the relevant economic sector, the reasoning states, at the beginning, that the applicant is the owner and CEO of the company Uralchem which is a 'mineral fertiliser company'. It then states that the Uralchem Group manufactures a 'wide range of chemical products, including mineral fertilisers and ammoniac saltpetre'. Lastly, the reasoning indicates that the company Uralchem is 'the largest producer of ammonium nitrate as well as the second-largest producer of ammonia and nitrogen fertilisers' in Russia. On the basis of that description, the Council concluded that the applicant satisfied the (g) criterion and that he could therefore be regarded as being 'involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation' within the meaning of that criterion. As the Council and the Republic of Latvia have essentially pointed out, this is a clear indication of the relevant economic sector in which the Uralchem Group carries out its economic activities – namely the fertiliser sector – and the applicant's role within that sector.

34 By letter of 28 April 2022, the Council granted the applicant's request for access to the WK file and sent a copy to him (see paragraphs 14 and 15 above). The WK file contained information relating to the evidence substantiating the decision to include the applicant's name on the lists at issue, including the legal basis for that inclusion, and made it clear that the (a) criterion and the (g) criterion had been applied due to his activities in the Uralchem Group and because he attended the meeting of 24 February 2022.

35 In that regard, the Court recalls that the observance of the duty to state reasons must be assessed in the light of the information available to the applicant at the time the application was brought (see judgment of 28 November 2019, *Portigon* v *SRB*, T-365/16, EU:T:2019:824, paragraph 174 and the case-law cited).

36 Thus, when the applicant lodged his action, contrary to what he claims, a combined reading of the reasoning in paragraph 12 above, the wording of the (a) criterion and the (g) criterion and the evidence in the WK file would easily have allowed him to understand the allegations made against him and to defend himself. That is, moreover, fully confirmed by the pleas and arguments that he raised in his pleadings, from which it is apparent, first, that he was put in a position to ascertain the justifications for the measures taken against him so that he could effectively challenge them before the EU Courts and, second, that the context of those measures was known to him.

37 In the fourth place, the fact that the Council allegedly failed to set out in detail what conduct had constituted support or implementation of actions or policies of Russia in Ukraine or to explain why and to what extent the economic sectors in which the applicant is involved constitute a 'substantial source of revenue' for that government cannot lead the Court to find that the Council has failed to meet its obligation to state reasons. In accordance with

the case-law recalled in paragraph 26 above, the Council is not obliged to state all the relevant facts and points of law; moreover, the applicant was put in a position to understand the extent of the measures taken against him.

38 Lastly, in the fifth place, the Court notes that the applicant's arguments to the effect that he does not understand how two private companies could be regarded as being a 'substantial source of revenue' for the Government of the Federation of Russia nor the reason why the fact that he was invited to a meeting by President Putin would mean that that he supports or implements actions or policies of Russia in Ukraine do not specifically tend to call into question whether the statement of reasons of the contested measures is sufficient, but rather the substantive lawfulness of those measures. Consequently, those arguments must be examined in the context of the second plea, alleging a manifest error of assessment.

39 It must be concluded from the above that the statement of reasons on which the contested measures are based is comprehensible and sufficiently precise so as to enable the applicant to ascertain the reasons which led the Council to conclude that including his name on the lists at issue was justified and to challenge the legality of them before the EU Courts, and to enable the latter to exercise their power of review, in accordance with the rules referred to in paragraphs 24 and 26 above.

40 The Court must therefore reject the applicant's arguments according to which the statement of reasons for the contested measures is virtually absent or contradictory, is imprecise or incomplete, and thereby infringes his right to effective judicial protection and fails to meet the obligation to state reasons.

41 Consequently, the first plea must be rejected.

The second plea in law, alleging a manifest error of assessment and a failure to discharge the burden of proof

42 The applicant submits, in essence, that the Council has not provided – in accordance with its burden of proof – specific, precise and consistent evidence capable of constituting a sufficient factual basis on which to justify the inclusion of his name on the lists at issue in application of the (a) criterion and the (g) criterion.

43 The Council, supported by the Republic of Latvia, disputes the merits of that plea.

Preliminary observations

44 The Court notes that the second plea must be regarded as alleging an error of assessment and not a manifest error of assessment. Although 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 met, the fact remains that the EU Courts must ensure the review, in principle the full review, of the lawfulness of all EU acts (see, to that effect, judgments of 3 July 2014, *National Iranian Tanker Company* v *Council*, T-565/12, EU:T:2014:608, paragraphs 54 and 55, and of 26 October 2022, *Ovsyannikov* v *Council*, T-714/20, not published, EU:T:2022:674, paragraph 61 and the case-law cited).

45 Moreover, the Court notes that the effectiveness of the judicial review guaranteed by Article 47 of the Charter requires, in particular, that the EU Courts ensure that the decision by which restrictive measures were adopted or maintained, which assumes individual scope for the person or entity concerned, has a sufficiently solid factual basis. That involves assessing the facts alleged in the statement of reasons on which the 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 (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).

46 Such an assessment must be carried out by examining the evidence and information not in isolation but in its context. The Council discharges the burden of proof borne by it if it presents to the EU Courts 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 its 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).

47 It is the task of the competent EU authority to establish, in the event of challenge, that the reasons relied on against the person concerned are well founded, and not the task of that person to adduce evidence of the negative, that those reasons are not well founded. It is nevertheless necessary that the information or evidence produced should support the reasons relied on against the person 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 3 July 2014, *National Iranian Tanker Company* v *Council*, T-565/12, EU:T:2014:608, paragraph 57).

48 It is in the light of those rules from case-law that the substance of the applicant's arguments must be examined.

The evidence adduced by the Council

49 In the present case, the Council relied on the WK file containing 12 items of evidence in order to justify including the applicant's name on the lists at issue. It should be noted that this is publicly available information, namely:

– extracts from a Twitter account from February 2022 (Exhibit 1) and from an article from the Belorussian digital news agency *office life* from December 2020 (Exhibit 10);

– news articles from the websites 'Corriere.it' from February 2022 (Exhibit 2), 'tass.ru' from February 2022 (Exhibit 3), 'interfax.ru' from December 2021 (Exhibit 7), 'reuters.com' from November 2019 (Exhibit 8), 'intelligenceonline.com' from June 2021 (Exhibit 9), 'latifundist.com' from May 2018 (Exhibit 11) and 'washingtonmonthly.com' from October 2021 (Exhibit 12);

– pages extracted from the official website of the company Uralchem consulted in February 2022 (Exhibits 4, 5 and 6).

Application of the (g) criterion to the applicant

50 As a preliminary point, the Court notes that the applicant acknowledges, in the application, that it is apparent from the WK file that the (g) criterion was applied to him. As was stated in paragraphs 30 and 31 above, that is also clear from the reasoning in the contested measures.

51 The Court notes that, as regard the interpretation of the (g) criterion, according to settled case-law, the terms of a provision of EU law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an autonomous and uniform interpretation throughout the European Union, which must take into account the context of that provision and the purpose of the legislation in question (see judgment of 11 June 2020, *Pantochim*, C-19/19, EU:C:2020:456, paragraph 37 and the case-law cited).

52 Further, the need for a uniform interpretation of EU acts makes it impossible, in case of doubt, for the text of a provision to be considered in isolation but requires, on the contrary, that it should be interpreted and applied in the light of the versions existing in the other official languages (see judgment of 27 February 2014, *Ezz and Others* v *Council*, T-256/11, EU:T:2014:93, paragraph 62 and the case-law cited).

53 In addition, and lastly, although the recital of a regulation is not legally binding, it may cast light on the interpretation to be given to a legal rule while not in itself constituting a legal rule (see, to that effect, judgment of 26 October 2017, *Marine Harvest* v *Commission*, T-704/14, EU:T:2017:753, paragraph 150 and the case-law cited).

54 In the context of the present case, the Court notes that the (g) criterion implies the concept of influence in connection with the exercise of an activity 'in economic sectors providing a substantial source of revenue to the [Government of the Russian Federation]', without any further condition concerning a link with the regime. By that criterion, the Council seeks to exploit the influence that the category of persons concerned is likely to exert on the Russian regime in the present case, by prompting them to put pressure on that government to change its policy. Moreover, the Court finds that the concept of 'leading businessperson' must therefore be understood as referring to the importance of those persons in the light, inter alia, 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.

55 That interpretation is borne out by the fact that the objective of the restrictive measures is to put pressure on the Government of the Russian Federation and to increase the costs of the Russian Federation's actions to undermine Ukraine's territorial integrity, sovereignty and independence (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).

56 The objective referred to in the preceding paragraph implies that, by the expression 'providing a substantial source of revenue to the Government of the Russian Federation', it is the economic sectors and not businesspersons that are referred to, which corresponds to one of the objectives pursued by the restrictive measures, namely to affect economic sectors which constitute a substantial source of revenue for the Russian Federation.

57 On the same basis and regardless, in particular, of the wording used in recital 11 of Decision 2022/329, which was referred to by the applicant at the hearing, the (g) criterion must be interpreted as meaning, first, that it applies to leading businesspersons meeting the description set out in paragraph 54 above and, second, that it is the economic

sectors in which those people are active that must constitute a substantial source of revenue to the Government of the Russian Federation.

58 The merits of the grounds for listing set out in the contested measures must therefore be assessed in the light of that interpretation of the (g) criterion.

59 The ground applied to the applicant relating to the (g) criterion concerns the fact that, as he is the owner and CEO of the company Uralchem and he attended the meeting of 24 February 2022, he is a leading businessperson involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation (see paragraph 33 above).

60 In that regard, the Court rejects at the outset the applicant's assertion that, in essence, his inclusion on the lists at issue is principally due to the fact that the Uralchem Group, of which the company Uralkali is a part and with which he is associated, provides a substantial source of revenue to the Government of the Russian Federation.

61 The short answer to that assertion is that it is the result of a misreading of the grounds of the contested measures. It is true that those grounds refer to the company Uralchem and the Uralchem Group, of which the company Uralkali is part, as being the largest producer of ammonium nitrate as well as the second-largest producer of ammonia and nitrogen fertilisers in Russia. However, the fact remains that it is unambiguously clear from those grounds that the applicant is considered to be a leading businessperson involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation because he is the owner and CEO of the company Uralchem and because, on 24 February 2022, he attended a meeting organised by President Putin.

62 That being said, it is therefore necessary to ascertain whether all the evidence adduced by the Council when adopting the contested measures discharges the burden of proof borne by it and constitutes a set of indicia that is sufficiently specific, precise and consistent to support the ground for including the applicant's name on the lists at issue.

63 The concept of a 'leading businessperson' must be understood as referring to the significance of the latter having regard, in particular, to their professional status and their economic activities (see paragraph 53 above).

64 In that regard, first, the parties are in agreement that, at least on the day on which the contested measures were adopted, the applicant was the owner and CEO of the company Uralchem, which is the largest producer of ammonium nitrate in Russia and one of the largest producers of ammonia and nitrogen fertilisers. Moreover, they agree that the applicant was also the Deputy Chairman of the company Uralkali which is part of the Uralchem Group. That information is contained, inter alia, in Exhibits 4, 7 and 10 of the WK file and is confirmed in the application.

65 Second, the Court notes that the applicant was present at the meeting of 24 February 2022 which was organised by President Putin and was attended by a number of Russian businesspersons (Exhibits 1 to 3). While that piece of information is not in itself decisive, it supports the assertion that the applicant is a leading businessperson. Indeed, among all of the businesspersons active in Russia, only 37 were invited to that meeting.

66 The Council was therefore fully entitled to conclude that the applicant was a leading businessperson, which, in any case, he does not contest anywhere in any of his written pleadings. That classification as a leading businessperson can, in any case, be inferred from the significance of that undertaking in Russia, as the applicant himself set out in particular in the application.

67 The Court must, therefore, assess whether the Council could, without making an error of assessment, conclude in the contested measures that the applicant was a leading businessperson involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation.

68 The applicant disputes that he is involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation within the meaning of the (g) criterion. In essence, his principal submission is that none of the evidence provided by the Council shows that he or the two companies linked to him can be considered to be providing a substantial source of revenue to the Government of the Russian Federation.

69 In the first place, the Court notes that while Uralchem Group's own contribution to the budget of the Russian Federation may be useful when determining the applicant's economic significance in the sector concerned and whether he is a leading businessperson, it is not decisive for the purposes of answering the question whether the applicant can be classified as a leading businessperson involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation. As is clear from paragraphs 51 to 57 above, it is the

economic sector, rather than a natural person or undertaking in particular, that must provide a substantial source of revenue to the Government of the Russian Federation.

70 In those circumstances, it is appropriate to reject the applicant's argument to the effect that no evidence in the WK file confirms that he or the two companies to which he is linked provide a substantial source of revenue to the Government of the Russian Federation.

71 In the second place, with regard to the economic sector at issue in the present action, contrary to what is claimed by the applicant, it is clear from the grounds in the contested measures and from Uralchem Group's activity that the economic sector concerned is the fertiliser sector (see paragraph 33 above).

72 In the third place, as regards the issue of whether that sector provides a substantial source of revenue to the Government of the Russian Federation, it is made clear by Exhibits 4, 6, 7 and 12 – without being challenged by the applicant – that, first, Russia is a major global player in the fertiliser market. By the applicant's own admission, Russia is the world's biggest exporter of nitrogen fertiliser and the world's second exporter of phosphorus and potassium fertilisers. Second, Uralchem is one of the biggest Russian manufacturers of mineral fertilisers and, third, Uralkali is the biggest Russian manufacturer of potassium chloride.

73 The fertiliser sector, in which those two companies are active, is highly significant, as evidenced, first, by Exhibit 12 concerning the influence of the Russian fertiliser industry on global supply chains and, second, by Exhibit 4 which is an extract from the website of the company Uralchem and which discusses a meeting between the applicant and President Putin in January 2022. During that meeting, after stating that the two companies placed great importance on both the development of the regions in which the two companies operate, the implementation of social projects at the federal level, and the construction of infrastructure facilities, the applicant expressed his gratitude to President Putin and the Government of the Russian Federation for their support of the chemical industry which he described as being 'a key component of the development of agriculture both in Russia and abroad'. The significance of those companies is, moreover, fully borne out by the applicant's argument put forward in the context of the third plea in his action. He himself states, first of all, that those two companies provide products such as fertilisers that are of crucial importance to avoid food crises around the world, second, that a number of developing countries depend on Russia for at least one fifth of their imports and, lastly, that the company Uralkali manufactures and provides high quality fertilisers necessary for agriculture.

74 Consequently, in the light of Russia's position globally in the fertiliser sector and the importance of that sector in the Russian and global agri-food sector, which is clear both from the evidence in the WK file and from the applicant's own submissions, the Court must find that the fertiliser sector provides a substantial source of revenue to the Government of the Russian Federation.

75 As the applicant correctly points out, it is true that neither Decision 2014/145, as amended, nor Regulation No 269/2014, as amended, defines the concept of a 'substantial source of revenue'. It should be noted, however, that the use of the adjective 'substantial', which qualifies the nominal group 'source of revenue', implies that that source of revenue is significant and therefore not negligible. Similarly, the Council has not provided figures for the revenue obtained for that government. However, there is no doubt, in the light of the foregoing and, in particular, given Russia's importance in the fertiliser sector, that that business sector, in which the company Uralchem is involved, provides, directly or at least indirectly, a substantial source of revenue for the Government of the Russian Federation.

76 It must therefore be concluded that, in the contested measures, the Council adduced a set of sufficiently specific, precise and consistent indicia capable of demonstrating that, since the applicant is the owner and CEO of the company Uralchem – which controls the company Uralkali, which is part of the Uralchem Group – he is a leading businessperson involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation.

77 That finding cannot be called into question by the arguments put forward by the applicant.

78 In the first place, the applicant claims, in essence, that the fiscal contribution of the companies Uralchem and Uralkali is limited to mandatory taxes and that that contribution is insignificant in the context of the total tax revenues of the Russian State budget. As regards income tax, he states that, in 2021, only 5.95 million US dollars (USD) of USD 198.5 million paid by the company Uralchem and only USD 10.62 million of USD 354.08 million paid by the company Uralkali were allocated to the federal budget, that is to say a total amount of USD 16.57 million. According to the applicant, that is but a drop in the bucket of Russian federal revenues, which amount to approximately USD 343.3 billion. He adds that, with regard to value added tax, that tax is an indirect tax borne by consumers rather than by suppliers, with the result that it could hardly be fair to consider it to be a contribution paid by those companies.

79 In that regard, first, the Court notes that, assuming that the claim that the contribution of those companies is insignificant in the context of the total fiscal revenue of the Russian State budget, the fact remains that, although it may be smaller than other fiscal revenues, such as those coming from the energy sector, those contributions can also be substantial. Moreover, the Court must conclude that the application of the (g) criterion does not necessarily mean that the Council is to take into account all of the fiscal revenue of the Russian State budget, but rather that it is to assess whether the economic sector in which the applicant is active provides a substantial source of revenue to the Government of the Russian Federation.

80 Second, the Court notes that it is the economic sector, rather than a natural person or an undertaking in particular, which must constitute a substantial source of revenue to the Government of the Russian Federation (see paragraph 69 above). Clearly the USD 16.57 million sum of income tax which the applicant claims was paid by the companies Uralchem and Uralkali to the Russian federal budget in 2021 supports the fact that the fertiliser sector, overall, must provide a substantial source of income to that government. In the application, the applicant states, inter alia, that in the ammonium nitrate segment there are seven other important producers with significant market shares and also that Uralchem's market position is less strong in other market segments, such as the production of ammonia, the production of urea and the production of nitrogen fertilisers. As it is necessary to take into account the contributions of all players in the sector concerned, there can be no doubt that that sector constitutes a substantial source of revenue within the meaning of the (g) criterion.

81 That conclusion is all the more valid given that, contrary to what is claimed by the applicant, there is no reason to take only direct taxes into account when assessing whether the conditions of the (g) criterion are satisfied.

82 The Court notes that, even though indirect taxes such as VAT are paid only by consumers, the fact remains that they can be a substantial source of revenue for the Government of the Russian Federation, and nothing in the wording of the (g) criterion precludes such taxes from being taken into account. Indeed, nothing seems to prevent any source of revenue for the Russian Government coming from the activities in the sector concerned, including VAT, or any other revenue directly or indirectly paid to the Russian State budget that is linked to that sector from being taken into account.

83 In the second place, in the reply, the applicant submits, in essence, that if the Council's interpretation of the (g) criterion is correct, and it is therefore sufficient that a person is active in a specific economic sector in order for the relevant criterion to be met regardless of his or her conduct or that of the two companies to which he is linked, his or her role or conduct with regard to Russian policy in Ukraine, he raises a plea of illegality against that criterion under Article 277 TFEU.

84 In that regard, without it being necessary to issue a decision on the admissibility of that argument, which was raised for the first time at the reply stage, the Court holds that that argument cannot be upheld.

85 The Court recalls that, under Article 277 TFEU, any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the European Union is at issue, plead the grounds specified in the second paragraph of Article 263 TFEU in order to invoke before the Court of Justice of the European Union the inapplicability of that act.

86 The Council enjoys a broad discretion as regards the general and abstract definition of the legal criteria and procedures for adopting restrictive measures (see, to that effect, judgment of 21 April 2015, *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 41 and the case-law cited). Consequently, rules of general application defining those criteria and procedures – such as the provisions of the contested measures setting out the criteria at issue that are the subject of the present plea – are subject to a limited judicial review, restricted to checking that the rules governing procedure and the statement of reasons have been complied with, that the facts are materially accurate, that there has been no error in law, and that there has been no manifest error of assessment of the facts or misuse of power (see, to that effect, judgments of 9 July 2009, *Melli Bank* v *Council*, T-246/08 and T-332/08, , paragraphs 44 and 45, and of 15 September 2021, *Boshab* v *Council*, T-107/20, not published, EU:T:2021:583, paragraph 201).

87 In that regard, first, the Court finds that neither Decision 2014/145, as amended, nor Regulation No 269/2014, as amended, established a presumption of a link between the status of leading businessperson and the Government of the Russian Federation.

88 Accordingly, the application of the (g) criterion to a specific person presupposes that the Council first proves, in particular by means of sufficiently specific, precise and consistent indicia, on the one hand, that the person subject to a restrictive measure is a leading businessperson and, on the other hand, that the person is involved in a sector which provides a substantial source of revenue to the Government of the Russian Federation.

89 Second, it is important to emphasise that the stated objective of the contested measures, and thus of the adoption of that criterion, is that the European Union remains 'unwavering in its support for Ukraine's sovereignty and territorial integrity' (recital 2 of the contested measures) and to adopt further restrictive measures 'that will impose massive and severe consequences on Russia for its actions' (recital 4 thereof). The objective is therefore to increase the pressure on the Russian Federation and the cost of the latter's actions to undermine the territorial integrity, sovereignty and independence of Ukraine, and to promote a peaceful settlement of the crisis (judgment of 17 September 2020, *Rosneft and Others* v *Council*, C-732/18 P, not published, EU:C:2020:727, paragraph 85). Such an objective is consistent with the objective of maintaining peace and international security, in accordance with the objectives of the European Union's external action set out in Article 21 TEU (judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 115).

90 The (g) criterion covers 'leading 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', that is to say, persons in respect of whom the adoption of the restrictive measures at issue is likely to increase the costs to the Russian Federation of its actions in Ukraine. That criterion thus responds to the Council's desire to exert pressure on the Russian authorities to put an end to their actions and policies destabilising Ukraine.

91 There is therefore a rational link between the targeting of leading businesspersons operating in economic sectors providing substantial revenue to the government, in view of the importance of those sectors for the Russian economy, and the objective of the restrictive measures in the present case, which is to increase pressure on the Russian Federation as well as to increase the costs of its actions to undermine Ukraine's territorial integrity, sovereignty and independence (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).

92 Accordingly, it must be held that, contrary to what the applicant claims, the (g) criterion contains conditions relating to the personal conduct of the persons concerned, namely their influence, due to their economic activities in certain sectors, which makes it possible to establish a sufficient link between those persons and the third country concerned, in this case the Russian Federation.

93 Consequently, in the light of all the foregoing, the Court finds that the ground for including the applicant's name on the lists at issue due to his status as a leading businessperson within the meaning of the (g) criterion is sufficiently substantiated, with the result that, in the light of that criterion, the inclusion of his name on those lists is well founded.

94 According to case-law, given the preventive nature of the decisions adopting restrictive measures, if the EU Courts 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 18 May 2022, *Foz* v *Council*, T-296/20, under appeal, EU:T:2022:298, paragraph 178 (not published) and the case-law cited).

95 Accordingly, it is necessary, without there being any need to examine the merits of the other complaints raised by the applicant seeking to call into question the (a) criterion, to reject the second plea as unfounded.

The third plea in law, alleging a failure to observe the principle of proportionality and an infringement of fundamental rights

96 The applicant submits, in essence, that the inclusion of his name on the lists at issue constitutes an unjustified and disproportionate infringement of his fundamental rights which include, in particular, the freedom to conduct a business and the right to property.

97 In essence, the applicant submits that the restrictive measures concerning him are neither necessary nor appropriate in order to achieve the objective pursued by Decision 2014/415, as amended, and by Regulation No 269/2014, as amended. The application of those measures amounts to taking the view that all persons engaging in significant economic activity in Russia and who comply with their tax obligations could, on that basis alone, be penalised. Furthermore, the Council should have taken into account the fact that the companies to which the applicant is linked, Uralchem and Uralkali – the latter of which is a part of the Uralchem Group – in addition to not contributing to Russia's actions and policies in Ukraine, are also producers and suppliers of strategic products such as fertilisers, which are of crucial importance in order to avoid a global food crisis. He adds, in that regard, that the fact that those two companies are expressly referred to in the grounds of the contested measures disrupts their business in so far as it discourages partners from taking the risk of infringing the sanction regime, which contributes to worsening the global food crisis. Further, the applicant claims that, because his name was included on the lists at issue by the contested measures, railway carriages transporting fertilisers from those companies were

impounded in Finland in April 2022 on the basis that they were allegedly owned or controlled by him. The above gave rise to significant storage costs which he must bear in accordance with a Finnish statute on sanctions. Lastly, he maintains that the conditions laid down in Article 52(1) of the Charter for his fundamental rights to be restricted are not satisfied.

98 The Council, supported by the Republic of Latvia, disputes the merits of that plea.

99 It should be borne in mind that the freedom to conduct a business is among the general principles of EU law and is enshrined in Article 16 of the Charter. The right to property, by contrast, is enshrined in Article 17 of the Charter.

100 In the present case, the restrictive measures at issue are precautionary measures which are not supposed to deprive those persons of their property or of their freedom to conduct a business. However, they undeniably entail a restriction of the exercise of the applicant's right to property and of his freedom to conduct a business (see, to that effect, judgment of 12 March 2014, *Al Assad* v *Council*, T-202/12, EU:T:2014:113, paragraph 115 and the case-law cited).

101 However, it has consistently been held that in EU law those fundamental rights do not have absolute protection, but must be viewed in relation to their function in society (see judgment of 12 March 2014, *Al Assad* v *Council*, T-202/12, EU:T:2014:113, paragraph 113 and the case-law cited).

102 In that regard, the Court recalls that, under Article 52(1) of the Charter, '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 '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'.

103 Consequently, in order to comply with EU law, a limitation on the exercise of the fundamental rights at issue must satisfy four conditions. First, it must be 'provided for by law', in the sense that the EU institution adopting measures liable to restrict a natural or legal person's fundamental rights must have a legal basis for its actions. Second, the limitation in question must respect the essence of those rights. Third, the limitation must refer to an objective of general interest, recognised as such by the European Union. Fourth, the limitation in question must be proportionate (see, to that effect, judgments of 15 June 2017, *Kiselev* v *Council*, T-262/15, EU:T:2017:392, paragraphs 69 and 84 and the case-law cited, and of 13 September 2018, *VTB Bank* v *Council*, T-734/14, not published, EU:T:2018:542, paragraph 140 and the case-law cited).

104 In the present case, contrary to what is claimed by the applicant, the contested measures satisfy the four conditions.

105 In the first place, the restrictive measures in question are 'provided for by law', since they are set out in acts of general application that have a clear legal basis in EU law and since they have a sufficient statement of reasons as regards their scope and the reasons justifying their application to the applicant (see paragraphs 29 to 41 above) (see, by analogy, judgment of 5 November 2014, *Mayaleh* v *Council*, T-307/12 and T-408/13, EU:T:2014:926, paragraph 176 and the case-law cited). Furthermore, in the context of the review of the second plea in law, it has been established that it could be concluded from that statement of reasons for the contested measures that the Council could legitimately include the applicant's name on the lists at issue (see paragraph 69 above).

106 In the second place, as regards the question whether the limitation at issue respects the 'essence' of those fundamental rights, it must be held that the restrictive measures imposed are limited in time and are reversible (see, to that effect, judgment of 14 July 2021, *Oblitas Ruzza* v *Council*, T-551/18, not published, EU:T:2021:453, paragraph 96 and the case-law cited).

107 First of all, under Article 6 of Decision 2014/145, as amended, the lists at issue are to be periodically reviewed so that persons and entities which no longer meet the necessary criteria are removed from them.

108 Further, 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 funds, other financial assets or other economic resources to be released. Furthermore, in so far as the contested measures do not have the effect of confiscating the applicant's property, the Court finds that such measures are not punitive in nature.

109 Lastly, under Article 1(6) of Decision 2014/145, as amended, the competent authority of a Member State may authorise listed persons to enter its territory, inter alia on urgent humanitarian grounds.

110 In the third place, the restrictive measures at issue are intended to exert pressure on the Russian authorities to bring to an end their actions and policies destabilising Ukraine. That is an objective which falls within those pursued under the common foreign and security policy (CFSP) and referred to in Article 21(2)(b) and (c) TEU, such as the consolidation of and support for democracy, the rule of law, human rights and the principles of international law, and the preservation of peace, prevention of conflicts and strengthening of international security and the protection of civilian populations.

111 In the fourth place, with regard to the principle of proportionality, it must be noted that, as a general principle of EU law, this requires that measures adopted by the EU institutions do not exceed the limits of what is appropriate and necessary in order to attain the objectives pursued by the legislation in question. Consequently, 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 judgment of 30 November 2016, *Rotenberg* v *Council*, T-720/14, EU:T:2016:689, paragraph 178 the case-law cited).

112 In that respect, according to case-law, 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, in which it is called upon to undertake complex assessments. Therefore, the legality of a measure adopted in those fields can be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue (see judgment of 30 November 2016, *Rotenberg* v *Council*, T-720/14, EU:T:2016:689, paragraph 179 the case-law cited).

113 In the present case, as to whether the measures in question are appropriate for attaining the objectives pursued, the Court first notes that, given the importance of the objectives pursued by the restrictive measures at issue, the adverse consequences as described by the applicant resulting from the application of those measures, the restrictive measures are not manifestly inordinate (see, to that effect and by analogy, judgments of 14 October 2009, *Bank Melli Iran* v *Council*, T-390/08, EU:T:2009:401, paragraph 71, and of 12 March 2014, *Al Assad* v *Council*, T-202/12, EU:T:2014:113, paragraph 116).

114 That is particularly the case given that, in the context of the examination of the second plea, it was established that the restrictive measures adopted in the context of the contested measures against the applicant were justified on the ground that his situation made it possible to conclude that he satisfied the conditions for the application of the (g) criterion.

115 Second, the fact that the applicant or the two companies to which he is linked did not have a direct role in actions against Ukraine is irrelevant, since he was not subject to restrictive measures for that reason, but because he is a leading businessperson operating in economic sectors which constitute a substantial source of revenue for the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine.

116 As regards the necessity of the restrictive measures at issue, it should be noted that alternative and less restrictive measures, such as a system of prior authorisation or an obligation to justify, a posteriori, how the funds transferred were used, 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 the case-law cited). Moreover, the Court notes that the applicant has failed to indicate which less restrictive measures the Council could have adopted.

117 In addition, 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 funds, other financial assets or other economic resources to be released.

118 Furthermore, under Article 1(6) of Decision 2014/145, as amended, the competent authority of a Member State may authorise listed persons to enter its territory, inter alia on urgent humanitarian grounds.

119 Lastly, the presence of the applicant's name on the lists at issue cannot be described as disproportionate for being allegedly potentially unlimited, since, as is stated in paragraph 107 above, such lists are subject to periodic review so as to ensure that the persons who, and entities which, no longer meet the necessary criteria are removed from those lists (see, to that effect, judgment of 30 November 2016, *Rotenberg* v *Council*, T-720/14, EU:T:2016:689, paragraph 185 the case-law cited).

120 It follows that, assuming that the adverse consequences alleged by the applicant referred to in paragraph 97 above were established, the restrictions on his fundamental rights resulting from the restrictive measures at issue, adopted

in the context of the contested measures, are not disproportionate and cannot result in those measures being annulled.

121 That conclusion is not called into question by the applicant's argument that, in essence, the application of the restrictive measures against him is tantamount to allowing all leading businesspersons who successfully operate a business in Russia to be added to the lists at issue. Aside from the fact that that argument is unsubstantiated, it is sufficient to note that the applicant was the subject of restrictive measures following an individual assessment based on specific evidence and that the objective of those measures is to increase the costs of the actions of the Russian Federation seeking to undermine Ukraine's territorial integrity, sovereignty and independence and to promote a peaceful settlement of the crisis

122 The argument that those measures contribute to worsening the global food crisis and had the consequence of causing carriages belonging to Uralchem and Uralkali to be impounded by the Finnish authorities must be rejected. Suffice it to note that the contested measures do no more than to freeze the applicant's personal funds and to prevent him from entering into or transiting through the territories of the Member States without in any way imposing restrictions on two companies to which he is linked nor, a fortiori, on the fertiliser sector. Consequently, the Council cannot be held liable for decisions of operators who prefer no longer to turn to the companies to which he is linked. The same goes for decisions taken by the Finnish national authorities which fall within the sovereignty of the Member States and which the applicant can challenge before national courts if he so desires. Lastly, as the Council and the Republic of Latvia have argued, if disruptions to food supplies have occurred, they have resulted from Russia's decision to invade Ukraine rather than from the adoption of individual restrictive measures against the applicant.

123 Having regard to the foregoing, the third plea in law must be rejected.

Fourth plea in law, alleging a failure to observe the principle of equal treatment

124 The applicant submits that the application of the (a) criterion and the (g) criterion by the Council is discriminatory. On the one hand, the shareholders and CEOs of other large Russian or foreign companies are not subject to restrictive measures even though they contribute much more than the Uralchem Group to the budget of the Russian Federation. On the other hand, the Council did not include all the participants at the meeting on 24 February 2022 on the list of restrictive measures. In its observations on the Republic of Latvia's statement in intervention, the applicant adds, on the basis of Article 277 TFEU, that his inclusion on the lists at issue must be annulled because the (g) criterion applied by the Council is unlawful.

125 The Council, supported by the Republic of Latvia, disputes the merits of that plea.

126 In that regard, the Court notes that, according to the case-law, the principle of equal treatment, which constitutes a fundamental principle of law, 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 judgment of 31 May 2018, *Kaddour* v *Council*, T-461/16, EU:T:2018:316, paragraph 152 the case-law cited).

127 In the present case, first, on the assumption that, by his line of argument, the applicant seeks to claim that the (g) criterion is discriminatory in so far as it targets Russian businesspersons and companies while ignoring foreign companies, it is sufficient to find that that criterion does not relate to the nationality of the persons designated but all leading natural persons within the meaning of the (g) criterion. Thus, the persons who are the subject of the restrictive measures can be of any nationality, provided that they satisfy that criterion.

128 Second, as the Council correctly points out, although it cannot include on the lists people who do not satisfy the criteria for designation laid down by the applicable measures, it is not required to include on those lists all the persons who do satisfy those criteria. The Council has a broad discretion enabling it, when appropriate, not to impose restrictive measures on such a person or entity, where the Council considers that, in the light of the objectives of those measures, it would not be appropriate to do so (see, to that effect and by analogy, judgment of 22 April 2015, *Tomana and Others* v *Council and Commission*, T-190/12, EU:T:2015:222, paragraph 243).

129 Lastly, third, even if the Council had not adopted measures freezing the funds of certain persons in the same situation as the applicant and meeting the (a) criterion and the (g) criterion, the applicant cannot successfully rely on that fact, because the principle 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, the Court finds that it is clear from the examination of the second plea that the Council did not make an error of assessment in including the applicant's name on the lists at issue

130 As regards the applicant's reference to the (g) criterion being unlawful, it is sufficient to find that such unlawfulness has already been rejected (see paragraphs 84 to 92 above).

131 In the light of all the considerations above, the fourth plea must be rejected and, consequently, the action must be dismissed in its entirety.

The application for a measure of organisation of procedure

132 The applicant requests that the Court order the Council, by way of a measure of organisation of procedure, to produce the confidential administrative file which led to the inclusion of the applicant's name on the lists at issue.

133 The Council contends that there is no reason to uphold that request on the ground, in essence, that all the information concerning the inclusion of the applicant's name on the lists at issue was disclosed to him and is included in the WK file.

134 In that regard, it should be borne in mind that the General Court is the sole judge of whether the information available concerning the cases before it needs to be supplemented (judgments of 10 July 2001, *Ismeri Europa* v *Court of Auditors*, C-315/99 P, EU:C:2001:391, paragraph 19, and of 28 June 2005, *Dansk Rørindustri and Others* v *Commission*, C-189/02 P, C-202/02 P, C-205/02 P to C-208/02 P and C-213/02 P, EU:C:2005:408, paragraph 67).

135 In the present case, taking into account the fact that the Council has confirmed that it has no information other than the information in the WK file that was sent to the applicant, there is no need to grant that application.

Costs

136 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.

137 In addition, under 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.

138 In the present case, since the Council has applied for costs and the applicant has been unsuccessful, the latter must be ordered to bear his own costs and to pay those incurred by the Council. The Republic of Latvia shall bear its own costs.

On those grounds,

THE GENERAL COURT (First Chamber)

hereby:

1. Dismisses the action;

2. Orders Mr Dmitry Arkadievich Mazepin to bear his own costs and to pay those incurred by the Council of the European Union;

3. Orders the Republic of Latvia to bear its own costs.

Spielmann Gâlea Tóth

Delivered in open court in Luxembourg on 8 November 2023.

V. Di Bucci S. Papasavvas

Registrar President

* Language of the case: English.