Reports of Cases

JUDGMENT OF THE GENERAL COURT (Fourth Chamber)

16 March 2022 *

(Common foreign and security policy – Restrictive measures adopted against Syria – Freezing of funds – Errors of assessment – Criterion of a leading businessperson operating in Syria – Presumption of a link with the Syrian regime – Rebuttal of the presumption)

In Case T-249/20,

Abdelkader Sabra, residing in Beirut (Lebanon), represented by M. Lester QC, and A. Bradshaw, Solicitor,

applicant,

v

Council of the European Union, represented by T. Haas and V. Piessevaux, acting as Agents,

defendant,

ACTION under Article 263 TFEU for the annulment of Council Implementing Decision (CFSP) 2020/212 of 17 February 2020 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2020 L 43 I, p. 6), Council Implementing Regulation (EU) 2020/211 of 17 February 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2020 L 43 I, p. 1), Council Decision (CFSP) 2020/719 of 28 May 2020 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2020 L 168, p. 66), and Council Implementing Regulation (EU) 2020/716 of 28 May 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2020 L 168, p. 1), in so far as those measures concern the applicant,

THE GENERAL COURT (Fourth Chamber),

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

Registrar: M. Zwozdziak-Carbonne, Administrator,

having regard to the written part of the procedure and further to the hearing on 16 September 2021,

* Language of the case: English.

gives the following

Judgment

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

1 The applicant, Mr Abdelkader Sabra, is a businessman of Syrian and Lebanese nationalities.

2 While strongly condemning the violent repression of peaceful protest in Syria and calling on the Syrian authorities to exercise restraint instead of force, the Council of the European Union adopted, on 9 May 2011, on the basis of 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 that 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 the decision at issue 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). The wording of that regulation is essentially the same as that of Decision 2011/273. 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 found 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 thereof, for restrictions on admission to the territory of the European Union of the persons whose names are listed in Annex I and, in Article 19, for the funds and economic resources of the persons and entities whose names are listed in Annex I and Annex II 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 [it] 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) 2020/212 of 17 February 2020 implementing Decision 2013/255 (OJ 2020 L 43 I, p. 6) and Council Implementing Regulation (EU) 2020/211 of 17 February 2020 implementing Regulation No 36/2012 (OJ 2020 L 43 I, p. 1) (together referred to as 'the initial measures'), the applicant's name was added to line 293 of the list in Section A (Persons) of Annex I to Decision 2013/255, and added to line 293 of the list in Section A (Persons) of Annex II to Regulation No 36/2012 ('the lists in question').

13 First, the 'identifying information' included in the lists in question mentions that the applicant is male, of Syrian and Lebanese nationalities and was born on 14 September 1955. In addition, his position is described there as 'owner of Sabra Maritime Agency; head of the Syrian-Turkish Businessmen Council; founding partner of Phoenicia Tourism Company; [and] President of the Chamber of Maritime Navigation in Syria'. Lastly, 'Phoenicia Tourism Company [LLC]' and 'Sabra Maritime Agency' are mentioned there as being 'relatives/business associates/entities or partners/links' of the applicant.

14 Secondly, the grounds for including the applicant's name on the lists in question are worded as follows:

'Leading businessperson operating in Syria with multiple economic interests, especially in the shipping and tourism sectors. As a major shipping magnate and a close business associate of Rami Makhlouf (regime supporter and cousin of Bashar al-Assad), Abdelkader Sabra provides financial and economic support for the Syrian regime, including through offshore companies. Abdelkader Sabra also benefits from his ties to the regime, which have allowed him to expand his activities in the real estate sector. He is also involved in money laundering and commercial activities in support of the Syrian regime and its associates.'

15 By letter of 16 March 2020, the applicant requested the Council to provide him with, inter alia, copies of all the information and evidence supporting the inclusion of his name on the lists in question.

16 In response to the applicant's letter referred to in paragraph 15 above, on 6 April 2020, the Council sent him the document bearing the reference WK 1755/2020 INIT of 12 February 2020, containing the evidence supporting the reasons for the inclusion of his name on the lists in question.

17 By letter of 4 May 2020, the applicant submitted observations on the decision to include his name on the lists in question pursuant to the initial measures and requested that the Council remove his name from those lists.

18 On 28 May 2020, the Council adopted Decision (CFSP) 2020/719 amending Decision 2013/255 (OJ 2020 L 168, p. 66) and Implementing Regulation (EU) 2020/716 implementing Regulation No 36/2012 (OJ 2020 L 168, p. 1) (together, 'the retention measures'). Under decision 2020/719, the application of Decision 2013/255 was extended until 1 June 2021. The applicant's name was retained at line 293 of the lists in question on the basis of grounds identical to those applying in the initial measures.

19 By letter of 2 June 2020, the Council informed the applicant of its decision to maintain his name on the lists in question pursuant to the retention measures. In addition, it informed him that it was in the process of examining the observations and documentation which the applicant had submitted to it in his letter of 4 May 2020 (see paragraph 17 above), which required, according to the Council, several weeks of work in the light of the many arguments put forward in support of his request and the significant number of documents joined to it.

II. Procedure and forms of order sought

20 By application lodged at the Registry of the General Court on 28 April 2020, the applicant brought the present action seeking the annulment of the initial measures, in so far as those measures apply to him.

21 By separate document lodged at the Registry of the General Court on 10 June 2020, the applicant modified his application, in accordance with Article 86 of the Rules of Procedure, so as to extend his claim to include the annulment of the retention measures, in so far as they apply to him.

22 On 23 July 2020, the Council lodged its defence at the Registry of the General Court, which also responds to the statement of modification.

23 The reply and the rejoinder were lodged on 6 October and 19 November 2020, respectively.

24 The written part of the procedure was closed on 19 November 2020.

25 By way of measures of organisation of procedure provided for in Article 89(3)(d) of the Rules of Procedure, on 9 June 2021, the Court asked the parties to produce certain documents. The parties complied with the request for the production of documents within the prescribed period.

26 On 6 September 2021, the applicant lodged a reasoned application, in accordance with Article 66 of the Rules of Procedure, for the content of certain documents annexed to the application and certain paragraphs of the application and the reply not to be cited in the documents relating to that case to which the public has access. At the hearing, the applicant confirmed that his request that certain data not be made public was limited to the documents and paragraphs mentioned in the letter of 6 September 2021, which was recorded in the minutes of the hearing.

27 The parties presented oral argument and replied to the questions put by the Court at the hearing that took place on 16 September 2021.

28 The applicant claims that the Court should:

– annul the initial measures and the retention measures (together referred to as 'the contested measures') in so far as they concern him;

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

29 The Council contends that the Court should:

– dismiss the action;

– order the applicant to pay the costs;

– in the alternative, should the Court annul the restrictive measures adopted against the applicant, order that the effects of Decision 2020/719 be maintained as regards the applicant until the partial annulment of Implementing Regulation 2020/716 takes effect.

III. Law

A. Admissibility of the annexes to the request for additional time for oral argument lodged by the applicant

30 By letter of 7 September 2021, the applicant requested that the Court allow him additional time for oral argument at the hearing scheduled for 16 September 2021. In the context of that request, he enclosed two letters that he had sent to the Council, the first of which was dated 8 March 2021 and the second 9 June 2021.

31 The production of those annexes is not covered by Article 85(3) of the Rules of Procedure, which provides that, exceptionally, the main parties may produce or offer further evidence before the oral part of the procedure is closed or before the decision of the General Court to rule without an oral part of the procedure, provided that the delay in the submission of such evidence is justified. First, the applicant does not state, in his letter of 7 September 2021, that he intended to lodge the letters of 8 March and 9 June 2021 pursuant to that provision and, secondly, he does not put forward any justification for the delay in submitting them.

32 The letters of 8 March and 9 June 2021, annexed to the applicant's request for additional time for oral argument, must therefore be rejected as inadmissible.

B. Substance

33 In support of his action, the applicant raises a single plea in law, alleging errors of assessment of the facts.

34 The applicant submits, in essence, that he is not currently a leading businessperson operating in Syria, is not linked to the Syrian regime, is not part of the inner cadre of leading businesspersons operating in Syria, as defined in recital 6 of Decision 2015/1836, and does not provide material or financial support to the Syrian regime, whether through companies established abroad or by any other means.

35 The Council disputes the applicant's arguments and contends, in essence, that the evidence contained in document WK 1755/2020 INIT and in document WK 7118/2020 INIT of 23 July 2020 shows that the applicant is a leading businessperson operating in Syria. In that regard, it disputes the arguments put forward by the applicant to rebut the presumption of a link between him and the Syrian regime. Lastly, the Council submits that the applicant supports the Syrian regime and benefits from it.

1. Preliminary observations

36 It should be noted that the effectiveness of the judicial review guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union requires, in particular, that the Courts of the European Union ensure that the decision by which restrictive measures were adopted or maintained, which affects that person individually, is taken on a sufficiently solid factual basis. That entails a verification of the facts alleged in the statement of reasons underpinning that decision, with the consequence that judicial review cannot be restricted to an assessment of the cogency in the abstract of the reasons relied on, but must concern whether those reasons, or, at the very least, one of those reasons, deemed sufficient in itself to support that decision, is substantiated (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).

37 It is for the Courts of the European Union, in order to carry out that examination, to request the competent European Union authority, where necessary, to produce information or evidence, confidential or not, relevant to 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).

38 It is the task of the competent European Union authority to establish, in the event of challenge, that the reasons relied on against the person or entity concerned are well founded, and not the task of that person or entity to adduce evidence of the negative, that those reasons are not well founded. (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).

39 For that purpose, there is no requirement that that authority produce before the Courts of the European Union all the information and evidence underlying the reasons alleged in the measure whose annulment is sought. It is however necessary that the information or evidence produced should support the reasons relied on 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).

40 If the competent European Union authority provides relevant information or evidence, the Courts of the European Union must then determine whether the facts alleged are made out in the light of that information or evidence and assess the probative value of that information or evidence in the circumstances of the particular case and in the light of any observations submitted in relation to them by, among others, 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 124).

41 In accordance with the case-law of the Court of Justice, 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).

42 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 at issue, account may be taken of the context of those measures, of the fact that there was an urgent need to adopt such measures intended to put pressure on the Syrian regime in order for it to stop the violent repression against the population, and of the difficulty in obtaining more specific evidence in a State at civil war and having an authoritarian regime (judgment of 21 April 2015, *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 46).

2. The grounds for inclusion and the determination of listing criteria

43 It should be borne in mind that the general listing criteria laid down in Article 27(1) and Article 28(1) of Decision 2013/255, as amended by Decision 2015/1836, which are further set out, as regards the freezing of funds, in Article 15(1)(a) of Regulation No 36/2012, as amended by Regulation 2015/1828, provide that persons and entities benefiting from or supporting the Syrian regime are to be subject to restrictive measures. Similarly, Article 27(2)(a) and (3) and Article 28(2)(a) and (3) of Decision 2013/255, as amended by Decision 2015/1836, which are further set out, as regards the freezing of funds, in Article 15(1a)(a) and (1b) of Regulation No 36/2012, as amended by Regulation 2015/1828, provide that the category of 'leading businesspersons operating in Syria' is subject to restrictive measures, unless there is sufficient information that they are not, or are no longer, associated with the regime or do not exercise influence over it or do not pose a real risk of circumvention.

44 As mentioned in paragraph 14 above, the reasons for including the applicant's name on the lists in question are as follows:

'Leading businessperson operating in Syria with multiple economic interests, especially in the shipping and tourism sectors. As a major shipping magnate and a close business associate of Rami Makhlouf (regime supporter and cousin of Bashar al-Assad), Abdelkader Sabra provides financial and economic support for the Syrian regime, including through offshore companies. Abdelkader Sabra also benefits from his ties to the regime, which have allowed him to expand his activities in the real estate sector. He is also involved in money laundering and commercial activities in support of the Syrian regime and its associates.'

45 It should be inferred from the reasons for including the applicant's name on the lists in question that his name was included and maintained on the lists in question by reason of, first, his status as a leading businessperson operating in Syria and, secondly, his association with the Syrian regime. In other words, the listing of the applicant's name is based, first, on the criterion defined in Article 27(2)(a) and Article 28(2)(a) of Decision 2013/255, as amended by Decision 2015/1836, and in Article 15(1a)(a) of Regulation No 36/2012, as amended by Regulation 2015/1828 (criterion of a leading businessperson operating in Syria), and, secondly, on the criterion defined in Article 27(1) and Article 28(1) of that decision and in Article 15(1)(a) of that regulation (criterion of association with the regime).

3. Evidence

46 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 1755/2020 INIT, which contained publicly available information, namely links to websites, press articles and screenshots from:

– the website 'Aliqtisadi', viewed on 24 September 2018, on which the applicant is presented as the founding president of the Syria-Turkey Business Council, owner of Sabra Maritime Agency and an investor in the tourism sector; the applicant is also described there as being one of the 100 leading businessmen in Syria, the founding President of the Syrian Chamber of Shipping and a founding partner of Phoenicia Tourism Company, in which he holds 85% of the capital;

– the website 'Syriandays', which, in an article published on 10 February 2015, entitled 'Abdelkader Sabra is the President of the Syrian Chamber of Shipping', stated that the Board of Directors of the Syrian Chamber of Shipping held the first meeting of the third election session in the presence of the Syrian Minister for Transport, the latter referring to the important role of that chamber in the service of the country; in addition, the article gave the names of the persons who were successful in the allocation of various posts, the name of the applicant appearing therein as having been appointed president; finally, the article stated that that chamber was created by Law No 20 of 2006 and stands out for its support for the maritime transport sector;

– the website 'The Syria Report', viewed on 31 October 2018, which states that Phoenicia Tourism Company was established on 5 July 2012 in Tartus (Syria) in the hospitality project development sector and, in addition, states that the applicant holds 85% of the shares in that company, the total capital of 1 million Syrian pounds (SYP) (approximately EUR 1 313);

– the website 'The Syria Report', which, in an article published on 26 November 2012, entitled 'Ministry of Tourism Awards New Contract to Manage Arwad Hotel', stated that the Syrian Ministry of Tourism awarded Phoenicia Tourism Company a contract for the development and management of a four-star hotel on the island of Rouad (Syria), for a term of 60 years; according to the article, the hotel was to have 150 beds and the cost of development was estimated at SYP 700 million (approximately EUR 919 009); the article also stated that the applicant, described as a known investor in Tartus, is active in several areas, including shipping and trade;

– the website 'The Syria Report', viewed on 1 November 2018, according to which the applicant is the managing director of Sabra Group, which includes shipping agency Riamar Shipping, which has eight vessels berthed at the port of Tartus; it was also stated that Sabra Group exports olive oil and employs 250 people;

– Reuters news agency, which, in an article published on 15 November 2013, entitled 'Exclusive – [Bashar Al-]Assad allies profit from Syria's lucrative food trade', states that, by using front companies and shipping lines, a discreet commercial and logistical network is now emerging, which aims not only to procure food commodities but to generate big returns for members of Bashar Al-Assad's inner circle; according to that article, Yass Marine, registered in Tripoli (Lebanon) and Syria, is one of those undertakings; the article states that, according to the shipping data from shipping analytics firm Windward, Yass Marine's fleet of dry bulk ships had made deliveries in recent months to Syria from ports in Ukraine, Russia and Lebanon; in addition, according to the article, the applicant, one of the top shipping magnates in Syria, is involved in the shipping trade to those countries; lastly, the article states that the websites of the opposition and a business directory show that the applicant was a shareholder in Cham Holding, a 'sanctioned' company that is linked to Rami Makhlouf;

– *Le Monde* newspaper, which, in an article published on 30 May 2014, entitled 'The Syrian oligarchs supporting the [Bashar Al-]Assad regime', states that Rami Makhlouf, together with three other persons, including the applicant, invested in the importation of foodstuffs, including wheat, rice, sugar and tea, which are not covered by the European embargo, unlike oil;

– the website 'World Crunch', which, in an article published on 3 June 2014, entitled 'The Shady Syrian Oligarchs Who Keep The Regime afloat', sets out, with regard to the applicant, the same information as that reported in the article in *Le Monde* newspaper cited in the above indent;

– the website 'Eqtsad', which, in an article published on 27 January 2019, entitled 'Abdelkader Sabra, partner of Rami Makhlouf, who is still Raising the Turkish flag in the Office', describes the applicant as having benefited from Bashar Al-Assad's policy which, from 2002, enabled a 'significant social class' to invest in Syria; according to the article, he founded shipping agency Abdul Kader Sabra ('AKSSA') in 2002, a company which ended with a fleet of more than 350 ships; the article also states that he is the President of the Syrian Chamber of Shipping since it was created in 2006 and the director of the Syria-Turkey Business Council, and the Vice-President of the Syria-Russia Business Council; he is also described as one of the key partners of Rami Makhlouf; according to that article, the applicant's activities in the shipping sector enabled him to engage in trade relations with several countries, including, in particular, Italy, Greece, Turkey and Cyprus; in that regard, according to the article, the applicant was appointed director of the Syria-Turkey Business Council, playing a major role in the development of trade and political relations with Turkey; the article also indicates that the

applicant has invested in the 'Assad system' in the best possible way, having become an important figure in several areas; in addition, according to the article, from 2005 onwards, he began to expand his activities and invested in real estate and trade in foodstuffs with Rami Makhlouf; the article also stated that he set up a factory for the production of olive oil, a product which he exported in large quantities, and another factory for the manufacture of glass, plastic and metal containers; according to the article, after the 2011 revolution and the adoption of 'sanctions' against Cham Holding and businessmen involved in that company, the applicant quickly withdrew from that company and claimed his innocence; the article went on to say that, from 2012, he progressively moved to Lebanon and managed his affairs from that country, which led the regime to seize his real estate and securities, accusing him of having smuggled property into Syria; that, according to the article, was described by a good number of observers as an attempt to protect him, in particular from 'sanctions', provided that he provides certain services to the Syrian regime from another location; the article further stated that there was no news relating to the applicant until the beginning of 2018, the year in which he and other Syrian businessmen obtained Lebanese nationality; finally, in that regard, the article stated that Lebanese media launched a campaign against him, accusing the Lebanese State of conspiring with businessmen in order to find a means of circumventing the restrictive measures imposed on them and, moreover, that he obtained Lebanese nationality through his work with Hezbollah, ranging from money laundering to trade supplies for the party, activities for which he used his fleet of ships;

– the website 'The Syria Report', which, in an article published on 5 June 2018, entitled 'Dozens of Syrian Investors to be granted Lebanese Citizenship', indicated that the applicant is an influential investor from Tartus who is active in the shipping sector, that, in addition, many Syrian investors face problems in opening and operating a bank account in Lebanon and the obtaining of a Lebanese identity card would help circumvent that difficulty and could be requested for that reason;

– the website 'al Arabiya News', which, in an article published on 8 June 2018, entitled 'Lebanese nationality to Syria involved in smuggling … Know it!', referred to the controversy created by the grant of Lebanese citizenship to many persons from several countries, including Syria; according to that article, the applicant is among the persons who have become naturalised; he is described there as having 'suspicious' financial relations with the Bashar Al-Assad regime and, in particular, with Rami Makhlouf; in that regard, the article referred to the information concerning the partnership between the latter and the applicant as set out in the article of 30 May 2014 published by *Le Monde* mentioned above; the article stated that the applicant was a 'one-man office', that he was an honorary ambassador of Turkey to Syria, had acted as director of the Syria-Turkey Business Council in 2012 and that he had been Vice-President of the Syria-Russia Business Council since its creation; it added that the applicant is the President of the Syrian Chamber of Shipping, a shareholder in Cham Holding, but that the inclusion of that company on the lists of persons subject to restrictive measures of the European Union and the United States of America prompted him to step back from media exposure and to present himself as no longer forming part of it; the article added that AKSSA, a shipping company specialising in the management and ownership of vessels, has two branches in Italy and Greece and also owns OVO (Olive Virgin Oil Company) which exports olive oil; the article also mentioned one of the largest factories in the region, which produces glass, metal and plastic containers; according to the article, the applicant is the chairman of Abdelkader Sabra Group, whose seat is situated in the coastal province of Tartus; finally, the article stated that AKSSA's immovable and movable property was seized in 2012 pursuant to Decision No 932 of the Syrian Ministry of Finance, pursuant to an infringement of import rules on

account of contraband property in Case No 208 of 2012; the article added that the applicant decided to settle the matter out of court, with the result that the seizure order was lifted after a fine had been paid;

– the website 'Asharq Al-Awsat', which, in an article published on 8 June 2018, entitled 'Exclusive – 4 "Suspicious" Names behind Freezing of Lebanon's Naturalisation Decree', provided details on the publication by the Lebanese authorities of 400 names of persons who had acquired Lebanese nationality pursuant to a controversial government decree and, furthermore, referred to the applicant as President of the Syrian Chamber of Shipping.

– the website 'Enab Baladi', which, in an article dated 10 June 2018, entitled 'The establishment of companies and naturalisation … Lebanon [helps] [Bashar Al-]Assad to circumvent sanctions', stated that the name of the applicant, described as one of the 100 leading businessmen in Syria, appeared in the list of persons who were included in the Lebanese naturalisation decree; according to the article, he owns Sabra Maritime Agency, is the director of the Syria-Turkey Business Council and is the 'first' President of the Syrian Chamber of Shipping; the article also mentions Cham Holding, owned by Rami Makhlouf, from which he withdrew after the United States of America imposed 'sanctions' on that company; finally, the article adds that, according to an analyst, Syrian businessmen wish to be released from the 'sanctions' imposed on them; in that regard, obtaining Lebanese nationality allows them, according to the article, to open accounts and make deposits in Lebanese banks;

– the website 'Al Janoubia', which, in an article published on 8 June 2018, entitled 'Abdelkader Sabra became Lebanese', stated that the applicant's name had recently become famous because of the naturalisation decree published in Lebanon, that he is close to President Bashar Al-Assad and is an important shareholder in Cham Holding, owned by Rami Makhlouf;

– the website of the Middle East Institute for Research and Strategic Studies (MEIRSS), which, in an article published on 20 June 2018, entitled 'Lebanese Nationalization decree: Sanction Evasion & Shady Business?' mentioned the presidential decree granting Lebanese nationality to 407 foreign nationals of different countries; the article also referred to the political and media controversy generated by that decree, stated that several Syrian businessmen close to President Bashar Al-Assad had been granted Lebanese nationality, that a number of naturalised individuals are financially and politically related to the Syrian regime and are subject to constant monitoring and restrictive measures by the European Union and the United States of America and that, moreover, the applicant, who had been granted Lebanese citizenship, is a member of the Board of Directors of Cham Holding, a company which is the subject of restrictive measures imposed by the European Union and the United States of America; finally, the article states that he contributed to the founding of a company in Lebanon, named Yass Marine Group, which was involved in a scandal in Syria concerning food safety.

47 In addition, the Council provided the document bearing reference WK 7118/2020 INIT of 23 July 2020, containing publicly available information, in order to support the inclusion of the applicant's name on the lists in question.

48 It should be borne in mind that the initial measures and the retention measures were adopted on 17 February and 28 May 2020, respectively.

49 In that regard, it should be recalled that the legality of an EU measure must be assessed on the basis of the facts and the law as they stood at the time when the measure was adopted (see judgments of 3 September 2015, *Inuit Tapiriit Kanatami and Others* v *Commission*, C-398/13 P, EU:C:2015:535, paragraph 22 and the case-law cited, and of 4 September 2015, *NIOC and Others* v *Council*, T-577/12, not published, EU:T:2015:596, paragraph 112 and the case-law cited). Therefore, the Council cannot rely, before the Court, on factors on which it did not rely when adopting the contested measures in order to justify the inclusion of the applicant's name on the lists in question and its retention, (see, to that effect, judgment of 14 April 2021, *Al Tarazi* v *Council*, T-260/19, not published, EU:T:2021:187, paragraph 69 and the case-law cited).

50 Since the document bearing the reference WK 7118/2020 INIT postdates the adoption of the contested measures, it cannot therefore be taken into consideration in the examination of the present action. Consequently, the parties' arguments relying on that document may not be upheld.

51 Moreover, at the hearing, the applicant, for the first time, submitted that 18 items of evidence on which the Council had relied in order to establish that the reasons for his listing were well founded were outdated, as dated prior to 2015, or did not contain any indication of dates.

52 That new argument, which appears to have to been understood as seeking to call into question the reliability or relevance of some of the evidence produced by the Council, must be rejected as inadmissible. The applicant did not specify the evidence whose reliability or relevance he sought to challenge, which in turn did not make it possible for the Council to reply to the submissions on this point, and accordingly does not make it possible for the Court to make a finding (see, to that effect and by analogy, judgment of 6 February 2019, *TN* v *ENISA*, T-461/17, not published, EU:T:2019:63, paragraph 65 and the case-law cited). In any event, it is not for the Court to seek and identify in the annexes the evidence that it might regard as being the evidence that the applicant sought to challenge (see, to that effect and by analogy, judgment of 5 October 2020, *Broughton* v *Eurojust*, T-87/19, not published, EU:T:2020:464, paragraph 58).

4. The status of leading businessperson operating in Syria

53 It is necessary to ascertain whether all of the evidence submitted by the Council discharges the burden of proof incumbent on it under the case-law referred to in paragraph 38 above and thus constitutes a sufficiently specific, precise and consistent body of evidence to support the first reason for listing the name of the applicant on the lists in question.

54 It is apparent from the grounds for listing, referred to in paragraphs 14 and 44 above, that his status as a leading businessperson operating in Syria is based on his economic interests, first, in the shipping sector, second, in the tourism sector and, third, in other sectors. It is also necessary to examine, in that context, the various posts occupied by the applicant.

(a) The applicant's economic interests in the shipping sector

55 First, it should be noted that it is apparent from the websites 'Aliqtisadi' and 'Enab Baladi' that the applicant owns Sabra Maritime Agency. Secondly, according to the information published on the websites 'Eqstad' and 'al Arabiya News', the applicant is the owner of AKSSA, a company active in the maritime transport sector, specialising in the management and ownership of vessels. According to the article published on 'al Arabiya News', that company has two branches, based in Italy and Greece. Thirdly, according to the article published on the website 'The Syria Report',

the applicant is the managing director of Sabra Group, which includes Riamar Shipping, which has eight ships moored at the port of Tartus. Fourthly and lastly, according to the information published on the website of the Reuters news agency and on the MEIRSS website, the applicant is the owner of Yass Marine, established in both Lebanon and Syria.

56 Thus, the evidence contained in document WK 1755/2020 INIT tends to show that the applicant has multiple economic interests in the shipping sector. On the other hand, it should be noted that that evidence does not mention either Navi Wood or Abdulkader Sabra & Ahmad Mushir Sharif Shipping Agency, the entities to which the applicant refers in his written pleadings. In the light of the burden of proof on the Council, as recalled in paragraph 38 above, and the case-law cited in paragraph 49 above, the Council may not rely on the assertions made by the applicant in the application in order to justify the contested measures on the merits. Consequently, Navi Wood and Abdulkader Sabra & Ahmad Mushir Sharif Shipping Agency may not be taken into account in determining that the applicant has economic interests in the shipping sector.

57 As regards his many economic interests in the shipping sector, the applicant states that they are now insignificant, in so far as all his companies have been dissolved, with the exception of AKSSA, which, however, is making serious losses.

58 In the first place, as regards AKSSA, the applicant produced, first, that company's financial statements for the years 2004, 2010, 2017, 2018 and 2019, audited by A, and, second, a graph illustrating the annual number of vessel nominations on behalf of that company during those years.

59 Lastly, the applicant produced, as an annex to the reply, a table setting out the number of vessel nominations for each Syrian shipping agency in 2017. According to the applicant, those data are from the Syrian Chamber of Shipping. They constitute commercially sensitive information which was provided informally on request.

60 The Council challenges, in essence, the reliability of the evidence produced by the applicant. In that regard, it submits that the answer to the question whether the financial statements produced were audited by an independent intervener or whether they were merely drawn up by the applicant or a representative of AKSSA is not apparent from that evidence. The same is true of the graph illustrating the annual number of nominations of that company's vessels.

61 As regards the financial statements, the Council adds, in its rejoinder, that the document produced by the applicant as an annex to the reply, which consists of a copy of the Directory of the Syrian Association of Financial and Accounting Professionals, in which A appears as an independent auditor, is not capable of demonstrating that those financial statements were verified by an independent auditor or that the stamp shown in those financial statements did indeed come from A.

62 Lastly, as regards the table from the Syrian Chamber of Shipping, the Council observes that that document does not contain any official marking enabling the reader to know its source. Only the applicant's observations establish a link between that document and the Syrian Chamber of Shipping.

63 It must be recalled that, in accordance with settled case-law, the activity of the Court of Justice and of 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).

64 In the present case, as regards, first, the financial statements produced by the applicant, it should be noted that he produced a copy of the Directory of the Syrian Association of Financial and Accounting Professionals, in which A appears. He is therefore an independent auditor.

65 Admittedly, A's name does not appear in the financial statements provided by the applicant. However, the Court does not detect any manifest irregularities or specific evidence casting doubt on the fact that those financial statements were audited by independent auditor A. Furthermore, the Council does not claim that there were inconsistencies within those documents such as to make them unsound or unreliable nature within the meaning of the case-law referred to in paragraph 63 above.

66 As regards, secondly, the graph submitted, the applicant acknowledged, in the reply, that he had produced it himself. In that regard, that graph is based on data relating to the number of vessels nominated for AKSSA in the financial statements, as a result of which the fact that the applicant drew it up himself has no impact on its sound and reliable nature.

67 Lastly, as regards, thirdly, the table produced by the applicant, it should be noted, as the Council has observed, that, in the absence of information in the table linking the data contained therein to the Syrian Chamber of Shipping, the source of those data is unknown. Moreover, the number of vessels nominated for AKSSA according to that table differs from that resulting from the financial statements of AKSSA. In those circumstances, the table cannot be deemed sufficiently sound and reliable, in accordance with the case-law referred to in paragraph 63 above, and must be rejected.

68 By contrast, the financial statements and graphs may be taken into consideration by the Court.

69 In that regard, it is apparent from reading the financial statements of AKSSA provided by the applicant that AKSSA experienced a significant reduction in both the number of vessels nominated and its net income. The number of vessels nominated for that company fell from 145 in 2004 to 3 in 2019. The same occurred in respect of net income, which fell from 652 831.44 United States dollars (USD) (approximately EUR 591 654.38) in 2004 to USD 5 989.00 (approximately EUR 5 427.77) in 2019. However, net income continues to be positive. In other words, from an accounting point of view, the company is not loss-making. Moreover, the number of vessels nominated for AKSSA in 2018 was greater than in 2017, even though the net income fell between those two years. In addition, as the Council observed at the hearing, expenditure related to wages decreased little between 2004 and 2019, suggesting, at the very least, some stability in the number of staff employed. Likewise, the expenditure connected with water and electricity increased, which shows, at the very least, that AKSSA continues to operate. Finally, AKSSA's revenues and expenses must be considered in the general context of the situation in the Syrian shipping sector. As is apparent from the article published on 9 October 2013 by Reuters news agency entitled 'Syrian's shipping trade struggles as war risks bite' produced by the applicant, the number of vessels docking in Syrian ports fell sharply because of the conflict in

Syria. In those circumstances, the reduction in the number of vessels nominated for AKSSA and its net income does not necessarily demonstrate its reduced significance in the shipping agencies' business sector.

70 It follows from the foregoing that the applicant has not succeeded in demonstrating that the economic interest that the ownership of AKSSA represents for him was insignificant.

71 In the second place, as regards Sabra Maritime Agency, and more specifically the applicant's assertion that that company was nationalised, it is apparent from the screenshot taken from the website of the Syrian Ministry of Transport, containing a description of the shipping sector, produced by the applicant, that, from 1 January 1981, the Syrian Government's shipping agency became the sole agent for all shipping companies, owners of vessels and carriers serving Syrian ports. From reading that description, it may be inferred that the shipping agencies' business sector was nationalised in Syria from that date. Nevertheless, it also follows that Legislative Decree No 55 of 2002 authorised the development of activities in the shipping agencies' business sector by natural and legal persons for the nomination of trade vessels serving Syrian ports both in the field of passenger transport and for the carriage of goods. It must be inferred from this that, under that legislative decree, the shipping agencies' business sector was privatised from 2002 onwards.

72 As regards the applicant's argument that Sabra Maritime Agency's licence was cancelled following its nationalisation, that company having subsequently become dormant and finally been removed from the commercial register, it should be noted that the applicant produced a letter from the Director of Internal Trade and Consumer Protection of Tartus of 28 September 2020 stating that certain company names do not appear in the commercial register of Tartus. These are, in particular, the following company names: Sabra Group, Sabra Maritime Agency and Yass Marine.

73 It must be stated that Sabra Maritime Agency is one of the company names mentioned in the letter cited in paragraph 72 above. It follows that, although the applicant has not succeeded in showing that that agency had been nationalised, he nevertheless adduced evidence that no company bearing that name was registered in the commercial register of Tartus.

74 In the absence of evidence produced by the Council to show that Sabra Maritime Agency was registered in the commercial register of Tartus under a different name, the conclusion set out in paragraph 73 above cannot be called into question by the Council's argument that, in essence, the company names at issue, 'as mentioned literally' in the letter from the Director of Internal Trade and Consumer Protection of Tartus of 28 September 2020, are not recorded in the commercial register of Tartus. Similarly, in the absence of concrete evidence, the Council's argument that the names of the entities may be subject to certain variations owing, in particular, to translation problems must be rejected.

75 In the third place, as regards Riamar Shipping, which, according to the applicant, is dissolved, it should be noted that, according to Resolution No 77 of the Director of Internal Trade and Consumer Protection of Tartus of 20 November 2018, produced by the applicant, the reference to 'Abdulkader Sabra & Co (RIAMAR SHIPPING)', the object of which relates to maritime transport, was removed from the commercial register on account, inter alia, of its dissolution by agreement between its members of 27 June 2018. Furthermore, it is apparent from that resolution that Riamar Shipping is the trade name of Abdulkader Sabra & Co. Accordingly, it must be concluded that Abdulkader Sabra & Co, the company name corresponding to the trade name of Riamar Shipping, has in fact been dissolved.

76 In the fourth place, as regards the applicant's assertion that Sabra Group does not exist, it must be stated that Sabra Group is one of the company names mentioned in the letter referred to in paragraph 72 above. It follows that no company bearing that name is registered in the commercial register of Tartus.

77 The Council also argued that Sabra Group is in fact Abdulkader Sabra & Co. Nevertheless, that allegation is not substantiated. In any event, it is apparent from paragraph 75 above that Abdulkader Sabra & Co no longer exists.

78 In the fifth place, as regards Yass Marine, which the applicant claims never to have heard of, it should be noted, in any event, that Yass Marine is one of the company names mentioned in the letter referred to in paragraph 72 above. It follows that no company bearing that name is registered in the commercial register of Tartus. As has been pointed out in paragraph 74 above, that finding cannot be called into question by the unsubstantiated argument of the Council that, in essence, the names of the entities may be subject to change on account, inter alia, of translation problems.

79 Furthermore, it is apparent from the certificate from the Lebanese commercial register of 29 April 2020, annexed to the reply, that no company bearing the name of Yass Marine is listed in that register. The Council challenges that certificate, in so far as it is stated thereon that the register may be incomplete.

80 In that regard, the certificate referred to in paragraph 79 above states that attention is drawn to the fact that 'automation [of the data] is uncompleted, and [that] errors could occur'. That statement must be considered to be standard and generic, as a result of which, in the absence of other information, the certificate must be understood as providing, in full, the information relating to Yass Marine appearing in that register.

81 It follows from the foregoing that the applicant established that Abdelkader Sabra & Co, the company to which the trade name Riamar Shipping corresponds, has been dissolved and that Sabra Maritime Agency, Sabra Group and Yass Marine are not registered in the commercial register of Tartus. Nevertheless, it also follows that AKSSA was still operating when the contested measures were adopted and that, for 2019, it recorded a positive net income, with the result that it cannot be regarded as a loss-making company.

82 In those circumstances, it must be concluded that, although the applicant has shown that at the time when the contested measures were adopted he no longer had multiple economic interests in the shipping sector, the fact remains that he is still the owner of AKSSA, a shipping agency that is still in operation, and which cannot be deemed to be an insignificant economic interest for him.

(b) The applicant's economic interests in the tourism sector

83 It is apparent from the information published on the website 'Aliqtisadi' that the applicant is a founder partner of Phoenicia Tourism Company. Furthermore, according to the website 'The Syria Report', Phoenicia Tourism Company, of which the applicant owns 85% of the shares, was established on 5 July 2012 in Tartus in the hotel development sector. It is also apparent that the Syrian Ministry of Tourism awarded Phoenicia Tourism Company a contract for the development and management of a four-star hotel on the island of Rouad with 150 beds, the cost of which is estimated at SYP 700 million.

84 It should be noted that the applicant does not dispute either his involvement in Phoenicia Tourism Company or the conclusion of a contract with the Syrian Ministry of Tourism. On the contrary, the evidence adduced by the applicant confirms the importance of the tourism project for the island of Rouad. In that regard, according to Article 4 of the technical specifications and Article 4 of the investment contract, produced by the applicant, that project must include, inter alia, a four-star hotel of between 150 and 200 beds, restaurants and cafeterias capable of serving between 700 and 900 covers, a shopping centre, a sports hall and a marina with flags for at least 20 boats, yachts and cruise ships. Moreover, it is apparent from undated announcement No 3 of the Syrian Ministry of Tourism setting out the call for tenders for investment in several sites as part of the seventh tourism investment forum, produced by the applicant, that the total amount of the investment costs for that project is SYP 700 million.

85 Consequently, the applicant has economic interests in the tourism sector.

86 Nevertheless, the applicant claims, in essence, that Phoenicia Tourism Company has been dormant since 2012. In support of his claim, the applicant submitted that company's tax returns for the years 2014 to 2019. In those tax returns, it is stated that the company was dormant during that time.

87 The Council challenges those tax returns. In particular, it notes, first, that the returns relating to the years 2014 to 2018 were all stamped and signed on the same day by the Directorate of Finance in Tartus. Secondly, the 2019 return was signed and stamped only by an accountant, which raises doubts as to whether it actually sets out the commercial activities as presented to the tax authorities that year.

88 According to the applicant, the declarations relating to the years 2014 to 2018 were stamped and signed on the same day because, since the company had remained dormant during those years, it was under no obligation to issue tax returns. In 2018, when Phoenicia Tourism Company sought to renew its commercial registration, the Syrian Internal Trade Directorate requested that its tax affairs be brought up to date with respect to the previous five years. As regards the 2019 tax return, the applicant produced a tax certificate signed and stamped by an authorised accounting officer in Syria and countersigned by Phoenicia Tourism Company. The seal at the end of the document confirms that it was submitted to the Directorate of Finance in Tartus on 17 March 2020. The tax return, the validity of which is guaranteed by the applicant, and that company's tax certificate for 2019 confirm that it was dormant.

89 It should be noted that Phoenicia Tourism Company's tax returns for the years 2014 to 2018 were all signed by the Directorate of Finance in Tartus on 9 July 2019. Although the Council suggests that this may give rise to questions, it does not, however, infer any consequence as to their sound and reliable nature within the meaning of the case-law referred to in paragraph 63 above. In addition, the explanations provided by the applicant in respect thereof, as referred to in paragraph 88 above, may be regarded as plausible.

90 Those tax returns tend to show that Phoenicia Tourism Company was dormant prior to 2019. That is confirmed by the letter from the Syrian Ministry of Tourism of 25 February 2020 concerning the investment contract ('the letter of 25 February 2020'), produced by the applicant. In that letter, the ministry referred to earlier letters, dated 22 July 2019, 1 October 2019 and 14 January 2020, in which it had asked the applicant to provide it with a detailed timetable in

order to carry out the project. Since implementation of the project had not yet begun in 2019, it is reasonable to consider, in the absence of any evidence to the contrary produced by the Council, that the company responsible for carrying it out was also dormant prior to 2019.

91 Nevertheless, it must be stated that the applicant has not produced any evidence to show that that company was dormant on the date of adoption of the contested measures or, in general, after 2019.

92 Even if the 2019 tax return certifies that Phoenicia Tourism Company was dormant during 2019, that fact contradicts what may be inferred from the letter of 25 February 2020. According to that letter, an addendum to the investment contract was signed on 14 July 2019. Following the signature of that addendum, the Syrian Ministry of Tourism required, on four occasions, the applicant to send a detailed timetable for the implementation of the project by letters of 22 July and 1 October 2019 and of 14 January and 25 February 2020. It should also be noted that, in that letter, the Syrian Ministry of Tourism required the applicant to provide that timetable and other information within 10 days of that letter, reserving the possibility of taking legal action in the event of failure to reply, 'according to the provisions of the concluded contract appendix and duly certified'.

93 Thus, and in view of the fact that the Syrian administration began to require that that company implement the investment contract, the signature of the addendum to that contract of 14 July 2019 constitutes evidence that Phoenicia Tourism Company was active on that date.

94 In that regard, the applicant's assertion that the reference to the addendum of 14 July 2019 in the letter of 25 February 2020 must be understood as referring to an internal document of the Syrian Ministry of Tourism, any other interpretation being due to a potentially misleading translation of the Arabic into English, must be rejected. First, the applicant has not substantiated that claim. In particular, he did not provide details of that internal document, such as its content or purpose, did not explain what that misleading translation consisted of and did not provide any details in that regard. Secondly, it is clear from the letter of 25 February 2020 that the addendum of 14 July 2019 is linked to the contract.

95 In that context, and in the absence of any evidence adduced by the applicant concerning the situation of Phoenicia Tourism Company in 2020, he has not successfully called into question the Council's finding that that company was active on the date on which the contested measures were adopted.

96 In those circumstances, it must be concluded that the applicant has not succeeded in calling into question the finding, in paragraph 85 above, that it is apparent from the evidence contained in Document WK 1755/2020 INIT that he has economic interests in the tourism sector.

(c) The applicant's other business interests

97 It is apparent from the article published on the website 'al Arabiya News' that AKSSA owns OVO, which exports olive oil. Furthermore, according to the information published on the website 'Al Janoubia', the applicant is a shareholder in Cham Holding and, according to information published on the MEIRSS website, he is a member of the Board of Directors of that company. Lastly, the websites 'Eqstad' and 'al Arabiya News' indicate that the applicant owns a factory for the production of glass, plastic and metal containers.

98 In the first place, as regards OVO, the applicant acknowledges that that company was operational between 2003 and 2006, when it exported olive oil to Italy and Spain for an important retail group. On the other hand, he argues that, when those exports ceased, OVO became dormant and was subsequently dissolved. He states that it was founded on 30 May 2002 and was liquidated on 27 June 2018. In support of that claim, the applicant produced Decision No 78 of the Director of Internal Trade and Consumer Protection of Tartus. That decision is, admittedly, undated, but it is clear from it that the commercial registration of 'Olive Virgin Oil Company (OVO Co)' was removed following the dissolution of that company on 27 June 2018. It must therefore be held, in the absence of any arguments to the contrary put forward by the Council, that OVO was dissolved on the date on which the contested measures were adopted.

99 In the second place, as regards Cham Holding, the applicant claims that in 2007 he held an insignificant, nominal amount of shares, representing 0.00287% of the book value of that company, which he divested in 2011. In support of his claim, the applicant produced a letter dated 25 August 2011, addressed to the chairman of Cham Holding's Board of Directors, in which he resigned as a member of that company.

100 In that regard, the Council contends that a letter of resignation is not the usual means of divesting shares.

101 In the reply, the applicant submits that the only way that he could divest himself of his shares in that company in 2011 was the submission of a letter of resignation, the shares in that company having lost their value after 2012. In addition, the applicant produced, in an annex to the reply, a share certificate and a list of the members of the board of that company, which does not include his name.

102 It is true that the applicant's name does not appear on the list of members of the Board of Directors of Cham Holding. However, the applicant has not shown that that resignation led, *ipso facto*, to the transfer of his shareholding in Cham Holding. The applicant's argument that resignation was the only means of divesting his shares, because they lost their value after 2012, is not convincing, since, in any event, he claims to have deprived himself of that shareholding before 2012.

103 Furthermore, it should be noted that although, admittedly, according to the information published by Reuters news agency, the applicant's status as shareholder of Cham Holding belongs in the past, the information published on the websites 'Eqtsad' and 'Al Janoubia' merely indicates that the applicant withdrew from that company after the adoption of 'sanctions' in respect thereof, without, however, specifying that he transferred the shares he held therein. In the light of the explanations provided by the applicant, it cannot be ruled out that the withdrawal referred to in those articles refers to his resignation from Cham Holding's Board of Directors. In addition, according to the information published on the website 'al Arabiya News', the applicant merely claimed no longer to have any shares in that company. In other words, the latter source does not state that the applicant is no longer a shareholder in Cham Holding, but only that that is what he claims.

104 In the absence of any evidence adduced by the applicant to show that he was no longer a shareholder in Cham Holding when the contested measures were adopted, it must be held that he was still a shareholder.

105 In the third place, as regards the factory for the manufacture of glass, plastic and metal containers, it should be noted that the information from the websites 'Eqstad' and 'al Arabiya News' concerning that factory is particularly vague, since it does not specify either the name of that factory or the date of its inception. When questioned at the hearing, the Council did not provide any additional evidence concerning that factory. Thus, it must be held that it has not been demonstrated to the requisite legal standard that the applicant is indeed the owner of such a factory.

106 It follows from all the above that the applicant has established that OVO was dissolved on the date on which the contested measures were adopted. However, he has not shown that he was no longer a shareholder in Cham Holding. Moreover, the existence of a factory for the production of glass, plastic and metal containers owned by the applicant has not been sufficiently substantiated by the Council.

107 In those circumstances, it must be concluded that the applicant has a business interest, other than his economic interests in the shipping and tourism sectors, resulting from the shareholding in Cham Holding.

(d) The applicant's posts in several bodies and institutions

108 It is apparent from the information published on the websites 'Aliqtisadi', 'Eqtsad', 'Enab Baladi' and 'al Arabiya News' that the applicant is the President of the Syrian Chamber of Shipping and director of the Syria-Turkey Business Council. The applicant's status as President of the Syrian Chamber of Shipping is also apparent from the information published on the 'Syriandays' website. According to the information published on the websites 'Eqtsad' and 'al Arabiya News', the applicant is also Vice-President of the Syria-Russia Business Council. Lastly, the article published on the website 'al Arabiya News' states that the applicant was the honorary ambassador of Turkey to Syria.

109 In the first place, as regards the post of President of the Syrian Chamber of Shipping, the applicant claims, in essence, that he resigned from that post in February 2019. In support of that claim, he produces Resolution No 198 of the Syrian Ministry of Transport of 13 February 2019 ('Resolution No 198'). That resolution states that elections took place at the general meeting of 4 February 2019. That resolution also contains a list of the names of the members of the Board of Directors of that chamber, on which the applicant's name does not appear. In addition, the applicant provides the minutes of the annual assembly of that chamber held on 5 April 2019 ('the minutes'), in which the names of the newly elected members of the Board of Directors are referred to, including that of its President. The applicant's name does not appear therein.

110 First of all, it should be noted that, although the evidence provided by the applicant does not show, contrary to what he claims, that he resigned from the post of President of the Syrian Chamber of Shipping, it confirms that he was not re-elected to that post.

111 Next, it is true, as the Council has pointed out, that the information set out in Resolution No 198 and in the minutes is not identical.

112 However, when questioned at the hearing, the applicant stated, without being effectively contradicted by the Council, that Resolution No 198 and the minutes corresponded to different stages of the procedure for appointing members to the Board of Directors of the Syrian Chamber of Shipping. In that context, the minutes refer to the final stage of that procedure, which explains why the number of persons referred to therein is greater than that in Resolution No 198.

113 Lastly, it should be noted that one of the sources of information in document WK 1755/2020 INIT, namely the website 'Enab Baladi', refers to the applicant as the 'first' President of the Syrian Chamber of Shipping, which suggests that he no longer was at the time that the contested measures were adopted.

114 It follows from the foregoing that the applicant no longer held the post of President of the Syrian Chamber of Shipping on the date on which the contested measures were adopted.

115 In the second place, as regards the Syria-Turkey Business Council, the applicant submits that he is not the director thereof and that that body was, moreover, dissolved in 2013. In support of his claim, the applicant produces Decision No 247 of the Syrian Ministry of Economy and Foreign Trade of 23 May 2013, which provided for the dissolution of 'Councils of the Syrian businessmen'. That decision also provided that those chambers would be reformed in the future.

116 Admittedly, it should be noted, as the Council has observed, that Decision No 247 of the Syrian Ministry of Economy and Foreign Trade does not specifically mention the Syria-Turkey Business Council. However, that decision, which is a measure of general application, refers, in Article 1 thereof, to the Councils of Syrian businessmen, as a result of which the Syria-Turkey Business Council must be regarded as falling within its scope.

117 In addition, the article of the website 'al Arabiya News' states that the applicant was director of that chamber in 2012, thus suggesting that he was no longer director subsequently.

118 In the light of those two factors and the fact that the other evidence provided by the Council to show that the applicant was a director of the Syria-Turkey Business Council does not provide any information making it possible to conclude with sufficient certainty that the Syria-Turkey Business Council was reconstituted, in accordance with Article 2 of Decision No 247, and that the applicant was once again designated as a director, there are doubts as to whether the applicant was indeed, on the date of adoption of the contested measures, the director of the Syria-Turkey Business Council, as a result of which it must be held that the Council has not shown to the requisite legal standard that the applicant did occupy such a position.

119 In the third place, as regards the Syria-Russia Business Council, the applicant states that he is no longer a member, nor vice-president, of that body. According to the applicant, that council was dissolved in 2013. Moreover, a new committee was set up after 2013, including only members from States favourable to the Syrian regime.

120 As regards the alleged dissolution of the Syria-Russia Business Council, the applicant refers, in essence, to Decision No 247 of the Syrian Ministry of Economy and Foreign Trade of 23 May 2013, referred to in paragraph 115 above.

121 However, in the reply, the applicant refers to the establishment of a new committee in 2013, which suggests that the Syria-Russia Business Council was reconstituted, in accordance with Article 2 of Decision No 247, shortly after its dissolution.

122 In order to substantiate his assertion that he is no longer part of that body, the applicant produced a screenshot from the website of the Syria-Russia Business Council detailing the composition of that board. Nevertheless, it must be stated that no date is set out on that document and that, when questioned on the matter during the hearing, the applicant was not in a position to give one, as a result of which it is not possible to confirm that that document does indeed reflect the composition of the business council as it existed at the time of the adoption of the contested measures. Accordingly, the applicant has not sufficiently substantiated his claim that he was no longer part of the Syria-Russia Business Council at the time when the contested measures were adopted.

123 Consequently, the applicant has not validly challenged the finding that he was Vice-President of the Syria-Russia Business Council at the date of adoption of the contested measures.

124 In the fourth place, the applicant denies that he is an honorary ambassador of Turkey to Syria and claims that he was the honorary consul of Turkey in Tartus from 1 March 2009 until 2020. According to the applicant, that post was purely honorary and did not entail any economic and commercial objectives. In that regard, the applicant describes, in essence, the role of an honorary consul, which is, in particular, to provide consular services and assistance to the citizens of the country that appointed him and to participate in the promotion of trade with that country.

125 It should be noted that the only evidence provided by the Council to show that the applicant is the honorary ambassador of Turkey to Syria is the article published on 8 June 2018 by the website 'al Arabiya News'. That article does not make it possible to state with sufficient certainty that the applicant still held that post on the date of adoption of the contested measures. It merely states that the applicant 'was' such an ambassador. In comparison, that article states that the applicant was part of the Syria-Russia Business Council since its creation.

126 Consequently, it must be held that the Council has not demonstrated to the requisite legal standard that the applicant was still an honorary ambassador of Turkey to Syria at the time when the contested measures were adopted.

127 It follows from the foregoing that the applicant was, at the time of adoption of the contested measures, Vice-President of the Syria-Russia Business Council. By contrast, he has succeeded in showing that he was no longer President of the Syrian Chamber of Shipping when the contested measures were adopted. Furthermore, the applicant's status as director of the Syria-Turkey Business Council and the applicant's role as honorary ambassador of Turkey to Syria have not been sufficiently substantiated by the Council.

(e) Conclusion on the applicant's status as a leading businessperson operating in Syria

128 In the light of all the foregoing, it must be concluded that the Council has adduced a sufficiently specific, precise and consistent body of evidence making it possible to establish that the applicant is a leading businessperson operating in Syria by reason of his economic interests, particularly in the shipping and tourism sectors, and by reason of his leading position in the Syria-Russia Business Council.

(f) The link with the Syrian regime

129 The applicant claims, in essence, that the Council may include the names of leading businesspersons operating in Syria only if they are actually associated with the Syrian regime, exercise influence over it or pose a risk of circumvention. In that regard, the applicant submits that, even if he were to be regarded as a prosperous or influential person operating in Syria, he is neither associated with the Syrian regime, nor is he part of the inner cadre of leading businesspersons operating in Syria, as defined in recital 6 of Decision 2015/1836.

130 However, in the present case, the applicant's name was included on the lists in question in the legislative context of Decision 2013/255, as amended by Decision 2015/1836. In that regard, 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 any association between that category of persons and the Syrian regime, as understood under Decision 2013/255 prior to its amendment, 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. Thus, it in no way follows from Decision 2013/255, as amended by Decision 2015/1836, that it is for the Council to prove that both the requirement of being a leading businessperson and that of having sufficient links with the regime are cumulatively satisfied (see, to that effect, judgments of 9 July 2020, *Haswani* v *Council*, C-241/19 P, EU:C:2020:545, paragraphs 71 to 74, and of 4 April 2019, *Sharif* v *Council*, T-5/17, EU:T:2019:216, paragraphs 55 and 56 (not published), and order of 11 September 2019, *Haswani* v *Council*, T-231/15 RENV, not published, EU:T:2019:589, paragraph 56).

131 To that effect, 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 wording of recital 6 of Decision 2015/1836, it is the influence that that category of persons is likely to exercise 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 policies 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.

132 Furthermore, it should be recalled that compliance with the rules on the burden of proof and evaluation of evidence in the area of restrictive measures by the General Court implies that the latter abide by the principle stated in the settled case-law referred to in paragraph 38 above and set out 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.

133 Consequently, an excessive standard of proof may not be imposed on the applicant in order to rebut the presumption of a link with the Syrian regime. Therefore, the person concerned must be considered to have succeeded in rebutting the presumption of a link to the Syrian regime if he or she puts forward arguments or evidence capable of seriously calling into question the reliability of the evidence submitted by the Council or the Council's assessment, in particular in the light of the

conditions laid down in Article 27(3) and Article 28(3) of Decision 2013/255, as amended by Decision 2015/1836, or if he or she produces before the EU judicature a body of evidence establishing that he or she was not, or is no longer, associated with the Syrian regime, that he or she did not exercise influence over the regime and that he or she did not pose a real risk of circumvention of the restrictive measures, in accordance with Article 27(3) and Article 28(3) of that decision (judgment of 8 July 2020, *Zubedi* v *Council*, T-186/19, EU:T:2020:317, paragraph 71).

134 As a preliminary point, it is necessary to ascertain whether, in order to establish the link between the applicant and the Syrian regime, on account of the applicant's economic activities, the Council relies only on the presumption of a link, within the meaning of the case-law cited in paragraphs 130 and 131 above. In that regard, it is necessary to examine whether the evidence adduced by the Council and set out in document WK 1755/2020 INIT makes it possible to establish explicitly the links between the applicant's economic activities and the Syrian regime or whether the Council relied solely on the presumption of a link which has just been stated.

135 In that regard, first, as regards AKSSA, none of the evidence in document WK 1755/2020 INIT establishes a particular link between that shipping agency, which, moreover, is not the only Syrian shipping agency, and the Syrian regime.

136 Secondly, as regards Phoenicia Tourism Company, it is apparent from the website 'The Syria Report', and was confirmed by the applicant, that it signed a contract with the Syrian Ministry of Tourism.

137 Thirdly, it follows from document WK 1755/2020 INIT, in particular from Reuters news agency and the website 'Al Janoubia', that Cham Holding, which belongs to Rami Makhlouf, a supporter of the Syrian regime and cousin of Bashar Al-Assad, has links with the Syrian regime.

138 Fourthly and lastly, as regards the post occupied by the applicant within the Syria-Russia Business Council, it must be observed that the evidence adduced by the Council does not make it possible to determine the status of that Chamber of Commerce with regard to the Syrian regime. Furthermore, the evidence provides no details as to the links between the Syria-Russia Business Council and the Syrian regime. Accordingly, document WK 1755/2020 INIT does not make it possible to define the link that exists between the post occupied by the applicant and the Syrian regime.

139 Consequently, the only factors, in addition to the presumption of a link with the Syrian regime, put forward by the Council to demonstrate a link between the applicant and the Syrian regime relate, on the one hand, to Phoenicia Tourism Company and, on the other hand, to Cham Holding.

140 As regards Phoenicia Tourism Company, although that undertaking signed a contract with the Syrian Ministry of Tourism, it must be stated that, as is established in paragraph 179 below, the circumstances surrounding the conclusion of that contract, as well as the actual implementation of the tourism project on the island of Rouad, are not clear, with the result that the Council, on which the burden of proof lies, cannot rely on that contract alone in order to demonstrate the link between the applicant and the Syrian regime, within the meaning of recital 6 of Decision 2015/1836 (see paragraph 9 above).

141 As regards Cham Holding, the applicant has shown that he left the Board of Directors of that company and was no longer a shareholder within it. However, there is no evidence provided by the Council to explain how, despite the distance displayed by the applicant, he maintains particular links with Cham Holding or Rami Makhlouf and, more broadly, with the Syrian regime.

142 Thus, the Council may rely only on the presumption of a link with the Syrian regime in order to establish the link between the applicant and that regime. It is therefore necessary to assess whether the evidence adduced by the applicant is capable of rebutting the presumption of a link with the Syrian regime.

143 In that context, it is necessary to examine the applicant's arguments seeking to show that he is not linked to the Syrian regime, that he exercises no influence over that regime and that he does not pose any risk of circumvention.

144 In the first place, the applicant submits, in essence, that he left Syria in order to settle in Lebanon in 2012 because of the actions of the Syrian regime, to which he is opposed. After 2012, he visited Syria only twice.

145 It should be noted that it is common ground between the parties that the applicant has lived in Lebanon since 2012. Nevertheless, that fact does not necessarily imply that the applicant does not continue to have economic interests in Syria or hold posts in bodies and institutions connected with economic activity in that country. As is apparent from paragraph 128 above, the Council has adduced a body of evidence demonstrating, in essence, that the applicant continues to have economic interests in Syria. Moreover, even if the applicant had travelled to Syria on the death of his mother, that does not mean that he did not do so on other occasions. Furthermore, the number of times he went to Syria after he settled in Lebanon is not relevant, since the applicant continues to have interests in Syria.

146 In the second place, according to the applicant, his opposition to the Syrian regime has had negative consequences for him. In particular, the Syrian secret services issued an arrest warrant against him after his departure from Syria. In support of his claim, the applicant produces a circular from the Syrian Public Intelligence Department of 21 October 2014, in which it is stated, with respect to a circular of 18 October 2014 concerning the opening of an inquiry into certain persons, that the applicant must be excluded from that circular because of the 'cessation of justifications'.

147 The fact that the applicant was the subject of an investigation in 2014 does not, in the circumstances of the present case, constitute evidence that he has no links with the Syrian regime. It should be noted that he was excluded from the scope of that investigation only three days after being included therein and that it is not apparent from the file that any action was taken by the Syrian authorities against him during that short period of time. In addition, it must be noted, as the Council has done, that the reasons justifying the inclusion of the applicant's name in that investigation and the grounds on which it was considered that those reasons were no longer relevant are not set out in the document produced by the applicant. In that regard, the applicant states that Syrian intelligence services do not provide grounds for their 'arrest warrants' and that those documents are subject to martial law. Although those details appear to be reasonably credible, the applicant has not substantiated them and has not provided any explanation as to the reasons which, in his view, explain the initiation of that investigation, apart from the presumed

intention of the Syrian regime to harm him. Lastly, it must be stated, moreover, that, on the date of adoption of the contested measures, that is to say, six years after that warrant was issued, the applicant was not the subject of an investigation by the Syrian Public Intelligence Department.

148 In the third place, the applicant claims to support humanitarian and civilian organisations opposed to the Syrian regime that provide assistance to Syrian refugees. In addition, the applicant claims, in essence, that he met representatives of European countries in order to discuss the oppression exercised by the Syrian regime.

149 In support of his claims, first, the applicant produced a declaration of 20 April 2020 from a former ambassador of the French Republic to Syria and of the Sovereign Order of Malta in Lebanon. In that statement, the former ambassador states that he met the applicant during his stay in Syria and maintained a friendly relationship with him. He explains, in essence, that he further met the applicant in Lebanon after 2011, and that the latter showed a sharp interest in the humanitarian activities carried out by the Sovereign Order of Malta in Lebanon for Syrian refugees, for whom he provided financial assistance. Lastly, he observes that, in his meetings with the applicant, the applicant referred to the 'tragic situation' of Syria. He states that he has always noted in the applicant's statements strong reservations concerning the regime in place, in respect of which he often formulated strong criticisms, willingly attributing responsibility to it for the deterioration of the situation in the country.

150 Secondly, the applicant produced a letter dated 27 April 2020 from a person working for a humanitarian organisation. [*confidential*] [1] With regard to those activities, in addition to the description contained in that letter, the applicant provides further information in the reply. [*confidential*]

151 Thirdly, the applicant produced a letter dated 27 April 2020 from another person involved in another humanitarian organisation. [*confidential*]

152 Fourthly, the applicant produced a letter dated 27 April 2020 from a third person. [*confidential*]

153 Fifthly, the applicant claims that his family was involved in the Phoenicia Maritime Training Centre. In essence, this centre is a training establishment in the maritime field in Syria founded by his sons in order to provide training for the young inhabitants of the island of Rouad at a symbolic fee. In that regard, the activities of that centre are non-profit-making. According to the applicant, that centre provides an alternative to the young inhabitants of the island of Rouad, who fear conscription or arrest. More generally, the applicant submits that the inhabitants of the island of Rouad are seen as opponents to the regime, because they belong to the Sunni branch of Islam.

154 First of all, it should be noted that the applicant's argument that, in essence, his involvement in Phoenicia Maritime Training Centre must be understood as evidence of his opposition to the Syrian regime is not substantiated either by the content of the certificate of 23 December 2019 attesting to the training establishment's accreditation, or by the content of the list of fees for that establishment of 1 July 2020. The applicant does not provide any other evidence in support of his claim.

[1] Confidential data omitted.

155 Next, as regards the statements produced by the applicant, it should be noted that, given that there is no legislation at EU level governing the concept of proof, the Courts of the European Union have laid down a principle of unfettered evaluation of evidence or freedom as to the form of evidence adduced, which is to be interpreted as the right to rely, in order to prove a particular fact, on any form of evidence, such as oral testimony, documentary evidence and confessions. Correspondingly, the Courts of the European Union have laid down a principle of the unfettered assessment of evidence, according to which the determination of reliability or, in other words, the probative value of an item of evidence is a matter for those Courts (see judgment of 13 December 2018, *Iran Insurance* v *Council*, T-558/15, EU:T:2018:945, paragraph 153 and the case-law cited).

156 In addition, in order to establish the evidential value of a document, it is necessary to take account of several factors, such as the origin of the document, the circumstances in which it was drawn up, the person to whom it was addressed and its content, and whether, according to those aspects, the information it contains appears sound and reliable (see judgment of 13 December 2018, *Iran Insurance* v *Council*, T-558/15, EU:T:2018:945, paragraph 154 and the case-law cited).

157 As regards, more specifically, witness statements, their reliability and credibility must, in any event, be borne out by their overall consistency; additional weight should also be given to them where, on most of the essential points, they are corroborated by other objective material in the file (see, to that effect, judgment of 12 May 2015, *Dalli* v *Commission*, T-562/12, EU:T:2015:270, paragraph 78).

158 In the present case, first, it must be observed that the statements provided by the applicant come from a former ambassador of the French Republic and the Sovereign Order of Malta and senior members of staff of humanitarian organisations. That fact is not disputed by the Council.

159 Secondly, there is nothing in the file to suggest that the authors of those statements have a personal interest in the present case, or that they have links with each other, as a result of which it cannot be presumed that they acted in concert to provide the applicant with consistent statements. Moreover, no such thing has been alleged by the Council.

160 Thirdly, those statements were made for the benefit of the Court. Thus, the authors of those statements, and, more specifically, the former ambassador of the French Republic and the Sovereign Order of Malta, drew up those documents with full knowledge not only of the system of restrictive measures established by the European Union with regard to Syria and of the objective it pursues, as stated in paragraphs 2, 5 and 9 above, but also of the importance which the bringing of the present action represents for the applicant.

161 Fourthly, the content of the four statements is consistent. They all describe the applicant as being openly critical of the policy pursued by the Syrian regime and as having provided financial assistance to the programmes set up to assist Syrian refugees.

162 Fifthly, as regards objective evidence in the file corroborating the content of the statements submitted by the applicant, in accordance with the case-law referred to in paragraph 157 above, it must be noted that the applicant produced email exchanges showing that he was in contact with the secretariat of the then ambassador of the French Republic, who was not the same person that had provided the declaration, in order to organise a meeting in 2016 and that he organised a

dinner in 2013 to which the then ambassador of the Kingdom of Spain was invited, another Spanish diplomat, and the then ambassador of the European Union to Lebanon, the latter having confirmed her presence at the dinner.

163 Lastly, sixthly, it must be stated that the Council has not put forward any argument calling into question the reliability of the statements produced by the applicant.

164 Therefore, the statements provided by the applicant must be regarded as sound and reliable, in accordance with the case-law referred to in paragraph 156 above.

165 As regards the content of those statements, they all make reference to the sharp criticism expressed by the applicant with regard to the policy implemented by the Syrian regime, but also to the financial assistance that he provided to humanitarian organisations supporting Syrian refugees. In addition, they attest to the applicant's relations with diplomatic representatives of Member States of the European Union and of the European Union itself.

166 It is true, as the Council states, that the applicant did not provide further information on the activities of the humanitarian organisations that he claims to support, or on their opposition to the Syrian regime, apart from those that result from the abovementioned statements and from his pleadings. Nevertheless, it should be noted that the Council does not claim that the humanitarian organisations do not exist. Thus, since the Council had the name of such organisations available to it, it was open to it to adduce evidence to show that the activities pursued by them were not those described by the persons making witness statements in those statements or by the applicant in his written pleadings.

167 In addition, the Council takes the view that it is likely that the applicant tried to conceal his links with the Syrian regime in order not to jeopardise his international activities and his contacts with his European and global partners. Thus, the applicant took care to carry out charitable activities and to express reservations about the regime in his relationships with his international contacts.

168 At the hearing, the Council indicated to the Court that the article of the website 'Eqstad' constituted evidence that the applicant's conduct was intended to conceal his links with the Syrian regime.

169 Nevertheless, such evidence cannot be regarded as sufficient to substantiate the Council's claim. That article does not deal with the applicant's links with humanitarian organisations or with representatives of EU Member States, but with his departure for Lebanon, and, moreover, is not corroborated by any other evidence.

170 Finally, the Council has not put forward any evidence to discredit the content of the statements produced by the applicant. When questioned at the hearing, the Council merely stated that they had to be weighed against the evidence which it produced, without adducing any specific evidence to call it into question.

171 In the light of all the foregoing, it must be held that the statements produced by the applicant show that the applicant distanced himself from the Syrian regime and that he finances humanitarian missions to assist Syrian refugees.

172 In the fourth place, according to the applicant, the Syrian regime is particularly irritated that he was successful, through the intermediary of Phoenicia Tourism Company, in the call for tenders relating to the tourism development on the island of Rouad, and that he then subsequently refused to invest there and to undertake the construction work for a hotel. According to the applicant, the fact of having been successful in that call for tenders enabled him, in essence, to recover control over the land that had been expropriated from his family in 1983. However, he made no investment in that project, which led the regime to threaten to take legal action.

173 In support of his claims, the applicant produced, first, Decree No 3 053 of the Syrian President, received by the Syrian Ministry of Tourism on 1 January 1983, Article 1 of which provides for the expropriation of land on the island of Rouad in order to carry out a tourism project, and, second, three documents concerning land owned by certain persons whose surname is Sabra. The first two documents, dated 21 January 1962 and 1 March 1977 respectively, do not refer to the applicant's name. The third document, drawn up by the Real Estate Secretariat in Tartus on 25 May 2006, refers to the applicant's name. Finally, the applicant submitted an undated document stating that the land held by his grandfather had been expropriated in the context of the tourism project on the island of Rouad.

174 First of all, it should be noted that the applicant stated, in the reply, that not all the land owned by his family on the island of Rouad had been subject to expropriation because some of it was not located on the part of the island on which the regime intended to develop its tourism project. In that regard, it should be noted that the applicant has adduced evidence only of the expropriation of land belonging to one of the members of his family.

175 Next, the applicant does not deny having paid, in August 2012, a sum of money corresponding to the costs associated with participating in the tendering procedure, in an amount equivalent to 1% of the total estimated costs associated with the project, namely, according to the applicant, SYP 7 million, which amounted to approximately EUR 88 501. Those expenses were paid on a non-refundable basis. In addition, the applicant produced evidence that, in May 2013, he had paid a performance bond amounting to SYP 14 316 600 (approximately EUR 113 732).

176 It must be acknowledged that the payment of those sums constitutes a form of investment in the tourism project on the island of Rouad, even though the applicant maintains, in essence, that it was not the investment that the Syrian regime expected of him.

177 On the other hand, it should be noted that the Council has not established that the applicant made another payment or made another investment in the tourism project on the island of Rouad.

178 Lastly, as stated, in essence, in paragraph 90 above, the applicant demonstrated that Phoenicia Tourism Company was dormant until 2019. It is true that, as was noted, moreover, in paragraph 95 above, the possibility that that undertaking was active on the date of adoption of the contested measures cannot be ruled out. Nevertheless, as is apparent from paragraphs 92 and 93 above, proof of the company's activities stems from the letter of 25 February 2020, which threatened the applicant with legal action in the event of persistent non-performance of the contract.

179 It follows from the foregoing that, although the applicant is indeed involved in the tourism project on the island of Rouad and is required, since the letter of 25 February 2020, to carry it out, the circumstances in which he entered into the project and its actual implementation are not clear. The Court finds that it is not possible to state with certainty that the applicant intended solely to

recover the expropriated land which had belonged to his family, which could have been a factor for the purposes of rebutting the presumption of a link with the Syrian regime, but that it is also not possible to state with certainty that he did everything to ensure the development of the tourism project on the island of Rouad, as desired by the Syrian regime. In that regard, the Council's claim that the applicant did not start work on that development for reasons beyond his control has not been substantiated. Therefore, in examining the arguments put forward by the applicant in order to rebut the presumption of a link, it must be concluded that the applicant cannot rely on the reasons that led him to enter into the contract relating to the tourism project on the island of Rouad in order to rebut that presumption.

180 Lastly, in the fifth place, the applicant denies, in essence, that he is a close business associate of Rami Makhlouf, supporter of the Syrian regime and cousin of Bashar Al-Assad, with whom he has allegedly had no contact for 12 years. More specifically, the applicant maintains that the information in document WK 1755/2020 INIT according to which he is associated with Rami Makhlouf in the food sector is incorrect. In that regard, he has never carried out any activities in that sector, with the exception of those of OVO. Furthermore, the applicant maintains that he did not provide services to vessels engaged in the transport of foodstuffs. Moreover, according to the applicant, the only point he has in common with Rami Makhlouf is the fact that both held shares in Cham Holding.

181 It follows from paragraph 106 above that the applicant has demonstrated that OVO had been dissolved on the date of adoption of the contested measures. By contrast, the applicant still held, on the date of adoption of those measures, shares in Cham Holding, which, as is apparent from the information published by the Reuters news agency website and the websites 'Eqstad', 'al Arabiya News', 'Enab Baladi' and 'Al Janoubia', was owned by Rami Makhlouf. However, it should be noted that the applicant resigned from his position on the Board of Directors of Cham Holding (see paragraph 102 above), thus indicating his desire to distance himself from the activities of that company. Moreover, the applicant's intention to distance himself from Cham Holding, which is the subject of restrictive measures by the European Union and the United States of America, is supported by the articles from the websites 'Eqstad', 'al Arabiya News' and 'Enab Baladi'.

182 Consequently, by demonstrating that he was not active in the food sector and that he distanced himself from Cham Holding, the applicant succeeded in calling into question the evidence on which the Council relied in finding him to be a close business associate of Rami Makhlouf.

183 In the light of the foregoing, it must be held that, in order to rebut the presumption of a link with the Syrian regime, the applicant may rely on having demonstrated that he openly criticised the Syrian regime and was providing financial assistance to humanitarian organisations acting for the benefit of Syrian refugees. In addition, he called into question the assertion that he is a close business associate of Rami Makhlouf, who supports the Syrian regime and is the cousin of Bashar Al-Assad.

184 As is apparent from paragraph 133 above, one of the possibilities for an applicant to rebut the presumption of a link with the Syrian regime is to provide a body of evidence that there is no influence on the Syrian regime.

185 In the present case, in view of the applicant's political sensitivity, the assistance which he provides to the humanitarian organisations supporting Syrian refugees and the distance between him and Rami Makhlouf, it seems unlikely that he would have links with the Syrian regime. Consequently,

it is not certain that the applicant is able, as a result of the restrictive measures adopted against him, to exert on the Syrian regime the influence necessary to increase the pressure on that regime for it to change its policy of repression.

186 Therefore, while it is true that it is apparent from the evidence provided by the Council that the applicant has economic interests in the shipping and tourism sectors, inter alia, and that he occupies a leading position in the Syria-Russia Business Council, the fact remains that he has succeeded in rebutting the presumption of a link between himself and the Syrian regime.

187 In the light of all of the foregoing, it must be concluded that, although the applicant's status as a businessman operating in Syria is substantiated, it cannot be said that he is a 'leading' businessperson in that country.

188 It must therefore be held that the first reason for including the applicant's name on the lists in question, pertaining to the status of leading businessperson operating in Syria, has not been established to the requisite legal standard.

5. Association with the Syrian regime

189 It is necessary to ascertain whether the applicant's situation constitutes sufficient evidence that he provides support for the Syrian regime or that he benefits from the policies pursued by that regime. Such an appraisal must be carried out by examining the evidence, not in isolation, but in the context to which it belongs. The Council discharges the burden of proof it bears if it produces before the Courts of the European Union a body of evidence sufficiently specific, precise and consistent to establish that there is a sufficient link between the person subject to a measure freezing his or her funds and the regime being combated (see judgment of 9 September 2016, *Tri-Ocean Trading* v *Council*, T-709/14, not published, EU:T:2016:459, paragraph 42 and the case-law cited).

190 According to the grounds for listing referred to in paragraphs 14 and 44 above, the applicant provides financial and economic support to the Syrian regime, in particular through offshore companies and his commercial activities, but also because of his money laundering activities, and benefits therefrom in the context of his activities in the real estate sector.

191 Thus, it must be held that the reasons for which the applicant is considered, by the Council, as supporting the Syrian regime and taking advantage of it overlap with those which led it to regard him as a leading businessperson operating in Syria.

192 In that regard, 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 course of his or her 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 to 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).

(a) The economic and financial support provided to the Syrian regime

193 It is apparent from the grounds for including the applicant's name on the lists in question that the applicant provides financial and economic support to the Syrian regime through, first, his business activities and, second, money laundering.

194 In the first place, as regards the applicant's commercial activities, first, the grounds for listing mention his status as 'shipping magnate'. In that regard, it has been established in paragraph 81 above that the applicant owns only AKSSA. However, even if that company is not insignificant in the shipping agencies' business sector (see paragraph 69 above), the mere ownership of that company is not sufficient to make it possible to justify the finding that the applicant is a 'shipping magnate'. It is apparent from an overall reading of the grounds for listing that it was indeed the multitude of the applicant's economic interests in the shipping sector that led the Council to describe him in that way. Nevertheless, even if the applicant were considered a 'shipping magnate' solely because of the economic interest that AKSSA represents, it should be noted that the Council does not explain how he is alleged to support the Syrian regime through AKSSA. In any event, such a finding is not borne out by the evidence contained in document WK 1755/2020 INIT.

195 Secondly, the grounds set out the applicant's support for the Syrian regime as a close business associate of Rami Makhlouf. In that regard, first, it is apparent, in essence, from the article published by *Le Monde* and the information taken from the 'World Crunch', 'Eqstad', 'al Arabiya News' and MEIRSS websites that the applicant, who was involved in the trade in foodstuffs with Rami Makhlouf, enabled the Syrian regime to circumvent the restrictive measures, in so far as the European embargo did not concern foodstuffs.

196 First of all, as is apparent from paragraph 98 above, the entity of the applicant that was active in the food sector, namely OVO, no longer exists.

197 Next, as regards Cham Holding, of which Rami Makhlouf is the owner and in which the applicant is a shareholder, it does not appear, on reading the evidence produced by the Council, that that undertaking operates in the food sector.

198 Lastly, document WK 1755/2020 INIT does not provide any further details as to the form taken by the association between the applicant and Rami Makhlouf in the food sector.

199 Moreover, as regards the support provided to the Syrian regime through Cham Holding, of which Rami Makhlouf is the owner and in which the applicant is a shareholder, it is apparent from the article published by Reuters news agency and the websites 'al Arabiya News', 'Enab Baladi' and 'Al Janoubia' that Cham Holding is linked to the Syrian regime. However, those articles do not explain how that company provides financial or economic support to the Syrian regime.

200 Finally, as has been established in paragraph 182 above, the applicant validly challenged his status as a close business associate of Rami Makhlouf.

201 Consequently, it must be held that the Council has not demonstrated, to the requisite legal standard, that the applicant provides support to the Syrian regime because he is a close business associate of Rami Makhlouf.

202 Thirdly, the grounds for listing indicate that the applicant provides his economic and financial support to the Syrian regime, in particular through his companies based abroad. In that regard, it follows from paragraphs 81, 96 and 106 above that the applicant has economic interests in Syria because of AKSSA, Phoenicia Tourism Company and Cham Holding. The only entity located abroad, more specifically in Lebanon, in which, according to the Council, the applicant had interests, is Yass Marine. As stated in paragraph 78 above, the applicant has demonstrated that that undertaking did not exist. Moreover, it is indeed apparent from the article taken from the 'al Arabiya News' website that AKSSA has two branches, one in Greece and the other in Italy, but that is not confirmed by other evidence and, in any event, the Council refers only to the activities carried out by the applicant from Lebanon in order to maintain that he provides support for the Syrian regime through his activities carried out abroad. It follows that the part of the grounds for listing stating that the applicant supports the Syrian regime, in particular through companies based abroad, is not substantiated to the requisite legal standard.

203 Fourthly and lastly, since the grounds for listing relate to the applicant's other business activities because of their ability to provide financial and economic support to the Syrian regime, it is necessary to examine the case of Phoenicia Tourism Company. In that regard, although it has been established, without it being disputed, that the applicant signed a contract with the Syrian Ministry of Tourism for the management of a hotel on the island of Rouad, the Council does not explain to what extent the conclusion of such a contract provides support to the Syrian regime. In particular, the payment of sums of money in respect of costs connected with participation in the tendering procedure and of a performance bond made in 2012 and 2013 cannot be regarded as making it possible to conclude that, on the date of adoption of the contested measures, that is to say, more than seven years after that payment, the Council had demonstrated the financial support provided by the applicant. Moreover, the evidence contained in document WK 1755/2020 INIT does not make it possible to ascertain in what other way Phoenicia Tourism Company supports the Syrian regime.

204 In so far as the post occupied by the applicant within the Syria-Russia Business Council is to be regarded as a business activity, it must be observed that document WK 1755/2020 INIT does not contain any information as to the financial and economic support that he might provide to the Syrian regime through that post.

205 In the second place, as regards the support that the applicant provides to the Syrian regime through his money laundering activities, it should be noted that it is apparent, in essence, from the information from the 'Eqstad', 'al Arabiya News' and 'Enab Baladi' websites that Syrian businesspersons, such as the applicant, obtained Lebanese nationality with a view to opening bank accounts in Lebanon and to being able to help the Syrian regime to transfer funds.

206 In that regard, the applicant claims, first of all, that those allegations are incorrect, since, in essence, most Syrian businesspersons who had obtained Lebanese nationality did not need it because they were already nationals of other countries. In other words, he did not obtain Lebanese nationality in order to help the Syrian regime to circumvent the restrictive measures. Nevertheless, it must be held that the applicant's argument amounts to a general, unsubstantiated statement, and cannot therefore be upheld.

207 Furthermore, the applicant relies on allegations of smuggling fabricated by the Syrian regime in order to demonstrate that that regime did not approve of his departure from Syria to Lebanon. That argument must be understood as seeking to demonstrate that the applicant cannot have acted for the Syrian regime by taking up Lebanese nationality. Nevertheless, it must be stated, as

the Council has observed, that the applicant has not succeeded in adducing evidence of the fallacious nature of those accusations. It is not apparent from the evidence adduced by the applicant that Provisional Seizure Decision No 932 of the Syrian Ministry of Finance of 6 January 2013 concerned the import of second-hand cars that had taken place several years previously. In that regard, no link can be established between that decision and the declaration of arrival of a ship transporting used cars of 18 February 2004. Nor does the other evidence adduced by the applicant, namely the confirmation of delivery of bill of lading No 259 to the port authority of 25 February 2004 and the Almahaba Transit & Clearance Company's declaration of 6 March 2004, contain any information in that regard.

208 That being so, it must be noted that, as has been established in paragraph 171 above, the applicant has shown that he distanced himself from the Syrian regime. In such circumstances, the Court considers that the applicant raised serious doubts as to the reasons for which he was seeking to obtain Lebanese nationality. Since the allegations relating to money laundering, as set out in paragraph 205 above, are not supported by other concrete evidence, it must be held that the Council has not demonstrated to the requisite legal standard that the applicant supported the Syrian regime by means of such activities.

209 In the light of all the foregoing, it must be held that the Council has not demonstrated, to the requisite legal standard, that the applicant provided support to the Syrian regime.

(b) The profit derived from the Syrian regime

210 It is apparent from the grounds for including the applicant's name on the lists in question that he benefited from his links with the Syrian regime, which enabled him to expand his activities in the real estate sector.

211 It is not disputed between the parties that that part of the grounds for listing relates mainly to the fact that the applicant obtained, through Phoenicia Tourism Company, a contract with the Syrian Ministry of Tourism for the use of land with a view to developing and managing a hotel on the island of Rouad.

212 Moreover, as is apparent from paragraph 83 above, the Council has substantiated to the requisite legal standard the fact that the applicant, through Phoenicia Tourism Company, concluded a contract with the Syrian Ministry of Tourism enabling him to develop and operate a hotel on the island of Rouad. Moreover, the applicant does not dispute this.

213 Nevertheless, he denies taking advantage of the contract concluded with the Syrian Ministry of Tourism and submits, in essence, that he wished, by means of that contract, to resume control over expropriated land belonging to his family and that he did not ultimately invest in the project for the construction of the hotel on the island of Rouad.

214 In that regard, it should be noted that, in view of the wording of the grounds for including the applicant's name on the lists in question, as set out in paragraphs 14 and 44 above, it is necessary for the Council to have demonstrated to the requisite legal standard that it was indeed because of links with the Syrian regime that he obtained the contract with the Syrian Ministry of Tourism.

215 While it is accepted between the parties that the applicant was awarded the contract following a call for tenders, it is not apparent from the article entitled 'Ministry of Tourism Awards New Contract to Manage Arwad Hotel', published on 26 November 2012 on the website 'The Syria

Report', or any other evidence in document WK 1755/2020 INIT, that the applicant was awarded the tender on account of special links with the Syrian regime. In other words, although the Council has shown that the contract was concluded, it has not substantiated the finding that the applicant, in the context of that tendering procedure, made use of his links with the Syrian regime in order to be successful in that call for tenders. In that regard, it cannot be accepted that the mere fact of being successful in a call for tenders, even if it led to the conclusion of a contract with a ministry of the Syrian regime, makes it possible to conclude that there are links enabling the person concerned to take advantage of the Syrian regime, within the meaning of Article 27(1) and Article 28(1) of Decision 2013/255, as amended by Decision 2015/1836.

216 Accordingly, the Council has not demonstrated to the requisite legal standard that the applicant took advantage of his links with the Syrian regime in order to be awarded the contract linked to the development of the tourism project on the island of Rouad and thus to further his activities in the tourism sector.

217 In addition, it must be held that the evidence adduced by the Council does not make it possible to ascertain whether the applicant derived an advantage from the contract thus concluded, apart from the actual conclusion of that contract.

218 Such evidence was, however, necessary, since, as is apparent from the letter of 25 February 2020, the contract had not yet been performed in full and was not scheduled to be for several months, which precludes the conclusion that the applicant benefits from the policy pursued by the Syrian regime on the island of Rouad in the field of tourism.

219 Moreover, as has been established in paragraph 179 above, although it is not possible to state with certainty that the applicant intended only to recover the expropriated land belonging to his family, neither is it possible to assert that he had the firm intention of developing the tourism project on the island of Rouad, despite the letter of 25 February 2020.

220 The fact that the letter requires the applicant to provide a diary of the work he is required to carry out for the performance of the contract, failing which he may be subject to legal action, is not, of itself, sufficient to show that the applicant actually intended to implement the tourism project on the island of Rouad.

221 Accordingly, the Council, which bears the burden of proof, is not in a position to demonstrate that the applicant sought to derive an advantage from the Syrian regime and actually derived an advantage from the contract entered into with Phoenicia Tourism Company.

222 Furthermore, it should be noted that the Council also refers to the advantages granted to the applicant by the Syrian regime, as is apparent from the article on the website 'Eqstad'. However, it should be noted that that article draws a distinction between the applicant's situation before and after 2011. Thus, while it is true that the article states that the applicant obtained advantages before 2011, it does not say the same for the period after 2011. On the contrary, even though the article is cautious as to the nature of the links between the applicant and the Syrian regime, it states that the applicant withdrew from Cham Holding and left for Lebanon. Consequently, the article of the website 'Eqstad' cannot be regarded as supporting the fact that the applicant benefited from the Syrian regime at the time when the contested measures were adopted.

223 In the light of the foregoing, it must be held that the Council has not shown to the requisite legal standard that the applicant benefits from the Syrian regime.

6. Conclusion

224 It follows from all of the above that the Council has not shown to the requisite legal standard that the grounds for listing based on the applicant's status as a leading businessperson operating in Syria, or that the grounds for listing based on his association with the Syrian regime, are well founded.

225 The applicant's single plea must therefore be upheld.

C. Conclusion on the action and the temporal effects of the annulment of the contested measures

226 Since the single plea in law is upheld, the contested measures must be annulled in so far as they concern the applicant.

227 In that regard, the Council requested, in the context of its third head of claim, that, in the event that the Court were to annul the contested measures in so far as they concern the applicant, the Court should order that the effects of Decision 2020/719 be maintained as regards the applicant until the partial annulment of Implementing Regulation 2020/716 takes effect.

228 First of all, as regards Implementing Regulation 2020/716, it must be stated that under the second paragraph of Article 60 of the Statute of the Court of Justice of the European Union, by way of derogation from Article 280 TFEU, decisions of the General Court declaring a regulation to be void are to take effect only as from the date of expiry of the period for bringing an appeal referred to in the first paragraph of Article 56 of that Statute or, if an appeal has been brought within that period, as from the date of dismissal of the appeal.

229 In those circumstances, in the absence of an appeal, the Council has a period of two months, extended on account of distance by a period of 10 days, as from the notification of the present judgment, to remedy the infringements established by adopting, if appropriate, new restrictive measures with respect to the applicant.

230 Next, as regards Decision 2020/719, it should be noted that Council Decision (CFSP) 2021/855 of 27 May 2021 amending Decision 2013/255 (OJ 2021 L 188, p. 90) replaced the list in Annex I to Decision 2013/255 as from 29 May 2021 and extended the application of the restrictive measures in respect of the applicant until 1 June 2022.

231 Therefore, as at today's date, the applicant is subject to a further restrictive measure. It follows that the annulment of Decision 2020/719, in so far as it concerns the applicant, does not entail the removal of his name from the list in Annex I to Decision 2013/255.

232 Consequently, it is not necessary to maintain the effects of Decision 2020/719.

Costs

233 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.

234 In the present case, as the Council has been unsuccessful, it must be ordered to pay the costs, in accordance with the form of order sought by the applicant.

On those grounds,

THE GENERAL COURT (Fourth Chamber)

hereby:

1. **Annuls Council Implementing Decision (CFSP) 2020/212 of 17 February 2020 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria, Council Implementing Regulation (EU) 2020/211 of 17 February 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, Council Decision (CFSP) 2020/719 of 28 May 2020 amending Decision 2013/255/CFSP concerning restrictive measures against Syria, and Council Implementing Regulation (EU) 2020/716 of 28 May 2020 implementing Regulation No 36/2012 concerning restrictive measures in view of the situation in Syria, in so far as those measures concern Mr Abdelkader Sabra;**

2. **Orders the Council of the European Union to pay the costs.**

Gervasoni Frendo Martín y Pérez de Nanclares

Delivered in open court in Luxembourg on 16 March 2022.

E. Coulon M. van der Woude
Registrar President

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