JUDGMENT OF THE GENERAL COURT (Fourth Chamber)

14 April 2021 (*)

(Common foreign and security policy – Restrictive measures adopted against Syria – Freezing of funds – Obligation to state reasons – Error of assessment – Rights of defence – Right to property – Right to exercise an economic activity – Right to respect for private and family life – Proportionality)

In Case T-260/19,

Mazen Al-Tarazi, residing in Shuwaikh (Kuwait), represented by G. Beck, A. Khan, R. Wilcox, Barristers, and S. Patel, Solicitor,

applicant,

v

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

defendant,

ACTION under Article 263 TFEU for annulment of Council Implementing Decision (CFSP) 2019/87 of 21 January 2019 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2019 L 18 I, p. 13) and Council Implementing Regulation (EU) 2019/85 of 21 January 2019 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2019 L 18 I, p. 4) in so far as they concern the applicant,

THE GENERAL COURT (Fourth Chamber),

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

Registrar: E. Artemiou, Administrator,

having regard to the written part of the procedure and further to the hearing on 23 September 2020,

gives the following

Judgment

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

1 The applicant, Mr Mazen Al-Tarazi, is a businessperson of Syrian nationality with commercial interests in the Arab world.

2 Strongly condemning the violent repression of peaceful protest in Syria and calling on the Syrian authorities to exercise restraint instead of force, on 9 May 2011 the Council of the European Union adopted, under Article 29 TEU, Decision 2011/273/CFSP of 9 May 2011 concerning restrictive measures against Syria (OJ 2011 L 121, p. 11). In view of the seriousness of the situation, the Council imposed an arms embargo, a ban on exports of material which might be used for internal repression, restrictions on admission to the European Union, and the freezing of funds and economic resources of certain persons and entities responsible for the violent repression against the civilian population in Syria.

3 The names of the persons responsible for the violent repression against the civilian population in Syria and those of the natural or legal persons and entities associated with them are listed in the Annex to Decision 2011/273. Under Article 5(1) of that decision, the Council, acting upon a proposal by a Member State or the

High Representative of the Union for Foreign Affairs and Security Policy, may amend that annex. The applicant's name was not included when that decision was adopted.

4 Since some of the restrictive measures against the Syrian Arab Republic fall within the scope of the FEU Treaty, the Council adopted, on the basis of Article 215(2) TFEU, 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). That regulation is largely identical to Decision 2011/273, but provides for the possibility of frozen funds being released. The list of persons, entities and bodies identified as being either responsible for the repression in question or associated with those responsible, in Annex II to that regulation, is identical to the list in the Annex to Decision 2011/273. Under Article 14(1) and (4) of Regulation No 442/2011, where the Council decides to subject a natural or legal person, entity or body to the restrictive measures referred to, it is to amend Annex II accordingly and, furthermore, to review the list in that annex at regular intervals and at least every 12 months.

5 By Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria and repealing Decision 2011/273 (OJ 2011 L 319, p. 56), the Council considered it necessary, in view of the gravity of the situation in Syria, to impose additional restrictive measures. For the sake of clarity, the measures imposed by Decision 2011/273 and the additional measures were integrated into a single legal instrument. Decision 2011/782 provides, in Article 18, for restrictions on admission to the territory of the European Union and, in Article 19, for the funds and economic resources of the persons and entities whose names are listed in Annex I to the decision to be frozen.

6 Regulation No 442/2011 was replaced by Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation No 442/2011 (OJ 2012 L 16, p. 1).

7 Decision 2011/782 was replaced by Council Decision 2012/739/CFSP of 29 November 2012 concerning restrictive measures against Syria and repealing Decision 2011/782 (OJ 2012 L 330, p. 21), itself replaced by Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14).

8 On 12 October 2015, the Council adopted Decision (CFSP) 2015/1836 amending Decision 2013/255 (OJ 2015 L 266, p. 75). On the same day, it adopted Regulation (EU) 2015/1828 amending Regulation No 36/2012 (OJ 2015 L 266, p. 1).

9 According to recital 6 of Decision 2015/1836, 'the Council has assessed that because of the close control exercised over the economy by the Syrian regime, an inner cadre of leading businesspersons operating in Syria is only able to maintain its status by enjoying a close association with, and the support of, the regime, and by having influence within it' and 'the Council considers that it should provide for restrictive measures to impose restrictions on admission and to freeze all funds and economic resources belonging to, owned, held or controlled by those leading businesspersons operating in Syria, as identified by the Council and listed in Annex I, in order to prevent them from providing material or financial support to the regime and, through their influence, to increase pressure on the regime itself to change its policies of repression'.

10 The wording of Articles 27 and 28 of Decision 2013/255 was amended by Decision 2015/1836. Those articles now provide for restrictions on the entry into, or transit through, the territories of the Member States and for the funds of 'leading businesspersons operating in Syria' to be frozen, unless there is 'sufficient information that [those persons] are not, or are no longer, associated with the regime or do not exercise influence over it or do not pose a real risk of circumvention'.

11 Regulation 2015/1828 amended, inter alia, the wording of Article 15 of Regulation No 36/2012 in order to incorporate therein the new listing criteria defined by Decision 2015/1836 and inserted into Decision 2013/255.

12 By Council Implementing Decision (CFSP) 2019/87 of 21 January 2019 implementing Decision 2013/255 concerning restrictive measures against Syria (OJ 2019 L 18 I, p. 13), and Council Implementing Regulation (EU) 2019/85 of 21 January 2019 implementing Regulation No 36/2012 concerning restrictive measures in view

of the situation in Syria (OJ 2019 L 18 I, p. 4) (together ‘the contested measures’), the applicant’s name was inserted at line 266 of Table A of the lists of natural and legal persons, entities or bodies subject to restrictive measures in Annex I to Decision 2013/255 and in Annex II to Regulation No 36/2012 (together ‘the lists in question’), giving the following grounds:

‘Leading businessperson operating in Syria, with significant investments in the construction and aviation sectors. Through his investments and activities, Mazin Al-Tarazi benefits from and/or supports the Syrian regime. In particular, [Mazin] Al-Tarazi has concluded a deal with Damascus Cham Holding for a USD 320 million investment in the construction of Marota City, a regime-backed luxury residential and commercial development. He has also been granted a licence for a private airline in Syria.’

13 On 22 January 2019, the Council published in the *Official Journal of the European Union* a Notice for the attention of the persons subject to the restrictive measures provided for in Decision 2013/255 and in Regulation No 36/2012 (OJ 2019 C 27, p. 3).

14 Following a request from the applicant’s representatives, the Council sent them, by letter of 25 March 2019, a document bearing the reference WK 45/2019 INIT, of 10 January 2019, containing evidence to support the inclusion of the applicant’s name on the lists in question.

15 By letter of 29 March 2019, the applicant’s representatives requested that the applicant’s name be removed from the lists in question.

16 By letter of 13 May 2019, the Council replied to the letter of 29 March 2019. First, it informed the applicant’s representatives that their observations were not likely to lead to the removal of the applicant’s name from the lists in question. Secondly, it provided them with new evidence in support of the inclusion of the applicant’s name on the lists in question.

17 On 17 May 2019, the Council adopted Decision (CFSP) 2019/806 amending Decision 2013/255 (OJ 2019 L 132, p. 36) which extended the application of that decision until 1 June 2020 and changed the number of the line in which the applicant’s name was included (line 284 of the lists in question).

II. **Procedure and forms of order sought**

18 The applicant brought the present action by application lodged at the Court Registry on 12 April 2019.

19 On 1 August 2019, the Council lodged its defence at the Court Registry.

20 By letter of 6 December 2019, the applicant submitted a request for a hearing within the time limit laid down in Article 106 of the Rules of Procedure of the General Court and also expressed a wish to speak at the hearing.

21 In the context of measures of organisation of procedure as provided for in Article 89(3)(a) and (d) of the Rules of Procedure, on 3 June 2020, the Court requested the parties to answer a series of questions and to produce certain documents. The parties answered the questions and complied with the request for production of documents within the deadline.

22 The parties presented oral argument and replied to the questions put by the Court at the hearing which took place on 23 September 2020.

23 The applicant claims that the Court should:

– declare Article 1 of Implementing Regulation 2019/85 and Article 1 of Implementing Decision 2019/87 inapplicable to the applicant;

– annul the contested measures in so far as they concern the applicant;

– declare that the applicant’s name be removed from the lists in question;

– order the Council to pay the costs.

24 The Council contends that the Court should:

– dismiss the action in its entirety;

– order the applicant to pay the costs;

– in the alternative, should the Court annul the contested measures in so far as they concern the applicant, order that the effects of Decision 2019/87 be maintained as regards the applicant until the partial annulment of Implementing Regulation 2019/85 takes effect.

III. **Law**

A. **The jurisdiction of the Court to rule on the first and third heads of claim in the action**

25 By his first head of claim, the applicant requests the Court to declare Article 1 of Implementing Regulation 2019/85 and Article 1 of Implementing Decision 2019/87 inapplicable to him. By his third head of claim, the applicant asks the Court to declare that his name be removed from the lists in question.

26 The Council argues that the first head of claim is inadmissible in so far as the applicant’s request for a declaration of inapplicability is not accompanied by any plea concerning the legality of those provisions.

27 It should be noted that, in response to the questions put by the Court by way of a measure of organisation of procedure and at the hearing, the parties accepted that the applicant’s requests, as set out in paragraph 25 above, required a declaration by the Court.

28 The parties also acknowledged that an application for a declaratory decision should be rejected on account of a manifest lack of jurisdiction. In that regard, it is settled case-law that the Court does not have jurisdiction, in the context of the review of legality based on Article 263 TFEU, to give declaratory judgments (see judgment of 12 February 2015, *Akhras* v *Council*, T-579/11, not published, EU:T:2015:97, paragraph 51 and the case-law cited).

29 Consequently, the applicant’s first and third heads of claim must be rejected on the ground that the Court manifestly lacks jurisdiction.

B. **Substance**

30 First of all, it should be noted that Implementing Decision 2019/87 was adopted, on the basis of Article 31(2) TEU, to implement Decision 2013/255, itself adopted on the basis of Article 29 TEU, which confers competence on the Council to adopt decisions defining the Union’s position on a particular matter of a geographical or thematic nature.

31 It is also on the basis of Article 29 TEU that the Council adopted Decision 2015/1836, by which the fact of being a leading businessperson operating in Syria is a criterion for the application of the restrictive measures in question.

32 As provided for by Article 27(2)(a) and Article 28(2)(a) of Decision 2013/255, as amended by Decision 2015/1836, individuals belonging to the category of ‘leading businesspersons operating in Syria’ are now subject to the restrictive measures imposed by that decision. In addition, under Article 27(3) and Article 28(3) of that decision, those individuals are not subject to those measures or are to cease to be subject to them only if there is sufficient information that they are not, or are no longer, associated with the regime or do not exercise influence over it or do not pose a real risk of circumvention. In that regard, as set out by the Council in recital 6 of Decision 2015/1836 and recital 5 of Decision 2013/255, as amended by Decision 2015/1836, a limited circle of

influential businesspersons operating in Syria is only able to maintain its status through close links to and support of the regime and influence within it. The abovementioned criteria were reproduced, as regards the freezing of funds, in Article 15(1a)(a) and (1b) of Regulation No 36/2012.

33 It is in the light of that legal context that it is appropriate to examine the pleas in law raised by the applicant in support of his action, namely the first, alleging insufficient or unsubstantiated reasons for the applicant's listing, the second, alleging an error of assessment, the third, alleging infringement of the rights of the defence, and the fourth, alleging infringement of the applicant's rights to property, his freedom to carry on an economic activity and the principle of proportionality.

1. ***The first plea in law, alleging insufficient or unsubstantiated reasons for the applicant's listing***

34 The applicant claims that the Council has provided no evidence, in particular financial, which proves that the applicant has in fact, directly or indirectly, personally or through his businesses, financially supported the current Syrian regime or that he has personally or through his business activities benefited from that regime.

35 Moreover, according to the applicant, even if the allegations that he concluded a deal with Damascus Cham Holding for a USD 320 million investment in the construction of Marota City and that he was granted a licence for a private airline in Syria were proven, they would not be sufficient to support the allegations that he is a leading businessperson operating in Syria and that he supports and benefits from the Syrian regime. Moreover, only if the Council had proved that the applicant was a leading businessperson operating in Syria would it have provided sufficient grounds to support the fact that he had supported or benefited from the Syrian regime. Nonetheless, the applicant claims that, in so far as the Council relies on the status of leading businessperson operating in Syria, as a self-standing ground for his listing, that ground is in itself insufficient since the Council should have also proved the existence of ties with the Syrian regime. The applicant concludes therefrom that the Council has not provided sufficient reasons for including his name on the lists in question. In the alternative, he contends that those reasons are not substantiated.

36 The Council disputes the applicant's arguments.

37 It must be borne in mind that, in accordance with settled case-law, the purpose of the obligation to state the reasons on which an act adversely affecting an individual is based, which is a corollary of the principle of respect for the rights of the defence, is, first, to provide the person concerned with sufficient information to make it possible to ascertain whether the act is well founded or whether it is vitiated by a defect which may permit its legality to be contested before the Courts of the Union and, secondly, to enable those Courts to review the legality of that act (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 60 and the case-law cited).

38 It should also be noted that the statement of reasons required by Article 296 TFEU must be appropriate to the nature of the act in question and must show clearly and unequivocally the reasoning of the institution which adopted the measure, so as to enable the persons concerned to ascertain the reasons for the measure taken and the court with jurisdiction to exercise its review (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 61 and the case-law cited).

39 The statement of reasons for a Council measure imposing a freezing of funds must identify the actual and specific reasons why the Council considers, in the exercise of its discretionary power of assessment, that the person concerned should be subject to such a measure (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 63 and the case-law cited).

40 However, the requirement to state reasons must be assessed in the light of the circumstances of the case, in particular the content of the measure, the nature of the reasons given and the interest which the addressees may have in receiving explanations (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 64 and the case-law cited).

41 It is not required that the statement of reasons specify all the relevant matters of fact and law, since the question whether the statement of reasons for a measure satisfies the requirements of Article 296 TFEU must be assessed in the light not only of its wording, but also of its context and of all the legal rules governing the matter in question (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 65 and the case-law cited).

42 In particular, the reasons given for a measure adversely affecting a person are sufficient if it was adopted in circumstances known to that person, which enable him to understand the scope of the measure concerning him (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 66 and the case-law cited).

43 Finally, it must be borne in mind that the obligation to state reasons is an essential procedural requirement, which must be distinguished from the question whether the reasons given are correct, which goes to the substantive legality of the contested measure. The reasoning of a measure consists in a formal statement of the grounds on which that measure is based. If those grounds are vitiated by errors, the latter will vitiate the substantive legality of that measure, but not the statement of reasons for it, which may be adequate even though it sets out reasons which are incorrect (see judgment of 5 November 2014, *Mayaleh* v *Council*, T-307/12 and T-408/13, EU:T:2014:926, paragraph 96 and the case-law cited).

44 In the present case, it should be noted that the arguments raised by the applicant in support of his first plea in law relate essentially to an examination of the substantive legality of the contested measures and do not seek to call into question the adequacy of the reasons given for those measures within the meaning of the case-law cited, in particular, in paragraph 39 above. He claims that the Council did not sufficiently prove the reasons for the inclusion of his name on the lists in question, which amounts to challenging the sufficiently substantiated and well-founded nature of the grounds for inclusion, but he does not maintain that he had difficulty in understanding the actual and specific reasons which led the Council to include his name on those lists.

45 In any event, supposing that it can be deduced from some of the applicant's arguments that he criticises the insufficiency of the formal reasoning of the contested measures, within the meaning of the case-law referred to in paragraph 39 above, it should be noted that the pleas in law, in particular the first one, and the arguments which he raises in the context of the action indicate that he was given the opportunity to know the reasons for the measures taken against him in order to be able to challenge them effectively before the court. Thus, it should be noted that the content of the application shows that the applicant understood the Council's conclusions that he was a leading businessperson operating in Syria, supporting the Syrian regime and benefiting from it because of the significant investments he had made in the construction and aviation sectors, as evidenced by the agreement concluded with Damascus Cham Holding in connection with the Marota City project and the licence obtained for the operation of a private airline in Syria.

46 That statement of reasons is understandable and sufficiently precise to enable the applicant to know the reasons which led the Council to consider that the inclusion of his name on the lists in question was justified in the light of the applicable legal criteria, to challenge its legality before the court and to enable the Court to exercise its control.

47 The first plea in law must therefore be rejected in so far as it criticises the insufficiency of the formal reasoning of the contested measures. As for the applicant's arguments, which do not specifically call into question the sufficiency of the reasons given for the contested measures, but the merits of the grounds for listing, they will be examined in the context of the second plea in law, alleging an error of assessment.

2. ***The second plea in law, alleging an error of assessment***

48 In the first place, regarding the allegation that the applicant benefits from the Syrian regime and supports it, first, the applicant considers that the Council has not provided any direct evidence to prove it. Secondly, the evidence to support the allegations concerning the contract concluded with Damascus Cham Holding and the licence he was granted to operate a private airline is insufficient to prove that allegation indirectly.

49 In the second place, as regards the allegation that the applicant is a leading businessperson operating in Syria, the applicant notes the absence of a clear, unequivocal reference in the Council's evidence to the fact that he is such a businessperson. Similarly, he considers that the Council has not produced any evidence that supports the general and unsubstantiated information in the media concerning his strong ties with the Syrian regime, ties which, in any event, he denies. Moreover, he disputes that he made investments or significant investments in the construction and aviation sectors in Syria. In that regard, although he admits that he is the owner of the Sheraton Sidnaya Hotel and Resort, acquired from A by way of payment of very large outstanding debts, he points out however that that hotel was loss-making before he acquired it, and still is, and that the Syrian authorities are putting pressure on him to sell it due to his decision ultimately not to invest in the Marota City development project.

50 The applicant considers that the Council therefore made an error of assessment in that it relied on incomplete reports, that were in part inconsistent and had not been verified, to conclude that the applicant was a leading businessperson operating in Syria.

51 In that regard, the applicant further submits that, in order to validly justify the inclusion of his name on the lists in question on the basis of his alleged status as a leading businessperson operating in Syria, the Council should have demonstrated, first, against clear, precise and plausible criteria, that he was making significant investments in Syria and, secondly, that there was a sufficient link between him and the Syrian regime. In the applicant's view, only if these two conditions were demonstrated would there be a presumption in favour of inclusion on the lists in question. It would then be for the applicant to rebut that presumption by producing evidence that he is not associated with or does not exercise influence over the Syrian regime, within the meaning of Article 28(3) of Decision 2013/255, as amended by Decision 2015/1836.

52 In the third place, with regard to the statement that the applicant had entered into an agreement with Damascus Cham Holding for an investment of USD 320 million in the construction of the Marota City project, the applicant acknowledges that he had entered into a contract for the construction and development of a shopping centre. However, he denies having entered into another contract for the acquisition of land. Furthermore, he states that, following the conclusion of the first contract, he assessed the viability of the project as a whole, including the political context, and decided to withdraw from the project and therefore did not make any investments or raise any funds for its realisation. He argues that the Council failed to provide evidence that he would proceed with the project and invest funds so that the Council wrongly concluded that he had made significant investments in the construction sector and that he supported or benefited from the Syrian regime.

53 In the fourth place, with regard to the statement that the applicant obtained a licence to operate a private airline in Syria, although the applicant admits that he did obtain the licence and paid a limited amount for it, he claims however that he did not take any steps to establish an airline. In that respect, he submits that the Council did not provide any evidence that he committed funds to a private airline in Syria, either before or after the acquisition of that licence, or that he took any steps to raise funds for that purpose. In the absence of such evidence, it could not be argued that the applicant acquired significant investments in the aviation sector and therefore supported or benefited from the Syrian regime.

54 In the fifth place, the applicant considers that it is difficult to assess the reliability of the evidence submitted by the Council in so far as, first, the Council did not provide any information relating to the ownership of the means of publication or of the online companies and their political affiliation. Secondly, the applicant points to a number of inaccuracies or inconsistencies in the evidence. Thirdly, the applicant points out that the Council did not produce any documents subsequent to those attesting to the conclusion of the agreement with Damascus Cham Holding or the obtaining of the licence to operate a private airline, which would have demonstrated that he had invested in those projects. Thus, the Council clearly did not undertake any further investigation from late September or October 2018 until the adoption of the contested measures and nevertheless decided to include his name on the lists in question.

55 In the reply, the applicant notes that the Council, in the defence, does not address or challenge his argument that, although he signed a contract with Damascus Cham Holding and obtained a licence to operate a private airline, he did not make any investment in any of those projects. Moreover, the Council did not produce

any evidence to refute the evidence submitted by the applicant to show that he did not economically support the Syrian regime or benefit from it.

56 The Council disputes the applicant's arguments.

(a) ***Preliminary observations***

57 As a preliminary point, 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 ('the Charter') requires, in particular, that the Courts of the Union ensure that the decision by which restrictive measures were adopted or maintained, which has an individual scope for the person or entity concerned, rests on a sufficiently sound factual basis. That entails a verification of the facts alleged in the statement of reasons underpinning that decision, so that the judicial review is not limited to the assessment of the abstract plausibility of the grounds relied on, but focuses on whether those grounds, or at least one of them considered sufficient in itself to support that decision, are substantiated (judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 119).

58 It is for the Courts of the Union to carry out that examination by requesting, where appropriate, the competent Union authority to produce information or evidence, whether confidential or not, which is relevant for the purposes of such an examination (see judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 120 and the case-law cited).

59 It is for the competent authority of the Union, in the event of a challenge, to establish that the reasons given against the person or entity concerned are well founded, and not for the latter to provide negative evidence that those reasons are not well founded (judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 121).

60 To that end, that authority is not required to produce before the Courts of the Union all the information and evidence relating to the reasons alleged in the act whose annulment is sought. However, it is important that the information or evidence adduced substantiates the reasons given against the person or entity concerned (judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 122).

61 If the competent Union authority provides relevant information or evidence, the Courts of the Union must verify the material accuracy of the facts alleged in the light of that information or evidence and assess the probative value of that information or evidence in the light of the circumstances of the case and of any observations submitted, in particular, by the person or entity concerned in relation to it (judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 124).

62 In accordance with the Court's case-law, the assessment of the merits of a listing must be carried out by examining the evidence not in isolation, but in the context in which it fits (see, to that effect, judgments of 21 April 2015, *Anbouba* v *Council*, C-630/13 P, EU:C:2015:247, paragraph 51, and of 21 April 2015, *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 50).

63 In the present case, as mentioned in paragraph 12 above, the reasons for including the applicant's name on the lists in question are worded as follows:

'Leading businessperson operating in Syria, with significant investments in the construction and aviation sectors. Through his investments and activities, Mazin Al-Tarazi benefits from and/or supports the Syrian regime. In particular, [Mazin] Al-Tarazi has concluded a deal with Damascus Cham Holding for a USD 320 million investment in the construction of Marota City, a regime-backed luxury residential and commercial development; he has also been granted a licence for a private airline in Syria.'

64 It follows that the applicant's name was included on the lists in question on account of, first, his status as a leading businessperson operating in Syria and, secondly, his association with the Syrian regime.

65 In other words, the applicant's listing is based, first, on the criterion defined in Articles 27(2)(a) and 28(2)(a) of Decision 2013/255, as amended by Decision 2015/1836, and in Article 15(1a)(a) of Regulation No 36/2012, as amended by Regulation 2015/1828 (criterion of a leading businessperson operating in Syria), and, secondly, on the criterion defined in Articles 27(1) and 28(1) of that decision and in Article 15(1)(a) of that regulation (criterion of association with the regime).

66 It is in the light of those considerations that the second plea in law put forward by the applicant must be examined.

67 In order to justify the inclusion of the applicant's name on the lists in question, the Council relied on the document bearing the reference WK 45/2019 INIT, which contained publicly available information, namely links to websites, press articles and screenshots from:

– the 'Arab Times' website which presents, in an article consulted on 12 September 2018, the nine companies held by the applicant throughout the world, including Al-Tarazi Holding Co. located in Damascus (Syria);

– Damascus Cham Holding's website, consulted on 14 September 2018, which shows a photograph of the applicant attending a meeting with Damascus Cham Holding and indicating that he signed two contracts with that company in connection with the Marota City project; the first concerned the development of a shopping centre and amounted to USD 250 million and the second concerned the acquisition of five properties for a value of USD 70 million; it was further stated that that partnership was part of Damascus Cham Holding's strategy to establish partnerships to provide investors with a secure investment environment with economic and social benefits that would contribute to the development of the capital Damascus and support the national economy;

– 'The Syria Report' website, which states, in an article dated 17 April 2018, that the applicant signed two contracts with Damascus Cham Holding in December 2017, the first concerning the development of a shopping centre and amounting to USD 250 million and the second concerning the acquisition of five properties for a value of USD 70 million; that website states, in an article dated 1 June 2018, that the Marota City project is an investment project supported by the Syrian regime under Decree No 66, under which land in areas of Damascus with a lower socio-economic status was expropriated; it also states that Damascus Cham Holding began entering into partnerships in 2017 with businesspersons, including the applicant, who are relatively unknown and who had not been subject to sanctions by the Union or the United States; it explained, in an article dated 9 January 2018, that, first, the applicant, largely unknown before, had taken a 51% stake in the USD 250 million contract concluded with Damascus Cham Holding and that he had obtained, in the space of 10 days, a licence to create a private airline and, secondly, that none of the private investors in the Marota City project were subject to restrictive measures by the Union or the United States, thus guaranteeing the Syrian regime's ability to generate revenues; the article also mentions that the applicant acquired the Sheraton Sidnaya Hotel and Resort in 2015 for approximately EUR 11 million and that he is known for his support of the Syrian regime; it is reported that in 2014, the applicant himself paid for trips for Syrians between Kuwait and Syria to participate in the presidential elections and that in 2015, he was recognised by the official Syrian media as having provided financial assistance to the families of martyrs and wounded of the Syrian army and renovated schools in the suburbs of Homs (Syria) and Damascus; another article of 9 January 2018 states that, first, the applicant was granted a licence to operate a private airline in Syria, in which he will own 85% of the capital, amounting to 70 million Syrian pounds (SYP), and secondly, that the applicant was granted a license to operate a private airline in Syria, that it is difficult and rare to obtain such licences, which means that those who acquire them generally have very good relations with powerful people in the regime and, finally, that the applicant is probably acting as a nominee for one of those persons;

– the 'Enab Baladi News' website which reports, in an article dated 14 January 2018, that the applicant took a 51% stake in the USD 250 million contract with Damascus Cham Holding, within the framework of the Marota City project, an urban project announced by Mr Bashar Al-Assad in 2012 and started by the Governorate of Damascus and Damascus Cham Holding in 2017; that site indicates, in an article of 30 December 2017, that the applicant is a Syrian expatriate and businessperson who announced that he has established Syria's third private airline company in which he holds 85% of the capital, amounting to SYP 70 million, that he is close to the

regime and that in 2014 he has chartered a private plane to transport Syrians from Kuwait to Syria and back so that they could participate in the presidential election, that he launched a campaign to return to Syria in 2015, called ‘Back to Syria’, in which he paid the costs of returning young Syrians living abroad and finally that his funds were frozen by the United States Department of the Treasury in 2015;

– the ‘Syrian Law Journal’ website which explains, in an article of 14 May 2018, that Decree No 66 establishes zoning requirements for the Marota City project and that Decree No 19 authorised the establishment of private limited companies by ‘councils’; furthermore, it states that the Governorate of Damascus established Damascus Cham Holding in 2016, which it wholly owns, and that the governor of Damascus is its president;

– the Syrian Government’s website presenting, on 18 September 2012, Decree No 66 which created two new residential and commercial development zones in Damascus;

– ‘The Foundation for Strategic Research’ website which explains, in an article of April 2018, the reasons that led to the adoption of Decree No 66, namely that it could be used as an instrument for the rapid and important development of projects, which would benefit businesspersons close to the regime, while constituting a powerful punitive force against populations opposed to the Syrian regime;

– ‘The Syrian Observer’ website, which states, in an article dated 6 April 2018, that businesspersons close to the regime in Syria and representing the countries of the region have begun to seek to invest in the reconstruction sector by participating in development organisations set up in the capital Damascus and its suburbs and by creating new companies with the main objective of investing in these organisations; Marota City is cited as one of the two cities that the Syrian regime is seeking to establish in Damascus; it mentions the applicant as having concluded two contracts with Damascus Cham Holding, involved in the development of the Marota City project; it states that any investment must go through the economic circles of the Syrian regime and obtain a green light in order to participate in the development of Marota City; it finally specifies that the obedience, loyalty and foreign business ties of private investors are the accepted standards for the selection of businesspersons;

– the ‘Brookings Institution’ website, which published a report in June 2018 entitled ‘Beyond Fragility: Syria and the challenges of reconstruction in fierce states’, according to which Decree No 66 is a means for the regime to seize land and property, punish its opponents, reward those close to it and tighten its control over the Syrian economy; it describes the applicant as one of the businesspersons involved in the Marota City project and as a relatively unknown businessperson based in Kuwait with strong ties to the Syrian regime;

– the ‘Eqstad News’ website which indicates, in an article of 14 January 2018, that the Syrian regime supported loyal businesspersons by offering them investment opportunities in the Marota City project, developed on the land seized thanks to Decree No 66, from which the applicant benefited by acquiring 55% of the joint venture held with Damascus Cham Holding; it points out that the applicant could be the ‘frontman’ of B;

– the ‘CH Aviation’ website which states, on a page dated 6 January 2018, that the applicant is a Syrian businessperson based in Kuwait, who owns 85% of the airline Alwataniya Air, with the remaining 15% going to his sons, and who has been targeted by the restrictive measures adopted by the United States because of his links with the Syrian regime; it is stated that the capital of the airline is SYP 70 million;

– the ‘CompanyCheck’ website, consulted on 12 November 2018, which mentions the applicant’s date of birth.

68 In addition, the Council referred, in the context of the defence, to four other items of evidence which do not appear in the document bearing the reference WK 45/2019 INIT. In response to a measure of organisation of procedure, the Council stated that those four items of evidence formed part of the document bearing the reference WK 5131/2019 INIT, of 15 April 2019, having been transmitted to the applicant by letter of 13 May 2019, referred to in paragraph 16 above, that is to say, after the adoption of the contested measures.

69 In that regard, it should be recalled that the legality of a Union act must be assessed on the basis of the elements of fact and law existing at the date on which the act was adopted (see judgments of 3 September 2015,

Inuit Tapiriit Kanatami and Others v *Commission*, C-398/13 P, EU:C:2015:535, paragraph 22 and the case-law cited, and of 4 September 2015, *NIOC and Others* v *Council*, T-577/12, not published, EU:T:2015:596, paragraph 112 and the case-law cited). Consequently, it is incumbent on the Court to take into account only those factual elements which existed at the time of the adoption of the contested measures and on which the Council relied at that date (see, to that effect, judgments of 30 November 2016, *Rotenberg* v *Council*, T-720/14, EU:T:2016:689, paragraph 127, and of 15 June 2017, *Kiselev* v *Council*, T-262/15, EU:T:2017:392, paragraphs 102 to 104). Accordingly, it should be pointed out that the Council cannot rely, in order to demonstrate the merits of the grounds for including the applicant's name on the lists in question, on the document bearing the reference WK 5131/2019 INIT, which was not taken into consideration by the Council when adopting the contested measures.

(b) ***The reliability of the evidence submitted by the Council***

70 First, the applicant claims, in essence, that the reliability of the evidence submitted by the Council is questionable in so far as it consists mainly of press articles whose sources, motives and independence, in particular with regard to the Syrian regime, remain unclear and whose information has not been confirmed by other types of documents. Moreover, the applicant criticises the Council for failing to investigate the possible sources of the reports on which it relied. Finally, in response to questions raised by way of a measure of organisation of procedure and at the hearing, the applicant stated that B, a Syrian businessperson operating, inter alia, in the media sector, could have manipulated the information concerning him in order to cause him harm.

71 On the one hand, it should be recalled that, in carrying out the assessment of the importance of what was at stake, which forms part of the review of the proportionality of the restrictive measures in question, account may be taken of the context in which those measures are taken, 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 directed against the population and the difficulty of obtaining more specific evidence in a State beset by civil war with a regime of an authoritarian nature (judgment of 21 April 2015, *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 46).

72 On the other hand, it should be noted that, in accordance with settled case-law, the activity of the Court of Justice and the General Court is governed by the principle of the unfettered evaluation of evidence and that the only criterion for assessing the value of the evidence produced is its credibility. Furthermore, in order to assess the probative value of a document, it is necessary to verify the plausibility of the information contained therein and to take into account, in particular, the origin of the document, the circumstances in which it was drawn up, its addressee and whether, on the basis of its content, it appears to be sound and reliable (see, to that effect, judgment of 27 September 2012, *Shell Petroleum and Others* v *Commission*, T-343/06, EU:T:2012:478, paragraph 161, and the case-law cited).

73 It must be noted that the arguments put forward by the applicant to challenge the reliability of the evidence submitted by the Council, as summarised in paragraph 70 above, are general and declaratory allegations which he does not support with any concrete evidence. In that connection, since the evidence submitted by the Council and communicated to the applicant comes from publicly accessible sources, he was able to indicate which, in his view, was, for example, favourable to the Syrian regime or, on the contrary, opposed to it, a problem which he had raised in the application. In particular, having regard to the case-law referred to in paragraph 61 above, while it is for the Council to provide evidence in support of the grounds for listing, it is for the applicant to indicate which of them might raise doubts as to their reliability.

74 As to the criticism expressed by the applicant concerning the alleged lack of verification and investigation by the Council, it should be recalled that, in the absence of investigative powers in third countries, the assessment of the Union authorities must, in fact, be based on publicly available sources of information, reports, press articles or other similar sources of information (see judgment of 12 February 2020, *Kibelisa Ngambasai* v *Council*, T-169/18, not published, EU:T:2020:58, paragraph 96 and the case-law cited). Moreover, contrary to what the applicant suggests, the Council did not rely solely on press articles from media based in the Middle East, but also produced screenshots of the websites of Damascus Cham Holding, the Syrian Government, studies by international bodies such as the 'Brookings Institution' or the 'Foundation for Strategic Research' and pages

of international platforms such as ‘CH Aviation’. Finally, it should be noted that it has already been held that, even if not all the evidence submitted by the Council expressly indicates the primary source of their information, the war situation in Syria makes it difficult, if not impossible in practice, to gather evidence from persons who agree to be identified. The ensuing difficulties of investigation and the danger to which those who provide information are exposed make it difficult to provide precise sources of personal conduct in support of the regime (judgment of 26 October 2016, *Kaddour* v *Council*, T-155/15, not published, EU:T:2016:628, paragraph 87).

75 Finally, as regards the role allegedly played by B in the media, in order to cause harm to the applicant, it must be noted that the applicant merely made assumptions without providing the Court with any information enabling it to verify them. Thus, while the applicant maintained that they were rivals and that B could have manipulated the media, which he himself was not certain of, he did not specify which of the sources used by the Council might have been involved in that manoeuvre.

76 Secondly, the applicant alleges a number of inconsistencies and inaccuracies in various pieces of evidence, which affect their reliability.

77 In that regard, a distinction must be drawn between the arguments relied on by the applicant, those relating to the question of the reliability of the evidence, that is to say, whether that evidence can be regarded as credible, and those relating to the question whether the information relayed by that evidence demonstrates, to a sufficient degree, the merits of the grounds for listing. In that sense, the question whether the evidence adduced by the Council provides consistent information is a matter of analysing its reliability. In view of the nature of that evidence, the vast majority of which is press articles, it is important, in order to give it a sound and reliable character, that the information which it provides should not be clearly contradictory. The same applies to the accuracy of information which relates to the identity of the person concerned, such as his or her nationality, or which concerns his or her legal situation, such as the sanctions adopted in respect of him or her, for example.

78 First, as regards the inaccuracies relating to the applicant’s identity, the latter points out that the article on the ‘Eqstad News’ website of 14 January 2018 describes him as a Syro-Palestinian when he is not. He is, in fact, Syrian by birth and, in addition, has Canadian nationality. When questioned by way of a measure of organisation of procedure and at the hearing, the Council indicated that it did not have additional information in that regard, but that in any event it was secondary information.

79 It is apparent from the Council’s replies that the latter does not call into question the fact that the information relating to the applicant’s nationality is partly incorrect. Nevertheless, it should be noted that that is not the main information presented by that article. Indeed, the latter emphasises the applicant’s status as a businessperson as a result of the conclusion of a contract in the context of the Marota City project. In that regard, that information, which relates to the grounds for listing, overlaps with that supported by other evidence. Furthermore, the applicant does not dispute that he is the person referred to in that article. Thus, the inaccuracy found is not such as to deprive the evidence of all soundness and reliability.

80 The applicant also indicated that the page from the ‘CH Aviation’ website, dated 6 January 2018, incorrectly mentions that he has been subject to sanctions by the United States since 2015. In that regard, he claims that he searched the internet and did not find any record of those sanctions. In response to a question put by the Court both by way of a measure of organisation of procedure and at the hearing, the Council stated that it had not verified that information, but that it did not appear to it to be essential, although important, since the inclusion of the applicant’s name on the lists in question was not based on that factor.

81 It is apparent from the document bearing the reference WK 45/2019 INIT that a second piece of evidence refers to the sanctions applied by the United States to the applicant, namely the article in the ‘Enab Baladi News’ of 19 October 2018. Nevertheless, that is not sufficient, given the doubts expressed by the applicant and the Council’s responses, to consider that the inclusion of the applicant’s name on the American lists of frozen funds is corroborated by different sources of information. However, although it concerns information that the Council could, or even should, have verified, it should be noted that the fact that the applicant is subject to possible sanctions by the United States does not, in the circumstances of the case, constitute essential information since, first, the grounds for listing the applicant’s name make no reference to it and, secondly, the Council did not refer

to it, in its written submissions or during its oral argument, in order to demonstrate the merits of those grounds. Since, moreover, the other information reported by the ‘CH Aviation’ page is consistent with that contained in other evidence, that page cannot be considered to be devoid of any sound and reliable character.

82 Secondly, with regard to the inconsistencies affecting the evidence submitted by the Council, the applicant notes that, according to some articles, he was a leading businessperson who had made significant investments in Syria, close to the regime, but that, according to others, he was relatively unknown and was merely a frontman.

83 The applicant claims that the inconsistency stemmed from the fact that he could not be relatively unknown, on the one hand, and be known for his close links with the Syrian regime except to a few individuals, on the other hand, and that he could not, at the same time, be a leading businessperson who had made substantial investments in Syria and a mere frontman.

84 That argument is not convincing. Although some evidence, such as the report on the ‘Brookings Institution’ website, indicates that the applicant was a relatively unknown businessperson, that assertion must be read in conjunction with that reported by other articles, such as those on the website ‘The Syria Report’ of 9 January and 1 June 2018, which mention, first, that the applicant had been unknown until a few days before signing a contract with Damascus Cham Holding and obtaining a licence to operate an airline and, secondly, that the Syrian regime had chosen to turn to important but as yet unknown businesspersons because they were not subject to restrictive measures. It cannot therefore be ruled out that, although he was certainly unknown, the imminent signing of contracts with the Syrian regime had the effect of making him known. In any event, the applicant was presented as a businessperson of sufficient importance to sign contracts with the Syrian regime. Finally, the fact of being a frontman for a powerful person of the Syrian regime did not, in itself, exclude his being a leading businessperson investing in Syria.

85 Consequently, since the various sources used by the Council relay information that is corroborated and is not clearly contradictory, and in the absence of any element in the file capable of effectively calling into question the reliability of those sources, they must be deemed to be sufficiently sound and reliable, within the meaning of the case-law referred to in paragraph 72 above.

(c) ***The first ground for listing***

86 Since the reliability of the evidence submitted by the Council has been established, it must be verified whether the evidence as a whole constitutes a set of indicia sufficiently specific, precise and consistent to support the first ground for listing.

87 It should be recalled that, according to the first ground for listing, the applicant is considered to be a leading businessperson operating in Syria because of the significant investments he has made in the construction and aviation sectors. In particular, he concluded an agreement with Damascus Cham Holding for a USD 320 million investment in the construction of Marota City and obtained a licence for a private airline in Syria.

88 At the hearing, the Council noted that the word ‘réalisé’ is present in the French version of the grounds for listing the applicant’s name on the lists in question, but not in the English version of those grounds. It stated that the use of the preposition ‘with’ in English should be understood to mean that the investments that are about to be made have been made.

89 In that regard, it should be noted that the grounds for listing, in their English version, are worded as follows:

‘Leading businessperson operating in Syria, with significant investments in the construction and aviation sectors.’

90 Thus, the use of the preposition ‘with’ in the English version of the grounds for listing assumes that the investments were made. Therefore, the question that arises in this case is whether the applicant can be considered

as a leading businessperson operating in Syria because of the investments he has made in the construction and aviation sectors.

91 In that sense, it is therefore necessary to reject the Council's argument, developed at the hearing, that the Court could accept that a person is a leading businessperson operating in Syria on account of his contact with the Syrian regime and the privileges he received from that regime.

92 First, the Council thereby invites the Court to substitute the grounds. According to the case-law, the legality of the contested measures can be assessed only on the basis of the matters of fact and law on which they were adopted. Consequently, the Court cannot agree with the invitation made by the Council to proceed, in the final analysis, to a substitution of the grounds on which those acts are based (see, to that effect, judgment of 26 October 2012, *Oil Turbo Compressor* v *Council*, T-63/12, EU:T:2012:579, paragraph 29).

93 Secondly, it should be pointed out that it cannot be excluded that, for a given person, the grounds for listing may overlap to a certain extent, in that a person may be described as a leading businessperson operating in Syria and be considered as benefiting, in the context of his activities, from the Syrian regime or as supporting it through those activities. That follows precisely from the fact that, as established in recital 6 of Decision 2015/1836, the close links with and support of the Syrian regime provided by that category of persons are one of the reasons why the Council decided to establish that category. The fact remains that, even in such a situation, those are separate criteria (judgment of 23 September 2020, *Kaddour* v *Council*, T-510/18, EU:T:2020:436, paragraph 77).

94 Therefore, a person's contacts with the Syrian regime and the possible benefits he derives from them are relevant to the assessment of the criterion for listing provided for in Articles 27(1) and 28(1) of Decision 2013/255, as amended by Decision 2015/1836, and therefore different from that of a leading businessperson. It provides, specifically, for the adoption of restrictive measures in respect of persons who benefit from the policies pursued by that regime and persons linked to them.

95 As regards the status of a leading businessperson operating in Syria, it should be noted that the applicant admits to being a businessperson with business interests in the Arab world, but contests being a 'leading businessperson operating in Syria'. Similarly, he admits having signed a contract with Damascus Cham Holding, having obtained a licence for the operation of a private airline company in Syria and owning the Sheraton Sidnaya Hotel and Resort, but he argues, first, that the contract with Damascus Cham Holding was terminated, due to lack of performance, in the three to four months following the signing of the contract, secondly, that he did not commit funds to set up a private airline and, thirdly, that the Sheraton Sidnaya Hotel and Resort is loss-making and that he is under pressure from the Syrian regime to resell it because of his withdrawal from the Marota City project.

(1) *The contracts signed with Damascus Cham Holding*

96 It is apparent from information from the Damascus Cham Holding, 'The Syria Report', 'Enab Baladi News' and 'Eqstad News' websites, that the applicant concluded, at the same time, a first contract with Damascus Cham Holding amounting to USD 250 million for the construction of a shopping centre and a second contract with the same company amounting to USD 70 million for the acquisition of five plots of land, representing a total investment of USD 320 million, within the framework of the Marota City project. The applicant confirms having signed the first contract. By contrast, he claims that that contract was terminated due to his failure to make investments or raise funds in order to perform it. As for the second contract, he denies having signed it.

97 In response to the measures of organisation of procedure adopted by the Court, the applicant provided two items of evidence aimed at demonstrating that he is no longer committed to Damascus Cham Holding. First, a letter dated 15 May 2018 sent by the applicant to Damascus Cham Holding and intended to communicate his wish to withdraw from the contracts signed with that company. Secondly, a letter dated 23 May 2018 from Damascus Cham Holding to the applicant terminating the contracts signed with the applicant. In addition, the applicant produced, at the request of the Court, a contract signed with Damascus Cham Holding.

98 At the hearing, the Council questioned the reliability of that evidence because of its inconsistency and incompleteness.

99 The reliability of such evidence must therefore be assessed in accordance with the case-law referred to in paragraph 72 above.

100 First, with regard to the contract provided by the applicant, the Council considers that it is unreliable in so far as that contract, which relates to the sale of land, does not take the form of an official deed and does not mention that such an official deed will be drawn up.

101 That argument must be rejected on the basis of its purely declaratory character. The Council fails to demonstrate, by the production of concrete evidence, that a contract for the sale of land in Syria must expressly state that an official deed will be drawn up. Similarly, the Council does not indicate the characteristics which the contract should have had in order to be considered, under Syrian law, as an official deed. Moreover, there is nothing in the file before the Court to affirm or deny that an official deed for the transfer of land was not obtained following the signing of that contract.

102 Secondly, with regard to the letter of 15 May 2018, the Council submits that that document raises questions since, in particular, it mentions a partnership agreement that the applicant did not produce and requests the cancellation of a contract that would have lapsed in any event 45 days after it was signed, in accordance with Article 7 thereof.

103 That argument cannot succeed. First, the Council does not explain why it would have been necessary for the applicant to produce the partnership agreement in order to demonstrate the sound and reliable nature of that letter. Secondly, the fact that the contract lapsed 45 days after it was signed does not preclude the applicant from formally sending a letter to express his wish to terminate it.

104 Thirdly, as regards the letter of 23 May 2018, the Council considers that it is not sound and reliable because it is incomplete.

105 That argument must also be rejected. The incompleteness of a document does not automatically deprive it of all soundness and reliability, but may only affect its ability to demonstrate the merits of the allegation in support of which it is invoked. The Council did not raise any other arguments to challenge the reliability of the letter of 23 May 2018.

106 It follows that the evidence listed in paragraph 97 above is sufficiently sound and reliable within the meaning of the case-law cited in paragraph 72 above for the Court to be able to take it into account.

107 In that regard, in the first place, it should be noted that the evidence contradicts the applicant’s argument in his written pleadings that he did not sign the contract for the sale of land.

108 First, the subject of the letter of 15 May 2018 expressly refers to the partnership agreement and the sales contract concluded in the context of the Marota City project. Secondly, the letter of 23 May 2018 refers to the contracts signed by the applicant with Damascus Cham Holding, namely a partnership agreement and a sales contract. Finally, the contract of 29 December 2017, produced in response to a question from the Court (see paragraph 97 above) is a contract for the sale of land, as is clear not only from its title but also from its content. In that regard, it must be noted that the contract relates to the sale of five plots of land and contains no provision referring to the construction and management of a shopping centre. Accordingly, it must be concluded that the contract produced by the petitioner is the contract of sale of land entered into with Damascus Cham Holding.

109 In the second place, it is not disputed by the parties, and it follows from the evidence mentioned in paragraph 96 above, that the contracts with Damascus Cham Holding were signed at the same time, namely on 29 December 2017, as appears from the contract for the sale of land produced by the applicant.

110 In the third place, since it has been demonstrated that the applicant signed the contracts with Damascus Cham Holding, it must be ascertained whether the applicant has adduced sufficient evidence to prove either that he was no longer bound by such contracts before the adoption of the contested measures or that there is reasonable doubt that he was still bound by them before the adoption of those measures.

111 In that regard, it should be noted that the applicant produced two categories of evidence.

112 First, the applicant produced an article from the ‘CS Monitor’ website, dated 5 November 2018, and an article from the ‘Arab News’ website, dated 5 November 2018, in order to demonstrate that he was no longer involved in the Marota City project. However, contrary to what he alleges in the application, those articles do not demonstrate his lack of involvement in the Marota City project. Those articles, which are almost identical in content, highlight the circumstances surrounding the development of the Marota City project and the consequences it has on the populations concerned due to the expropriation of land ordered by Decree No 66, but they are only incidentally of interest to private investors. To that effect, two investors are mentioned, but they are only cited as examples, which does not exclude the possibility that the applicant may be one of the businesspersons who benefited from a contract in the context of that project.

113 Secondly, the applicant claims to have terminated the contracts signed with Damascus Cham Holding and, as such, produces the letter he sent to that company on 13 May 2018. By that letter, the applicant stated that he had decided to withdraw from the Marota City project, in which he was involved through two contracts, because of the situation in Syria, which, according to him, did not allow a businessperson to operate his business properly. As for Damascus Cham Holding’s letter in reply of 23 May 2018, it refers to the two contracts signed by the applicant. It goes on to state, in substance, that numerous correspondences took place in order to implement Article 4 of the contract in relation to the transfer of three of the five plots of land that were the subject of the contract of sale. Article 4 of the contract produced before the Court lists the contractual obligations of Damascus Cham Holding, including the obligation to transfer five plots of land. It also stipulates, in substance, that the value of the land, the subject of the ‘Marota City’ contract, had to be paid within 45 days of the signing of the contract, which was not done. Finally, according to Article 7 of the sale contract, the contract becomes null and void if, within 45 days of signing it, the applicant does not pay the value of the land.

114 It follows from the above that, first, the two contracts signed with Damascus Cham Holding are closely linked, since they both contribute to the Marota City project. Secondly, the applicant intended to terminate both contracts. Thirdly, the applicant did not pay the money required to acquire the five plots of land, which were the subject of the sale contract, but only two of them, since Damascus Cham Holding’s letter of reply, of 23 May 2018, notes the applicant’s failure to pay for only three of the five plots.

115 It should be noted that none of the evidence produced by the Council and referred to in paragraph 67 above is capable of demonstrating that, after 23 May 2018, the applicant was still connected to Damascus Cham Holding by the contract relating to the construction of a shopping centre and by the contract relating to the acquisition of land. In that regard, the evidence bearing a date prior to 23 May 2018 should be rejected from the outset, since the cancellation of the contracts had not yet been decided by the two contracting parties. As for the page from Damascus Cham Holding’s website, although consulted in September 2018, it mentions that the company is ‘looking forward’ to 2018, which shows that the content of the page dates from an earlier period. It is apparent from that content that the page was written as a direct result of the signature of the contracts with the applicant. As regards the article on the website ‘The Syria Report’, of 1 June 2018, it mentions, admittedly, that the applicant concluded agreements with Damascus Cham Holding. However, in view of the short interval between the cancellation of those contracts and the publication of the article, it cannot be excluded that the information about that cancellation had not yet been made public. In any event, a single article cannot be considered sufficient to establish that the contracts signed with Damascus Cham Holding were still in force on the day the contested measures were adopted.

116 Consequently, it must be concluded that, with the exception of the purchase of two plots of land, the applicant has adduced sufficient evidence to raise a reasonable doubt as to his participation in the Marota City project at the date of adoption of the contested measures and, consequently, to call into question the correctness of the Council’s findings in that regard.

(2) *The licence to operate an airline*

117 The evidence from the ‘The Syria Report’, ‘Enab Baladi News’ and ‘CH Aviation’ websites shows that the applicant obtained a licence to operate a private airline. The ‘CH Aviation’ website indicates the name of this airline: Alwataniya Air. It also emerges from those various sources that it was the applicant himself who announced that he had established the third largest Syrian airline, in which he holds 85% of the capital, amounting to SYP 70 million.

118 It should be noted that the applicant confirms having acquired such a licence in September 2017, stating that he paid the sum of less than USD 1 000 to do so. However, he claims that he did not take any other steps to set up an airline business in Syria and that he did not commit any other significant funds or take other action in order to launch that business. Finally, in response to the questions put by the Court by way of a measure of organisation of procedure, the applicant states that Alwataniya Air is only a shell company and that the licence has expired.

119 Nevertheless, it should be noted that the applicant fails to demonstrate that the licence to operate an airline was due to expire after one year and that it did in fact expire in September 2018. The only evidence produced by the applicant, the reliability of which is not called into question by the Council, is a letter from the Syrian Ministry of Transport, dated 9 February 2018, informing the applicant of the suspension of the procedure for granting a licence in favour of Alwataniya Air, that company being described as being in the process of being established. It should be noted that, when questioned by the Court on that point, neither the Council nor the applicant were able to explain the stages of the procedure leading to the granting of an airline operating licence. Furthermore, there is nothing in the file to indicate what difference, if any, might exist between the licence obtained in September 2017 and the one referred to in the letter of 9 February 2018. In any event, that evidence, which relates only to the procedure for suspending the granting of that licence, is not relevant to show that the licence obtained by the applicant was intended to expire one year after it was obtained. By contrast, that evidence confirms that the applicant had taken steps to set up the airline Alwataniya Air.

120 However, contrary to what the Council stated during the hearing, it does not appear from the page from the ‘CH Aviation’ website, dated 6 January 2018, that Alwataniya Air already has a fleet. The information relating to the number of aircraft, destinations and daily flights concerns the Syrianair airline, as can be seen from the heading above the box containing that information. No other evidence contained in the document bearing the reference WK 45/2019 INIT allows the conclusion to be drawn that Alwataniya Air is operational, contrary to what the Council argued during the hearing.

121 It follows from all the foregoing that, even if the operations in question are not of a significant financial amount and even if Alwataniya Air had not been operational on the date of adoption of the contested measures, the Council has shown that the applicant made significant investments in the aviation sector by obtaining an operating licence for an airline from the Syrian authorities and by incorporating that company in which he holds 85% of the capital.

(3) *The Sheraton Sidnaya Hotel and Resort*

122 With regard to the Sheraton Sidnaya Hotel and Resort, it suffices to note that the applicant does not dispute that it is in his possession, as can be seen from the article on the ‘The Syria Report’ website of 9 January 2018. According to that article, the applicant acquired the hotel in 2015 for the sum of EUR 11 million.

123 However, the applicant states that he acquired it in repayment of A’s debts. That fact, assuming it to be true, does not affect the fact that the applicant is the owner of that establishment.

(4) *The applicant’s status as a leading businessperson operating in Syria*

124 It follows from all of the above that, with the exception of two plots of land acquired as part of the Marota City project, the Council has not sufficiently established that the applicant made investments in the construction sector and, more specifically, that he is involved in the implementation of the Marota City project. By contrast,

the Council has demonstrated that the applicant made investments in the aviation sector and that he owns the Sheraton Sidnaya Hotel and Resort.

125 The investments in the Syrian aviation sector, which consists of only very few airlines, made for the purposes of establishing an airline company are significant. Moreover, the acquisition of a luxury hotel in Syria in return for the payment of a debt demonstrates not only the business links of the applicant with Syria, but also the applicant's status as a leading businessperson.

126 Therefore, it should be noted that the Council has provided a set of sufficiently specific, precise and consistent indicia to establish that the applicant is a leading businessperson operating in Syria.

127 That conclusion cannot be called into question by the applicant's other arguments.

128 First, the applicant claims, in essence, that, even if it were shown that he had obtained a licence to operate a private airline, that would not be sufficient to show that he is a leading businessperson operating in Syria.

129 In that regard, it should be noted, first, that the applicant does not explain his arguments and, secondly, they are contradicted by the statement in the reply that the question of whether a businessperson should be included in the category of 'leading businesspersons operating in Syria' depends on whether he makes significant investments in Syria.

130 If evidence of significant investments in Syria is indeed one of the factors enabling a person to be considered to come within that category, it must be noted that, in the present case, the applicant does come within that category since, as noted in paragraph 124 above, the Council provided a set of sufficiently specific, precise and consistent indicia that the applicant made significant investments at least in the aviation sector and that he owns a luxury hotel, the Sheraton Sidnaya Hotel and Resort, with an estimated acquisition value of EUR 11 million.

131 Consequently, his argument cannot succeed.

132 Secondly, the applicant claims that the Sheraton Sidnaya Hotel and Resort is loss-making so that he cannot be regarded as a businessperson with business interests in Syria.

133 In that regard, it is true that the applicant states that the Sheraton Sidnaya Hotel and Resort has a pre-tax loss of approximately SYP 315 million for 2018, compared to approximately SYP 192 million for 2017. However, that does not alter the fact that the applicant is the owner of that hotel, whose income and expenses amount to millions of Syrian pounds, which demonstrates that it is a large hotel.

134 Thirdly, the applicant claims that he only took steps to explore business opportunities in Syria as it seemed to him, on reading press articles at the time, that the end of the war could be imminent and followed by a normalisation of the political and economic situation, but also of relations in the region and with the West. However, after examining and assessing the general economic, political, legal and international context, the applicant decided not to continue the projects in Syria and not to commit any additional funds.

135 In addition, the applicant produced, together with his replies to the measures of organisation of procedure, the report of a journalist intended to show that he was not alone in believing in a normalisation of the situation. With regard to that report, the Council, at the hearing, requested that it be rejected as inadmissible, as it was submitted out of time.

136 First, it should be noted that the two press articles produced by the applicant in the annex to the reply, namely the article from the 'TAP News' website, of 11 September 2017, entitled 'As Syrian War Comes to an End, Mainstream Media Silent to Hide Extreme US Embarrassment', and the article of the European Council on External Relations, of 12 September 2017, entitled 'To end a war: Europe's role in bringing peace to Syria', admittedly mention the possibility of an end to the war in Syria. However, they describe it as distant and requiring many steps and concessions, both from the Syrian regime and the forces opposing it, and from other

States and the Union. In any event, they did not envisage the end of the Syrian regime, led by Mr Al-Assad, quite the contrary, and noted that the Syrian population continued to suffer from the situation. Accordingly, those articles cannot show that the applicant could believe in the forthcoming resumption of normal activity in Syria, as he claims.

137 It should be noted, without needing to rule on the question of its admissibility, that the same applies to the journalist's report. It is apparent therefrom that a change could be hoped for, but that it was far from certain.

138 Secondly, obtaining a licence for the operation of a private airline and the incorporation of Alwataniya Air cannot be considered as mere preliminary steps. On the contrary, those factors demonstrate the applicant's firm intention to invest in the aviation sector in Syria and are thus rather indications that the applicant had gone beyond the stage of a simple market study and had decided to enter that sector.

139 Consequently, the applicants' argument cannot be accepted.

140 Fourthly, the applicant claims that it was for the Council to demonstrate the existence of his link with the Syrian regime. According to the applicant, in so far as the Council relies on the status of a leading businessperson operating in Syria as an autonomous ground for including the applicant's name on the lists in question, that is not in itself sufficient. The fact that a businessperson may make investments in Syria does not automatically prove his association with the regime, nor that he financially supports or benefits from it.

141 Nevertheless, questioned at the hearing on the impact that the judgment of 9 July 2020, *Haswani* v *Council* (C-241/19 P, EU:C:2020:545) was likely to have on the present case, the applicant admitted that the status of leading businessperson operating in Syria was a sufficient ground for inclusion on the lists in question and that it was not necessary for the Council to demonstrate, in addition, the link with the Syrian regime.

142 In that regard, it should indeed be recalled that Decision 2015/1836 introduced, inter alia, as an objective, autonomous and sufficient listing criterion, that of 'leading businesspersons operating in Syria', with the result that the Council is no longer required to demonstrate that there is a link between that category of persons and the Syrian regime, or between that category of persons and the support provided to, or the benefit derived from, the regime, since being a leading businessperson operating in Syria is sufficient for the restrictive measures in question to be applied to a person (see, to that effect, judgments of 11 September 2019, *HX* v *Council*, C-540/18 P, not published, EU:C:2019:707, paragraph 38, and of 4 April 2019, *Sharif* v *Council*, T-5/17, EU:T:2019:216, paragraphs 55 and 56; and order of 11 September 2019, *Haswani* v *Council*, T-231/15 RENV, not published, EU:T:2019:589, paragraph 56).

143 In that sense, the Court has held that a rebuttable presumption of a link with the Syrian regime may be inferred from the criterion relating to the status of 'leading businesspersons operating in Syria' (see, to that effect, judgment of 4 April 2019, *Sharif* v *Council*, T-5/17 EU:T:2019:216, paragraph 106, and order of 11 September 2019, *Haswani* v *Council*, T-231/15 RENV, not published, EU:T:2019:589, paragraph 60). That presumption applies where the Council has been able to show that the person is not only a businessperson operating in Syria, but can also be described as 'leading'. As is clear from the terms of recital 6 of Decision 2015/1836, as recalled in paragraph 9 above, it is the influence that that category of persons is likely to exert on the Syrian regime that the Council aims to exploit by urging them, through the restrictive measures it adopts in their regard, to put pressure on the Syrian regime to change its policy of repression. Thus, once the Council has succeeded in demonstrating the influence that a businessperson may have on that regime, the link between that person and the Syrian regime is presumed.

144 In that regard, the applicant submits that a general presumption that any person, including any prominent businessperson with an alleged association with a sanctioned regime, may be legally subject to sanctions runs counter to the principle noted in the document entitled 'Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the Common Foreign and Security Policy of the European Union', adopted by the Council on 4 May 2018. According to that principle, such sanctions should generate minimum collateral damage for any person not responsible for repression or support to the regime perpetrating repressive actions.

145 Without it being necessary to rule on the admissibility of that argument, presented in the context of the reply, it should be noted that it cannot, in any event, succeed. First, the applicant's argument stems from a selective reading of the document cited in paragraph 144 above, since that document states, in paragraph 13, with regard to targeted measures, that 'the measures taken should target those persons identified as being responsible for the policies or actions which triggered the [Union's] decision to impose restrictive measures, as well as those persons benefiting from and supporting those policies and actions'. Thus, the measures are targeted as long as they are aimed at persons benefiting from and supporting the policies and actions that triggered the Union's decision to impose restrictive measures, which indeed concerns leading businesspersons operating in Syria. Secondly, and in any event, the applicant did not raise any plea of illegality against Articles 27(2)(a) and 28(2)(a) of Decision 2013/255, as amended by Decision 2015/1836.

146 Furthermore, it should be recalled that compliance with the rules on the burden and administration of proof in the area of restrictive measures by the Court implies that the latter respect the principle set out in the settled case-law referred to in paragraph 61 above and noted by the Court of Justice in its judgment of 11 September 2019, *HX* v *Council* (C-540/18 P, not published, EU:C:2019:707, paragraphs 48 to 50), according to which, in essence, the burden of proof lies with the institution in the event of a challenge to the merits of the grounds for listing. The Court thus held that the burden of proof of the existence of sufficient information, within the meaning of Articles 27(3) and 28(3) of Decision 2013/255, as amended by Decision 2015/1836, indicating that the applicant was not, or was no longer, linked to the Syrian regime, that he had no influence over the regime and that he was not associated with a real risk of circumvention of the restrictive measures adopted in respect of that regime was not incumbent on the applicant (see, to that effect, judgments of 14 June 2018, *Makhlouf* v *Council*, C-458/17 P, not published, EU:C:2018:441, paragraph 86, and of 11 September 2019, *HX* v *Council*, C-540/18 P, not published, EU:C:2019:707, paragraphs 50 and 51).

147 Consequently, an excessive standard of proof cannot be imposed on the applicant for the purpose of rebutting that presumption. Therefore, the applicant must be regarded as having succeeded in rebutting the presumption of a link to the Syrian regime if he puts forward arguments or elements capable of seriously calling into question the reliability of the evidence submitted by the Council or its assessment, in particular in the light of the conditions laid down in Articles 27(3) and 28(3) of Decision 2013/255, as amended by Decision 2015/1836, or if he produces before the Courts of the Union a set of indicia establishing that he was never associated, or is no longer associated, with the Syrian regime, that he had no influence over the regime and that he did not pose a real risk of circumvention of the restrictive measures, in accordance with Articles 27(3) and 28(3) of that decision.

148 In the present case, first, it should be noted that the applicant has not presented any argument or evidence which might cast doubt on the reliability of the evidence submitted by the Council. As to the assessment which must be made of that evidence, it was found, in paragraph 124 above, that it was sufficient to establish that the applicant had made investments in the aviation sector and that he owned the Sheraton Sidnaya Hotel and Resort.

149 Secondly, the applicant claims that he has lived in Kuwait since 1973 and that he only goes to Syria to see his mother and the orphanage he looks after and not to maintain links with the Syrian regime. It should be pointed out that the fact of living outside Syria does not in itself constitute sufficient circumstance to assert that he is not linked to the Syrian regime (see, to that effect and by analogy, judgment of 12 March 2014, *Al Assad* v *Council*, T-202/12, EU:T:2014:113, paragraph 104). Moreover, although he claims that he goes to Syria mainly to see his mother and the orphanage he looks after, it is apparent from both the evidence adduced by the Council and the applicant's statements that he also goes there in the context of his professional activities. Thus, he confirmed that he attended a meeting at the headquarters of Damascus Cham Holding with which he had signed two contracts. Next, he does not deny having an undertaking in Syria, the undertaking Al-Tarazi Holding Co., as appears from the 'Arab Times' article consulted on 12 September 2018. Finally, he owns an airline with its headquarters in Syria as well as a hotel in the country. Those various elements therefore demonstrate that he has financial interests in Syria.

150 Finally, as to the allegation that the applicant was pressured by the Syrian authorities to sell the Sheraton Sidnaya Hotel and Resort because of his decision not to invest in the Marota City project, it should be pointed

out that that was a mere assertion whose veracity could not be ascertained in the absence of any concrete evidence in support of it.

151 In the light of all the foregoing, it should be considered that the ground for including the applicant's name on the lists in question on account of his status as a leading businessperson carrying on business in Syria was sufficiently substantiated, so that, in the light of that criterion, the inclusion of the applicant's name on the lists in question is well founded.

152 According to the case-law, having regard to the preventive nature of decisions adopting restrictive measures, if the Courts of the Union consider that, at the very least, one of the grounds mentioned is sufficiently detailed and specific, that it is substantiated and that it constitutes in itself a sufficient basis to support that decision, the fact that other such grounds are not so substantiated cannot justify the annulment of that decision (see judgment of 28 November 2013, *Council* v *Manufacturing Support & Procurement Kala Naft*, C-348/12 P, EU:C:2013:776, paragraph 72 and the case-law cited). Consequently, it would be possible, without it being necessary to examine the applicant's arguments seeking to call into question the second ground for listing, to reject the second plea in law. Nevertheless, the Court considers it helpful, in the circumstances of the present case, to verify the merits of the second ground for listing.

(d) ***The second ground for listing***

153 It should be recalled that, according to the second ground for listing, the applicant benefits from the policies pursued by the Syrian regime and supports the latter by means of his investments and activities.

154 The applicant considers, first, that the Council has not adduced any direct evidence that he benefits from or supports the policies pursued by the Syrian regime and, secondly, that the indirect evidence is insufficient.

155 However, in the first place, it should be noted that it is apparent from an overall reading of the information produced by the Council and taken from the websites of Damascus Cham Holding, 'The Syria Report', 'Syrian Law Journal', the Syrian Government, 'The Foundation for Strategic Research', 'Brookings Institution' and 'Eqstad News', first, that the Syrian regime adopted Decree No 66 with a view to developing large-scale real estate projects, including the Marota City project, on expropriated land. Secondly, the adoption of that decree and the development of those projects are political decisions aimed, on the one hand, at rewarding businesspersons close to the said regime and, on the other hand, at sanctioning the population which opposes it. Thirdly, the Syrian regime intended to allow previously unknown businesspersons to benefit from the investment prospects that such projects represent. That choice was not insignificant, since it allowed the Syrian regime to favour persons who were not subject to restrictive measures by the Union, in particular, which guaranteed it a source of finance.

156 It follows from all the evidence adduced by the Council and the statements made by the applicant himself that he was approached by the Syrian regime to attend a meeting at the headquarters of Damascus Cham Holding, set up by the governorate of Damascus, in order to conclude contracts for him to invest in the Marota City project.

157 Admittedly, as established in paragraph 116 above, the applicant has provided sufficient evidence to raise a reasonable doubt as to his participation in the Marota City project at the date of adoption of the contested measures. The fact remains that the applicant was able to acquire two plots of land, in the context of that project, thereby benefiting from the policy pursued by the Syrian regime.

158 In the second place, the article of 9 January 2018 on the 'The Syria Report' website states that it is rare to obtain a licence to operate an airline in Syria and that, in essence, it is necessary to have a link with the Syrian regime to be granted one.

159 The applicant confirmed that he obtained such a licence in return for payment and explained that he was contacted directly by telephone by a member of the Syrian administration in order to be given the opportunity to obtain one, even though, in his own words, he had not submitted any request to that effect.

160 For the sake of completeness, the Court notes that it is apparent from the information on the ‘The Syria Report’ and ‘Enab Baladi News’ websites that the applicant is close to the Syrian regime, organised the return of Syrians to Syria for the presidential elections and was recognised by the official Syrian media as having provided financial assistance to the families of the martyrs and wounded of the Syrian army. The applicant has not contested those assertions in any detail.

161 Consequently, it follows from the foregoing that the Council has provided a set of sufficiently specific, precise and consistent indicia to show that the applicant benefited from the policies pursued by the Syrian regime, having obtained a licence to operate an airline, but also having been offered the conclusion of two contracts with Damascus Cham Holding, although he ultimately decided to withdraw from the Marota City project.

162 Therefore, the second ground for inclusion of the applicant’s name on the lists in question is well founded, so that, since the first ground is also well founded, the second plea in law must be rejected.

3. ***The third plea in law, alleging infringement of the rights of the defence***

163 The applicant claims that the Council infringed his rights of defence by virtue of its provision of insufficient or unsubstantiated reasons, vague reasons and its failure to investigate or assess the relevance, the reliability and the validity of the facts alleged in the media releases on which the Council relied in support of the applicant’s inclusion on the lists in question.

164 The Council disputes the applicant’s arguments.

165 It should be noted, in agreement with the Council, that the applicant has not developed any arguments capable of demonstrating an infringement of his rights of defence, within the meaning of the case-law to which he refers, namely the judgments of 3 September 2008, *Kadi and Al Barakaat International Foundation* v *Council and Commission* (C-402/05 P and C-415/05 P, EU:C:2008:461), and of 21 December 2011, *France* v *People’s Mojahedin Organization of Iran* (C-27/09 P, EU:C:2011:853).

166 Under Article 76(1)(d) of the Rules of Procedure, the application must contain, inter alia, a summary statement of the pleas in law relied on. Furthermore, regardless of any question of terminology, that statement must be sufficiently clear and precise to enable the defendant to prepare its defence and the Court to rule on the action, if necessary without having to seek further information. For an action to be admissible, the essential elements of fact and law on which it is based must be apparent, at least summarily but in a coherent and comprehensible manner, from the text of the application itself, in order to guarantee legal certainty and the proper administration of justice. In that regard, it is not for the Court to seek to ascertain from all the evidence relied on in support of a first plea in law whether that evidence can also be used in support of a second plea in law (see judgment of 13 May 2015, *Niki Luftfahrt* v *Commission*, T-162/10, EU:T:2015:283, paragraph 356 and the case-law cited).

167 Since the applicant confines himself to referring to what he has set out in the first and second pleas in law, the third plea in law must be rejected as inadmissible.

4. ***The fourth plea in law, alleging infringement of the applicant’s rights to property, his freedom to pursue an economic activity and the principle of proportionality***

168 The applicant claims, first of all, that his freedom to pursue an economic activity is intimately connected with his right to property, and thus engaged and impaired by any infraction of his right to property. It must therefore be subject to the same full and rigorous standard of review.

169 Next, the applicant states that the inclusion of his name on the lists in question has caused considerable damage to his business and to his reputation, both professional and personal, but also his charitable activities, including the maintenance and management of an orphanage for Syrian children.

170 Finally, since he has not and does not engage in any commercial activities specifically or generally prohibited by the system of restrictive measures adopted against Syria and has not supported or benefited from the Syrian regime, the inclusion of his name on the lists in question is not a necessary measure to support the general objectives of that system of restrictions and so it cannot be proportionate.

171 The Council disputes the applicant's arguments.

172 It should be recalled that it follows from the case-law that the fundamental rights invoked by the applicant, namely the right to property, enshrined in Article 17 of the Charter, the freedom to pursue an economic activity, enshrined in Articles 15 and 16 of the Charter, and, in substance, the right to respect for private and family life, as provided for in Article 7 of the Charter, are not absolute rights and that their exercise may be subject to restrictions justified by objectives of general interest pursued by the Union. Thus, any restrictive economic or financial measure by definition entails effects which affect the right of ownership, reputation and economic activity of the person or entity it is aimed at, thereby causing damage to the latter. The importance of the objectives pursued by the restrictive measures in question is, however, such as to justify negative consequences, even considerable ones, for the persons or entities concerned (see, to that effect, judgment of 25 March 2015, *Central Bank of Iran* v *Council*, T-563/12, EU:T:2015:187, paragraph 115).

173 Furthermore, it is settled case-law that the principle of proportionality, which is one of the general principles of Union law and is reflected in Article 5(4) TEU, requires that the measures implemented through a provision of Union law must be suitable for attaining the legitimate objectives pursued by the legislation concerned and must not go beyond what is necessary to attain those objectives (see, to that effect, judgment of 14 March 2017, *Bank Tejarat* v *Council*, T-346/15, not published, EU:T:2017:164, paragraph 149 and the case-law cited).

174 Moreover, while respect for fundamental rights is a condition for the legality of Union acts, according to established case-law, those fundamental rights do not enjoy absolute protection under Union law, but must be viewed in relation to their function in society. Consequently, restrictions may be placed on the use of those rights, provided that they actually correspond to objectives of general interest pursued by the Union and do not constitute, in the light of the aim pursued, a disproportionate and intolerable interference which would undermine the very substance of the rights thus guaranteed (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 97, and the case-law cited).

175 As regards the applicant's right to property and freedom to pursue an economic activity, it should, of course, be noted that the applicant's rights are restricted to a certain extent by the restrictive measures taken against him, since he cannot, in particular, dispose of any of his funds which may be situated in the territory of the Union, nor transfer them to the Union, except by virtue of special authorisations. Similarly, measures directed at the applicant may have an impact on his professional activities or reputation by reason of the same grounds and of the restrictions laid down on entry into or transit through European territory.

176 However, in the present case, the adoption of restrictive measures against the applicant is appropriate, since it is compatible with an objective of general interest as fundamental to the international community as the protection of civilian populations. The freezing of funds, financial assets and other economic resources and the prohibition on entry into the territory of the Union in respect of persons identified as being involved in supporting the Syrian regime cannot, as such, be regarded as inappropriate (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 100, and the case-law cited).

177 As regards the allegedly disproportionate nature of the inclusion of the applicant's name on the lists in question, it must be recalled that Article 28(6) of Decision 2013/255, as amended by Decision 2015/1836, and Article 16 of Regulation No 36/2012, as amended by Regulation 2015/1828, provide for the possibility, first, to authorise the use of frozen funds to satisfy essential needs or to meet certain commitments and, secondly, to grant specific authorisations for the release of certain funds, financial assets or other economic resources (see, by analogy, judgment of 15 November 2012, *Al-Aqsa* v *Council and Netherlands* v *Al-Aqsa*, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraph 127 and the case-law cited). Thus, with regard, in particular, to the assistance which the applicant wishes to provide to an orphanage for Syrian children and which would be

jeopardised by the restrictive measures adopted in respect of it, it should be noted that the applicant has not claimed that he submitted an application to be able to use his property and funds for that purpose and that that application was rejected.

178 Finally, it should be noted that the importance of the objectives pursued by the contested measures is such as to justify the fact that they could have had negative consequences, even considerable ones, including as regards the right to reputation, for the applicant without that affecting their legality (see, to that effect and by analogy, judgment of 27 February 2014, *Ezz and Others* v *Council*, T-256/11, EU:T:2014:93, paragraph 191).

179 It follows that, given the overriding importance of the preservation of international peace and security, any restrictions on the applicant's rights to property and reputation caused by the contested measures are justified by an objective of general interest and are not disproportionate to the aims pursued.

180 Having regard to all the foregoing, the fourth plea in law must be rejected.

C. **The application for a measure of inquiry**

181 The applicant expressed a wish to be heard at the oral hearing.

182 It should be noted that the measures of inquiry ordered by the Court, which include, pursuant to Article 91(a) of the Rules of Procedure, the personal appearance of the parties, fall within the discretion of the Court. Consequently, the Court is free to decide whether or not to order such measures (see order of 8 February 2018, *HB and Others* v *Commission*, C-336/17 P, unpublished, EU:C:2018:74, paragraph 26 and the case-law cited).

183 In the present case, the appellant did not explain the reasons justifying his personal appearance before the Court. Moreover, the information contained in the file, namely the pleadings and annexes thereto produced by the parties, together with the observations and evidence provided by them in response both to the measures of organisation of procedure adopted by the Court and to the questions put by the Court at the hearing, is sufficient to enable the Court to give its decision, since it was able to give a useful ruling on the basis of the forms of order sought, pleas in law and arguments developed in the course of the proceedings and having regard to the documents lodged by the parties.

184 It follows that the request for a measure of inquiry must be rejected and that the action must be dismissed in its entirety.

IV. **Costs**

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

On those grounds,

THE GENERAL COURT (Fourth Chamber)

hereby:

1. **Dismisses the action;**

2. **Orders Mr Mazen Al-Tarazi to bear his own costs and to pay those incurred by the Council of the European Union.**

Gervasoni Madise Martín y Pérez de Nanclares

Delivered in open court in Luxembourg on 14 April 2021.

E. Coulon M. van der Woude

Registrar President

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