JUDGMENT OF THE GENERAL COURT (Fourth Chamber)

24 November 2021 (*) (i)

(Common foreign and security policy – Restrictive measures adopted against Syria – Freezing of funds – Error of assessment – Proportionality – Right to property – Right to pursue an economic activity – Misuse of powers – Obligation to state reasons – Rights of the defence – Right to a fair trial)

In Case T-258/19,

Samer Foz, residing in Dubai (United Arab Emirates), represented by L. Cloquet and J.-P. Buyle, lawyers,

applicant,

v

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

defendant,

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

THE GENERAL COURT (Fourth Chamber),

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

Registrar: B. Lefebvre, Administrator,

having regard to the written part of the procedure and further to the hearing on 15 October 2020,

gives the following

Judgment

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

1 The applicant, Mr Samer Foz, is a businessperson of Syrian and Turkish nationality who carries on commercial operations in multiple sectors of Syria’s economy, with undertakings operating in the fields of commodities and foodstuff commerce, storage, transport and logistics (land and maritime), iron and steel, automotive assembly, sugar refining, medications, pharmaceuticals, cable manufacturing, grains import, grinding, real estate, hotel business and tourism.

2 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, under Article 29 TEU, Decision 2011/273/CFSP of 9 May 2011 concerning restrictive measures against Syria (OJ 2011 L 121,

p. 11). In view of the seriousness of the situation, the Council imposed an arms embargo, a ban on exports of material which might be used for internal repression, restrictions on admission to the European Union and the freezing of the funds and economic resources of certain persons and entities responsible for the violent repression against the Syrian civilian population.

3 The names of the persons responsible for the violent repression against the Syrian civilian population and of the persons, natural or legal, and entities associated with them are listed in the annex to Decision 2011/273. According to 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 in that annex when that decision was adopted.

4 Since some of the restrictive measures against the Syrian Arab Republic fall within the scope of the FEU Treaty, the Council adopted, on the basis of Article 215(2) TFEU, Regulation (EU) No 442/2011 of 9 May 2011 concerning restrictive measures in view of the situation in Syria (OJ 2011 L 121, p. 1). The content of that regulation is largely identical to that of Decision 2011/273 but provides for the release of frozen funds in certain circumstances. The list of persons, entities and bodies identified as being either responsible for the repression in question or associated with those responsible, set out in Annex II to that regulation, is identical to the list in the annex to Decision 2011/273. Under Article 14(1) and (4) of Regulation No 442/2011, where the Council decides to subject a natural or legal person, entity or body to the restrictive measures referred to, it is to amend Annex II accordingly and, furthermore, to review the list in that annex at regular intervals and at least every 12 months.

5 By Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria and repealing Decision 2011/273 (OJ 2011 L 319, p. 56), the Council considered it necessary, in view of the gravity of the situation in Syria, to impose additional restrictive measures. For the sake of clarity, the measures imposed by Decision 2011/273 were grouped together with the additional measures 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 (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), which was 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 [wa]s 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) 2019/87 of 21 January 2019 implementing Decision 2013/255 (OJ 2019 L 18 I, p. 13), and by Council Implementing Regulation (EU) 2019/85 of 21 January 2019 implementing Regulation No 36/2012 (OJ 2019 L 18 I, p. 4) (together, 'the initial measures'), the applicant's name was inserted at line 267 of Table A of the lists of the names of natural and legal persons, entities or bodies subject to restrictive measures in Annex I to Decision 2013/255 and in Annex II to Regulation No 36/2012 (together, 'the lists at issue'), with the following reasons being given:

'Leading businessperson operating in Syria, with interests and activities in multiple sectors of Syria's economy, including a regime-backed joint venture involved in the development of Marota City, a luxury residential and commercial development. Samer Foz provides financial and other support to the regime, including funding the Military Security Shield Forces in Syria and brokering grain deals. He also benefits financially from access to commercial opportunities through the wheat trade and reconstruction projects as a result of his links to the regime.'

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

14 By letters of 7, 13 and 25 February 2019, the applicant's representatives objected to the inclusion of the applicant's name on the lists at issue and asked the Council to disclose to them the documents supporting that listing.

15 By letter of 12 March 2019, first, the Council informed the applicant's representatives that, in essence, their observations were not such as to call into question the decision to include the applicant's name on the lists at issue. Secondly, the Council provided them with the document bearing the reference WK 46/2019 INIT, dated 10 January 2019, containing the evidence in support of the reasons for that listing.

16 On 17 May 2019, the Council adopted Decision (CFSP) 2019/806 amending Decision 2013/255 (OJ 2019 L 132, p. 36), which extended the application of the latter decision until 1 June 2020; on the same day, the Council also adopted Implementing Regulation (EU) 2019/798 implementing Regulation No 36/2012 (OJ 2019 L 132, p. 1) (together, 'the 2019 maintaining acts'). The applicant's name was maintained at a different line, line 285 of Table A of the lists at issue.

17 By letter of 20 May 2019, the Council informed the applicant's representatives of the adoption of the 2019 maintaining acts and of the possibility of submitting a request, before 28 February 2020, that the decision to maintain the applicant's name on the lists at issue be reconsidered.

18 By letter of 28 February 2020, the applicant, through his representatives, objected to his name being maintained on the lists at issue.

19 On 28 May 2020, the Council adopted Decision (CFSP) 2020/719 amending Decision 2013/255 (OJ 2020 L 168, p. 66), which extended the application of the latter decision until 1 June 2021, and Implementing Regulation (EU) 2020/716 implementing Regulation No 36/2012 (OJ 2020 L 168, p. 1) (together, 'the 2020 maintaining acts').

20 By letter of 2 June 2020, the Council informed the applicant's representatives of the adoption of the 2020 maintaining acts and of the possibility of submitting a request, before 1 March 2021, that they be reconsidered. The Council also informed the applicant's representatives that, in essence, the observations submitted in his letter of 28 February 2020 were not such as to call into question the decision to maintain the applicant's name on the lists at issue.

Procedure and forms of order sought

21 By application lodged at the Court Registry on 15 April 2019, the applicant brought the present action for annulment of the initial measures in so far as they concern the applicant.

22 By separate document lodged at the Court Registry on 30 July 2019, the applicant modified the application under Article 86 of the Rules of Procedure of the General Court, with the result that the application also seeks annulment of the 2019 maintaining acts in so far as they concern the applicant. The applicant reiterated the form of order set out in the application.

23 On 5 August 2019, the Council lodged the defence and the observations on the first statement of modification at the Court Registry.

24 The reply was lodged on 1 October 2019.

25 By decision of 17 October 2019, the President of the General Court, pursuant to Article 27(3) of the Rules of Procedure, reassigned the case to a new Judge-Rapporteur attached to the Fourth Chamber.

26 The rejoinder was lodged on 8 January 2020.

27 The written part of the procedure was closed on 8 January 2020.

28 By way of measures of organisation of procedure provided for in Article 89(3)(a) and (d) of the Rules of Procedure, on 22 July 2020, the Court asked the parties to answer a series of questions and to produce certain documents. The parties answered the questions and complied with the request for production of documents within the prescribed period.

29 By separate document lodged at the Court Registry on 13 August 2020, the applicant, under Article 86 of the Rules of Procedure, modified the application a second time, with the result that the application also seeks annulment of the 2020 maintaining acts in so far as they concern the applicant. The applicant also reiterated the form of order set out in the application and in the first statement of modification and put forward new arguments.

30 The parties presented oral argument and replied to the questions put by the Court at the hearing on 15 October 2020, at which the Council also submitted its observations on the second statement of modification.

31 The applicant claims that the Court should:

– annul the initial measures, the 2019 maintaining acts and the 2020 maintaining acts (together, ‘the contested measures’) in so far as they concern the applicant;

– order the Council to pay the costs.

32 The Council contends that the Court should:

– dismiss the action;

– order the applicant to pay the costs;

– in the alternative, should the Court annul the contested measures in so far as they concern the applicant, order that the effects of Implementing Decision 2019/87 and of Decisions 2019/806 and 2020/719 be maintained in so far as they concern the applicant, until the annulment of Implementing Regulations 2019/85, 2019/798 and 2020/716 takes effect in so far as they concern the applicant.

Law

33 In support of his action, the applicant relies on six pleas in law, alleging (i) an error of assessment; (ii) infringement of the principle of proportionality; (iii) infringement of the right to property and the freedom to

pursue an economic activity; (iv) ‘abuse of power’; (v) infringement of the obligation to state reasons; and, lastly, (vi) infringement of the rights of the defence and of the right to a fair trial.

34 It is appropriate to examine, first of all, the fifth plea and then the sixth plea, before examining the first plea, the fourth plea and, lastly, the second and third pleas taken together.

The fifth plea, alleging infringement of the obligation to state reasons

35 The applicant submits that the statement of reasons provided by the Council does not satisfy the obligation incumbent on the EU institutions under the second paragraph of Article 296 TFEU. Specifically, the applicant claims that the statement of reasons adopted in the contested measures does not enable him to identify the disputed transactions. Furthermore, he adds that the Council did not ‘genuinely’ examine the statement of reasons adopted, which is ‘purely formal’ and was not properly thought out by the Council.

36 The Council disputes the applicant’s arguments.

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

38 It should also be noted that the statement of reasons required by Article 296 TFEU must be appropriate to the measure at issue and must disclose in a clear and unequivocal fashion the reasoning followed by the institution which adopted the measure in such a way as to enable the persons concerned to ascertain the reasons for the measure and to enable the court having jurisdiction to exercise its power of review (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 61 and the case-law cited).

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

40 However, the requirements to be satisfied by the statement of reasons depend on the circumstances of each case, in particular the content of the measure in question, the nature of the reasons given and the interest which the addressees of the measure may have in obtaining explanations (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 64 and the case-law cited).

41 It is not necessary for the reasoning to go into all the relevant facts and points of law, inasmuch as the question whether the statement of reasons for a measure meets the requirements of Article 296 TFEU must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question (see judgment of 13 September 2013, *Makhlouf* v *Council*, T-383/11, EU:T:2013:431, paragraph 65 and the case-law cited).

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

43 Lastly, it should be borne in mind that the obligation to state the reasons on which an act is based is an essential procedural requirement, to be distinguished from the question whether the reasons given are correct, which goes to the substantive legality of the contested act. The reasoning on which an act is based consists in a formal statement of the reasons on which that act is based. If those reasons are vitiated by errors, the latter will

vitiate the substantive legality of the act, but not the statement of reasons in it, which may be adequate even though it sets out reasons which are incorrect (see judgment of 5 November 2014, *Mayaleh* v *Council*, T-307/12 and T-408/13, EU:T:2014:926, paragraph 96 and the case-law cited).

44 In the present case, first, it should be noted that the applicant's argument that the Council did not carefully examine the statement of reasons adopted seeks, in fact, to challenge the factual evidence relied on by the Council. Since that argument seeks to call into question not the sufficiency of the statement of reasons for the contested measures specifically, but rather the status of leading businessperson operating in Syria and the existence of links between the applicant and the Syrian regime, it must be examined in the context of the first plea, alleging an error of assessment.

45 Secondly, as regards the reasons why the restrictive measures concerning the applicant were adopted and maintained, it should be noted that the reasons for listing the applicant's name have remained unchanged since the adoption of the initial measures, since they were not amended when either the 2019 maintaining acts or the 2020 maintaining acts were adopted. Thus, the Council gave the following reasons for including the applicant's name on the lists at issue:

'Leading businessperson operating in Syria, with interests and activities in multiple sectors of Syria's economy, including a regime-backed joint venture involved in the development of Marota City, a luxury residential and commercial development. Samer Foz provides financial and other support to the regime, including funding the Military Security Shield Forces in Syria and brokering grain deals. He also benefits financially from access to commercial opportunities through the wheat trade and reconstruction projects as a result of his links to the regime.'

46 First of all, it should be recalled that the general listing criteria laid down in Articles 27(1) and 28(1) of Decision 2013/255, as amended by Decision 2015/1836, which are reproduced, as regards the freezing of funds, in Article 15(1)(a) of Regulation No 36/2012, as amended by Regulation 2015/1828, provide that persons and entities benefiting from or supporting the Syrian regime are to be subject to restrictive measures. Similarly, Article 27(2)(a) and (3) and Article 28(2)(a) and (3) of Decision 2013/255, as amended by Decision 2015/1836, which are reproduced, as regards the freezing of funds, in Article 15(1a)(a) and (1b) of Regulation No 36/2012, as amended by Regulation 2015/1828, provide that the category of 'leading businesspersons operating in Syria' is to be 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.

47 It should be inferred from the reasons for including the applicant's name on the lists at issue, referred to in paragraphs 12 and 45 above, that the applicant's name was included and maintained on the lists at issue because of, first, his status as a leading businessperson operating in Syria and, secondly, his links to the Syrian regime. In other words, the listing of the applicant's name is based, first, on the criterion defined in Articles 27(2)(a) and 28(2)(a) of Decision 2013/255, as amended by Decision 2015/1836, and in Article 15(1a)(a) of Regulation No 36/2012, as amended by Regulation 2015/1828 (criterion of a leading businessperson operating in Syria), and, secondly, on the criterion defined in Articles 27(1) and 28(1) of that decision and in Article 15(1)(a) of that regulation (criterion of association with the regime).

48 Next, it should be noted that the actual and specific reasons which led the Council to include and maintain the applicant's name on the lists at issue are stated sufficiently clearly to enable the applicant to understand them. Those reasons relate to clear facts concerning the applicant, namely, first, his interests and activities in Syria's economy, including his participation in a joint venture backed by the Syrian regime and involved in the development of the Marota City project, secondly, the financial and other support he provides to the Syrian regime, including funding the Military Security Shield Forces and brokering grain deals, and, lastly, thirdly, the financial benefits he derives from access to commercial opportunities and reconstruction projects as a result of his links to the Syrian regime.

49 Moreover, the pleas and arguments raised by the applicant in his pleadings indicate, first, that he was put in a position to ascertain the reasons for the measures concerning him so as to be able to challenge them

effectively before the EU judicature and, secondly, that he was aware of the context in which the measures were adopted.

50 Lastly, the fact that the Council failed to set out in detail the disputed transactions which led to the applicant's name being included on the lists at issue cannot lead to a finding that it infringed its obligation to state reasons, since, in accordance with the case-law referred to in paragraphs 41 and 42 above, the Council is not required to specify all the relevant facts and points of law and the applicant was put in a position to understand the scope of the measures concerning him.

51 It must be concluded that the statement of the reasons on which the contested measures are based is comprehensible and sufficiently precise to enable the applicant to ascertain the reasons which led the Council to take the view that including and maintaining his name on the lists at issue was justified and to challenge their legality before the EU judicature, and to enable the latter to exercise its power of review.

52 In the light of the foregoing, the fifth plea must be rejected.

The sixth plea, alleging infringement of the rights of the defence and the right to a fair trial

53 The applicant submits, in essence, that the contested measures infringe his rights of the defence and his right to a fair trial, as provided for in Article 48(2) of the Charter of Fundamental Rights of the European Union ('the Charter') and Article 6(3) of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, in so far as the Council failed to hear him before those measures were adopted.

54 In that regard, the applicant claims that he was unable to submit his observations in a timely fashion, that is to say, prior to the adoption of the contested measures. In his view, there was no urgency or any risk that he would compromise the effectiveness of the contested measures by being heard prior to their adoption. By contrast, the opportunity to be heard a posteriori did not prevent him from suffering losses.

55 The Council disputes the applicant's arguments.

56 It should be borne in mind that observance of the rights of the defence includes, inter alia, the right to be heard, which is enshrined in Article 41(2)(a) of the Charter (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 99 and the case-law cited).

57 Article 52(1) of the Charter nevertheless allows limitations on the exercise of the rights enshrined in the Charter, provided that the limitation concerned respects the essence of the fundamental right in question and, subject to the principle of proportionality, that it is necessary and genuinely meets objectives of general interest recognised by the European Union (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 101 and the case-law cited).

58 Lastly, the question whether there is an infringement of the rights of the defence must be examined in relation to the specific circumstances of each particular case, including the nature of the act at issue, the context of its adoption and the legal rules governing the matter in question (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 102 and the case-law cited).

59 It is in the light of that case-law that the sixth plea must be examined.

60 It should be borne in mind that the EU judicature distinguishes between, on the one hand, the initial entry of a person's name on the lists imposing restrictive measures and, on the other, the maintenance of that person's name on those lists (judgment of 30 April 2015, *Al-Chihabi* v *Council*, T-593/11, EU:T:2015:249, paragraph 40).

61 First, as regards the initial measures, including the applicant's name on the lists at issue, the EU authorities cannot be required to communicate the reasons for those measures before the name of a person or entity is

entered on the lists imposing restrictive measures for the first time (see, to that effect, judgment of 21 January 2015, *Makhlouf* v *Council*, T-509/11, not published, EU:T:2015:33, paragraph 34 and the case-law cited).

62 So that its effectiveness may not be jeopardised, such a measure must, by its very nature, be able to take advantage of a surprise effect and to apply immediately. In such a case, it is as a rule enough if the institution notifies the person or entity concerned of the reasons and affords it the right to be heard at the same time as, or immediately after, the decision is adopted (judgment of 21 December 2011, *France* v *People's Mojahedin Organization of Iran*, C-27/09 P, EU:C:2011:853, paragraph 61).

63 In the present case, the notification of the reasons for including the applicant's name on the lists at issue was published in the *Official Journal of the European Union* on 22 January 2019.

64 In addition, by letters of 7, 13 and 25 February 2019, the applicant's representatives, in essence, asked the Council to disclose to them the documents in support of the inclusion of the applicant's name on the lists at issue, which the Council did by letter of 12 March 2019.

65 Therefore, it must be held that, in the present case, the fact that the applicant was not heard prior to the initial entry of his name on the lists at issue constitutes a justified limitation of his rights of the defence within the meaning of the case-law cited in paragraph 57 above.

66 That conclusion cannot be invalidated by the applicant's unsubstantiated argument that there was no urgency or any risk of him compromising the effectiveness of the contested measures by being heard prior to their adoption, while the opportunity to be heard a posteriori did not prevent him from suffering losses.

67 Secondly, as regards the 2019 maintaining acts and the 2020 maintaining acts, it should be borne in mind that, in the case of acts by which the name of a person or entity already included on the lists imposing restrictive measures is maintained, the surprise effect is no longer necessary in order to ensure that those acts are effective, with the result that the adoption of such decisions must, in principle, be preceded by notification of the incriminating evidence and by affording the person or entity concerned an opportunity to be heard (see, to that effect, judgment of 21 December 2011, *France* v *People's Mojahedin Organization of Iran*, C-27/09 P, EU:C:2011:853, paragraph 62).

68 In that regard, the Court of Justice has made clear that the element of protection afforded by the requirement of notification of incriminating evidence and the right to make representations before the adoption of decisions maintaining the name of a person or entity on a list of persons or entities subject to restrictive measures is fundamental and essential to the rights of the defence. This is all the more the case because the restrictive measures in question have a considerable effect on the rights and freedoms of the persons and groups concerned (judgment of 21 December 2011, *France* v *People's Mojahedin Organization of Iran*, C-27/09 P, EU:C:2011:853, paragraph 64).

69 However, where maintaining the name of the person or entity concerned on a list of persons or entities subject to restrictive measures is based on the same reasons as those which justified the adoption of the initial measure without new evidence being adduced, the Council is not obliged, in order to respect the right of that person or entity to be heard, to notify it again of the evidence adduced against it (see, to that effect, judgment of 7 April 2016, *Central Bank of Iran* v *Council*, C-266/15 P, EU:C:2016:208, paragraphs 32 and 33 and the case-law cited). There is a requirement to notify incriminating evidence, however, where there is new evidence on which the Council relies in order to update the information concerning the personal situation of the person or entity concerned or the political and security situation in the country against which the restrictive measures regime was adopted (see, to that effect, judgment of 12 February 2020, *Kande Mupompa* v *Council*, T-170/18, EU:T:2020:60, paragraph 72).

70 In the present case, it should be borne in mind that, as indicated in paragraph 45 above, first, the 2019 maintaining acts and the 2020 maintaining acts did not change the reasons for listing the applicant's name set out in the annexes to the initial measures. In addition, by letter of 12 March 2019, that is to say, before the adoption

of the abovementioned acts, the Council sent to the applicant's representatives document WK 46/2019 INIT, containing the evidence supporting the reasons for the initial inclusion of his name on the lists at issue.

71 Secondly, the Council, in response to the measures of organisation of procedure, stated that it had not collected new evidence in connection with the applicant in support of the reasons for including the applicant's name on the lists at issue between the date of adoption of the initial measures and that of the 2019 maintaining acts. At the hearing, the Council added that it had not collected new evidence between the date of adoption of the latter acts and that of the 2020 maintaining acts either. In addition, there is nothing in the file to indicate that the Council took into consideration information updating the political and security situation in Syria between the date of adoption of the initial measures and that of the 2019 maintaining acts and of the 2020 maintaining acts.

72 At the hearing, the applicant complained that the Council had failed to notify him of new evidence justifying maintaining his name on the lists at issue before the adoption of the acts deciding to maintain his name.

73 That argument of the applicant concerns, in actual fact, not the right to be heard but the question whether the evidence on which the Council relied to adopt Decisions 2019/806 and 2020/719 and Implementing Regulations 2019/798 and 2020/716 is relevant. The Court finds that it is appropriate to examine that argument in the context of the analysis of the first plea, alleging an error of assessment.

74 Accordingly, it follows from the foregoing that the Council did not infringe the applicant's rights of the defence in such a way as to justify the annulment of the 2019 maintaining acts and the 2020 maintaining acts in so far as they concern the applicant.

75 In the light of the foregoing, the sixth plea must be rejected.

The first plea, alleging an error of assessment

76 The applicant does not deny being a businessperson operating in Syria, but he disputes, first, being a 'leading' businessperson and, secondly, having any links to the Syrian regime.

77 In the first place, the applicant submits that he is not a 'leading' businessperson. He considers, to that effect, that the Council seems to have mixed the concept of 'leading' businessperson, which implies belonging to the inner cadre of businesspersons exercising influence on the Syrian regime, on the one hand, and that of an important businessperson, which is linked to the size of the business owned or managed, on the other hand. He adds, moreover, that 'the volume of [his] economic activities cannot be considered an indicator for an economic façade for the Syrian regime'.

78 On that basis, the applicant disputes the evidence relied on by the Council to include him on the lists at issue. First, he claims, in essence, that neither the joint venture involved in the Marota City project, Aman Dimashq JSC, nor the project itself are backed by the Syrian regime. Secondly, he denies funding the Military Security Shield Forces in Syria. Thirdly, the applicant disputes brokering grain deals. Fourthly, he claims that he did not acquire the companies of other leading businesspersons by pressuring them with the support of the regime and, fifthly, he denies benefiting financially from access to commercial opportunities and reconstruction projects as a result of his links to the regime.

79 In the second place, the applicant denies having any links to the Syrian regime or the Al-Assad family. He adds, to that effect, that there are profound dissensions between his family and the Al-Assad family. In that regard, the applicant criticises the Council, in essence, for failing to provide any proof of his proximity to the regime or of his alleged influence over it.

80 The Council disputes the applicant's arguments.

Preliminary observations

81 It should be borne in mind that the effectiveness of the judicial review guaranteed by Article 47 of the Charter requires, inter alia, that the EU judicature ensure that the decision by which restrictive measures were adopted or maintained, which affects the person or entity concerned individually, is taken on a sufficiently solid factual basis. That entails a verification of the factual allegations in the summary of reasons underpinning that decision, with the consequence that the judicial review is not limited to the assessment of the cogency in the abstract of the reasons relied on, but focuses on 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).

82 It is for the EU judicature, in order to carry out that examination, to request the competent EU authority, when 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).

83 It is the task of the competent EU 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).

84 For that purpose, there is no requirement that that authority produce before the EU judicature all the information and evidence underlying the reasons alleged in the measure sought to be annulled. 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).

85 If the competent EU authority provides relevant information or evidence, the EU judicature 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).

86 In accordance with the Court of Justice's case-law, the assessment as to whether a listing was well founded 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).

87 Lastly, 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 to stop the violent repression against the population and of the difficulty of 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).

88 It should be borne in mind, as is apparent from paragraphs 46 and 47 above, that the listing of the applicant's name is based, first, on the criterion defined in Articles 27(2)(a) and 28(2)(a) of Decision 2013/255, as amended by Decision 2015/1836, and in Article 15(1a)(a) of Regulation No 36/2012, as amended by Regulation 2015/1828 (criterion of a leading businessperson operating in Syria), and, secondly, on the criterion defined in Articles 27(1) and 28(1) of that decision and in Article 15(1)(a) of that regulation (criterion of association with the regime).

89 It is in the light of those considerations that it is necessary to examine the applicant's first plea and, first of all, his arguments seeking, in essence, to call into question the first reason for listing, namely that the applicant is a leading businessperson operating in Syria.

The evidence submitted by the Council

90 In order to justify including and maintaining the applicant's name on the lists at issue, the Council produced document WK 46/2019 INIT, containing publicly available information, namely links to websites, press articles and screenshots from:

– the website 'The Syria Report', which includes, in the first place, an article published on 19 April 2018, headed 'Factsheet: Samer Foz, Syria's Most Powerful Businessman', which states that the applicant became one of the most powerful players in the Syrian economy; he is believed to have close ties to President Bashar Al-Assad and to have acted as intermediary between the Democratic Union Party (Syrian Kurdistan) (PYD) and the Islamic State to trade wheat; that article also states that the applicant is responsible for the day-to-day management of Aman Holding, which was established in 1988 by his father; according to that article, in June 2017 Aman Holding acquired the Hamisho Group and created a joint venture called Emmar Industries; the article also states that Aman Holding, together with Damascus Cham Holding, established a joint venture called Aman Dimashq, with a capital of 10 thousand million Syrian pounds (SYP) (approximately 18.9 million United States dollars (USD) and approximately EUR 16.8 million); that joint venture was responsible for developing construction projects, including the 'Basateen Al-Razi' project in the Mazeeh neighbourhood of Damascus (Syria), which is now referred to as the 'Marota City project', on expropriated land that was inhabited by people who supported the opposition to the Syrian regime; in addition, according to that article, the applicant created Mena, a company with a capital of SYP 25 thousand million (USD 47.16 million (approximately EUR 42.04 million)) to build a sugar refinery; it is also stated that the applicant invested, through Aman Holding, in the pharmaceutical field and that he acquired 55% of the shares in the Four Seasons hotel in Damascus; lastly, according to that article, in April 2018, the applicant announced the signature of an agreement with a renowned car manufacturer to sell and distribute commercial vehicles, being the fourth agreement of that type after the applicant entered into agreements with three other car manufacturers; all of those contracts are particularly relevant in view of the fact that the Syrian regime banned car imports in 2016; in the second place, in two other articles, one of 16 January 2018 headed 'Syrian Investor Signs Deal Over [Basateen] Al-Razi Project', and the other of 1 June 2018 headed 'Factsheet: Marota City, Syria's Most Controversial Investment Project', it is stated that the development project for the upscale city referred to as 'Marota City' is a project backed by the Syrian regime under Decree No 66/2012, which allowed the expropriation and redevelopment of certain lower socio-economic tiers of land, including the Mazeeh neighbourhood, called Basateen Al-Razi, situated in Damascus; Marota City is the new name given to the neighbourhood covering an area of 2.15 million square metres; that area is located at the south-west entrance to the capital Damascus and is close to the city centre, the embassies and the security services, which makes it attractive to real estate developers; those articles also state that private company Damascus Cham Holding is owned by the Damascus Governorate and created, with the applicant in July 2017, the joint venture Aman Dimashq, with a capital of SYP 10 thousand million; those articles add that Aman Holding owns the majority share in the joint venture and has three representatives on its board of directors; in addition, it is stated that, in September 2017, Damascus Cham Holding granted the applicant the right to build 3 skyscrapers with up to 70 floors each and 5 residential buildings, valued at USD 312 million (approximately EUR 278.1 million); lastly, according to those articles, the applicant has become one of the most powerful economic players and his ascent to the upper echelons of Syria's business elite is attributed to his close ties to President Bashar Al-Assad; in the third place, a list of joint ventures created between Damascus Cham Holding and private investors, published on 17 April 2018, includes Aman Dimashq, which was created in September 2017 by, on the one hand, the applicant, as sole shareholder of the latter through Aman Holding, and, on the other, the company owned by the Damascus Governorate, Damascus Cham Holding, in order to develop the Marota City project; it is stated that the applicant owns the majority share in that joint venture; Aman Dimashq has a capital of USD 18.9 million; the list of projects developed by that joint venture is set out in detail and reference is made to the development of three skyscrapers and five residential buildings, with a total investment cost of SYP 150 thousand million (approximately USD 312 million);

– the website of the newspaper *Arabisk London*, which published, on 5 June 2017, an interview with the applicant in which he declared that Aman Holding operated inter alia in trade, investment, industry and transport in Turkey, Lebanon and the United Arab Emirates; furthermore, the applicant asserts that Aman Holding continues to operate in Syria and that he would not hesitate to participate in the reconstruction works in Syria;

– the website ‘Factiva’, which describes, on a webpage of 14 June 2018, Aman Holding, based in Latakia (Syria) and created in 1988, as an entity with interests, primarily, in highway, street and bridge constructions as well as, accessorily, in commercial services, consulting and management;

– the website ‘Reuters’, which states, in an article published on a page accessed on 14 June 2018, that Aman Holding acts on behalf of the Syrian regime in grain deals; in particular, according to that article, that group, run by the Foz family from the coastal city of Latakia, brokers grain deals for Hoboob, a company owned by the Syrian State; it also states that Aman Holding’s website confirms that that group imported wheat into Syria in 2013;

– the website ‘Syrian Law Journal’ which, on a page of 14 May 2018, reveals that Decree No 66/2012 laid down the zoning requirements for the areas of Damascus that would be allocated to the Marota City project; Decree No 19/2015, for its part, enabled private companies to be established by public entities with the aim of managing and investing the assets belonging to the various governorates; according to that source, the Damascus Governorate was therefore able to create, in 2016, Damascus Cham Holding with the aim of developing the Marota City project; it is stated that the Damascus Governorate wholly owns Damascus Cham Holding and the Governor of Damascus is the chairman of that company;

– the Syrian Government’s website ‘66.damascus.gov.sy’, which, on a page dated 18 September 2012, reproduces the part of Decree No 66/2012 identifying the two areas in Damascus designated for a residential and commercial development project;

– the website ‘The Foundation for Strategic Research’, which, in an article published in April 2018, sets out the motives behind the adoption of Decree No 66/2012; that source states that, according to the Syrian authorities, Decree No 66/2012 sought to improve the living conditions of inhabitants by replacing poorly constructed properties with more modern and comfortable ones; according to that article, only two residential areas of Damascus, the inhabitants of which supported the opposition, were designated in that decree, while the decree left intact neighbourhoods of Damascus where the inhabitants live in similar conditions, but, by contrast, supported the Syrian regime; lastly, the article states that the decree will facilitate the rapid development of major development projects as a source of enrichment for businesspersons close to the regime, while serving as a punitive instrument against sections of the population opposed to the Syrian regime;

– the website ‘The Syrian Observer’, which, in an article published on 6 April 2018, headed ‘Alliance of Companies Monopolizes New Damascus Development Organizations’, states that businesspersons close to the Syrian regime are investing in new development projects driven by that regime in Damascus and its suburbs; according to that source, those businesspersons are selected by the Syrian regime on the basis of their obedience, loyalty and foreign business links;

– the website ‘Brookings Institution’, which published a report dated June 2018 and headed ‘Beyond Fragility: Syria and the Challenges of Reconstruction in Fierce States’ referring to the measures adopted by the Syrian regime, including Decree No 66/2012, in order to seize land and property, punish opponents, reward persons close to the Syrian regime and governors, reassert authority in the territory, tighten control over the Syrian economy and ‘alter’ Syria’s demography to achieve what Mr Bashar Al-Assad has described as a ‘healthier and more homogeneous society’; according to that report, the Syrian regime, on the basis of new and pre-existing legislation, expropriated neighbourhoods in Damascus that were known as pro-opposition areas and property belonging to displaced persons suspected of supporting the opposition in order to benefit certain businesspersons; lastly, according to that article, the development project for the luxury city ‘Marota City’ is cited in that report as the most vivid example of that policy;

– the website ‘Atlantic Council’, which, in an article published on 7 March 2018, describes the applicant as a businessperson close to the Syrian regime which is involved in the Marota City project and has become one of Syria’s most powerful businesspersons during the war years;

– the website ‘Eqtsad News’, which, in an article published on 14 January 2018 headed ‘You Know Them … Big Businessmen Are Sharing A Project Behind Al-Razi’, describes the Marota City project as a project

backed by the Syrian regime through which the regime is supporting loyal businesspersons; according to that article, the applicant signed a contract with the Damascus province involving an investment of SYP 150 thousand million in the construction of a number of buildings;

– the website ‘News Deeply’, which states, in an article published on 5 June 2017, that Aman Holding, managed by the applicant, announced the creation of Aman Dimashq with a capital of USD 18.9 million to develop several buildings on expropriated land in the Mazeeh neighbourhood in Damascus;

– the website ‘Open Democracy’, which, in an article published on 5 September 2017 headed ‘Militias and Crony Capitalism to Hamper Syria Reconstruction’, mentions that, in August 2017, Aman Holding, managed by the applicant, who has close links to the Syrian regime, announced its contribution to the reconstruction of the Basateen Al-Razi area in the Mazeeh neighbourhood of Damascus, in partnership with the Damascus Governorate through its company Damascus Cham Holding; according to the article, Aman Dimashq, a joint venture established by Aman Holding, was created to carry out that project and has a capital of USD 18.9 million;

– the website ‘Zaman al-Wasl’, which, on a page dated 25 March 2016, describes the applicant as the most powerful Syrian economic player in the country; in addition, according to that article, the applicant invests in a company licensed exclusively to produce sugar; it is also stated that the applicant benefited from the sale by auction of property owned by opponents to the Syrian regime and from the acquisition of property belonging to businesspersons marginalised by the Syrian regime; it is also clear from that article that the applicant imports and distributes goods according to the demands of the Syrian regime; lastly, that article refers to the applicant as the founder of a group called ‘Military Security Shield Forces’, which fought alongside President Bashar Al-Assad in Latakia;

– the website ‘Orient News’, which, in an article published on 7 April 2018, states that the Military Security Shield Forces is a paramilitary group created in January 2016 by members of the regime referred to as ‘Shabiha’ and friends of the founders of ‘Military Intelligence Division 223’ in Latakia; the article also states that the members of that group are deployed in all the regions which are controlled by the regime and, in particular, the regions of Deir Ezzor, Hama and Palmyra (Syria);

– the website ‘Sasa Post’, which, in an article published on 7 April 2018, states that the applicant funded the Military Security Shield Forces, which is described as a paramilitary group belonging to the ‘Military Intelligence Division’.

The relevance of the evidence produced by the Council

91 As pointed out in paragraph 72 above, the applicant complains that the Council failed to notify him of new evidence before the adoption of Decisions 2019/806 and 2020/719 and of Implementing Regulations 2019/798 and 2020/716. The applicant maintains that the Council’s failure to produce new evidence is ‘peculiar’ given his importance in the Council’s eyes and in so far as, first, the Council has not replied to the evidence the applicant provided and, secondly, it is usual for the Council to gather additional evidence when it decides to renew restrictive measures.

92 It should be noted, first, that, as set out in paragraphs 15 and 20 above and contrary to what the applicant seems to claim, the Council has replied to the applicant’s requests for reconsideration by informing him that his observations were not such as to call into question the inclusion of his name on the lists at issue.

93 In addition, both the question of whether the Council’s conduct is peculiar or usual and the applicant’s alleged importance to the Council in the context of the adoption of the restrictive measures against Syria have no bearing on the relevance of the evidence produced by the Council in order to form the basis for the adoption of the contested measures.

94 Lastly, in any event, it must be pointed out that, according to case-law, in order to justify maintaining a person’s name on the lists imposing restrictive measures, the Council is not prohibited from basing its decision

on the same evidence justifying the initial inclusion, re-inclusion or previous retention of the applicant's name on the lists in question, provided that, first, the reasons for inclusion remain unchanged and, secondly, the context has not changed in such a way that that evidence is now out of date (judgment of 23 September 2020, *Kaddour* v *Council*, T-510/18, EU:T:2020:436, paragraph 99).

95 In the present case, as set out in paragraphs 45 and 70 above, the reasons for including the applicant's name on the lists at issue have remained unchanged since the adoption of Implementing Decision 2019/87 and Implementing Regulation 2019/85. Next, first, it is clear that the situation in Syria saw no improvement between January and May 2019, then between May 2019 and May 2020, which is not disputed by the applicant either. Secondly, neither is there anything in the file to indicate that the applicant's situation changed, during those periods, in such a way that the evidence submitted by the Council is now out of date.

96 Therefore, the Council was not required to adduce evidence in addition to that communicated to the applicant on 12 March 2019 on account of the changes in the applicant's situation or that of Syria.

The reliability of the evidence produced by the Council

97 The applicant disputes the reliability of the evidence submitted by the Council in document WK 46/2019 INIT, claiming that that document is merely a compilation of screenshots of partisan websites and press articles, devoid of any probative value and not 'seriously documented'.

98 Specifically, first, concerning the website 'Brookings Institution', the applicant submits that the State of Qatar is one of the largest donors of that institution and that, since he resides in Dubai (United Arab Emirates), he falls under the criticism from that institution in the context of the opposition between his country of residence, the United Arab Emirates, and the State of Qatar on numerous political issues.

99 Secondly, concerning the website 'Arabisk London', the applicant points out, first of all, that that publication is clearly a 'light' infotainment magazine. In addition, he has doubts as to how the magazine's funding and operating model impacts its credibility and reporting strategy. In that respect, according to the applicant, that funding model comes from 'an advertising agency'. That magazine is thus financed 'from the income generated by [that] agency'. The operating model consists in using 'a database including nearly 5 000 business people that act both as sources for news and as consumers of the publication's content'.

100 Thirdly, concerning the website 'The Syrian Observer', the applicant states, first of all, that it is a Syrian news publication company which claims to be 'editorially and politically independent'. Next, the applicant submits that the main function of that website is to translate articles from Syrian publications into English without, however, verifying the content of those publications. That website also states that it does not endorse the viewpoints expressed in the abovementioned publications. Furthermore, according to that website, articles are selected on the basis of two criteria, namely the seriousness of the publication and the extent to which the article reflects the authors' political positions.

101 Fourthly, concerning the website 'The Syria Report', the applicant notes, first of all, that that Syrian news website is structured around a 'large database of news, data and statistics, including a database of Syrian institutions'. It is, primarily, an economic news bulletin. Next, the applicant states that A is the founder and editor of the website 'The Syria Report' as well as co-founder of the website 'The Syrian Observer'. According to the applicant, that explains why the websites 'The Syria Report' and 'The Syrian Observer' often publish the same information and opinions in different forms and in different publications. In so doing, those websites give the impression that the published information is widely shared by different media and could therefore be considered as objective. Furthermore, the applicant expresses doubts as to the integrity of A, who, according to the applicant, in his capacity as visiting fellow at the European Council on Foreign Relations, works closely with the EU institutions, including the Council, on issues concerning Syria, in particular in view of the fact that he has published reports on Syria's war economy and decentralisation during the war. In that context, the applicant claims, in essence, that the Council uses its links to A in order to obtain articles supporting the policies that it intends to apply before those articles are published on those websites, in order to use them subsequently as justification for restrictive measures to be adopted or for newly adopted ones. In support of that claim, the

applicant produces a page taken from the website ‘News Deeply’ containing a short description of A and an article headed ‘Analysis: No Funds to Foot Syria’s Reconstruction Bill’. Lastly, the applicant submits that the website ‘The Syria Report’ failed to comply with journalistic rules of professional conduct, since it never approached the applicant in order to verify the content of the information published on its website or to seek his views on that information.

102 Fifthly, concerning the website ‘Zaman al-Wasl’, the applicant submits, in essence, that that website is biased in its news coverage, in so far as it reflects the opinions of the part of the opposition to the Syrian regime sponsored by Turkey. Specifically, according to the applicant, that site focuses on ‘demonising’ Syrians who stayed neutral during the war in Syria. In addition, the applicant submits that the news published on that site are often unverified, unreliable and lack any objectivity. Lastly, according to the applicant, that website has an appetite for ‘sensationalism’.

103 Lastly, sixthly, concerning the website ‘Orient News’, the applicant notes, first of all, that the media group Orient News is owned by B, a Syrian businessperson and controversial figure of the Syrian opposition, who has a very bad reputation, even within the Syrian opposition. According the applicant, the website ‘Orient News’ is the biggest supporter and sympathiser of fanatic and terrorist armed groups in Syria and foreign fighters operating in the Syrian province of Idlib. In that regard, that media is, according to the applicant, sectarian and promotes hatred and vengeance against other religions.

104 In the reply to the measures of organisation of procedure adopted by the Court, the Council maintains that it has no information concerning the sources on which it relied other that what can be inferred from document WK 46/2019 INIT. Next, it reproduces information that is publicly available on the internet concerning the websites ‘The Syria Report’, ‘Arabisk London’, ‘Reuters’, ‘Syrian Law Journal’, ‘The Foundation for Strategic Research’, ‘The Syrian Observer’, ‘Brookings Institution’, ‘Atlantic Council’, ‘Eqtsad News’, ‘News Deeply’, ‘Open Democracy’, ‘Zaman al-Wasl’ and ‘Orient News’.

105 It should be recalled, first, that in carrying out the assessment of the importance of what was at stake, which forms part of the review of the proportionality of the restrictive measures 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).

106 Secondly, pursuant to 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 it is only the reliability of the evidence before them which is decisive when it comes to the assessment of its value. In addition, in order to assess the probative value of a document, regard should be had to the credibility of the account it contains, and in particular to the person from whom the document originates, the circumstances in which it came into being, the person to whom it was addressed and whether, on its face, the document appears to be sound and reliable (see, to that effect, judgments of 14 March 2018, *Kim and Others* v *Council and Commission*, T-533/15 and T-264/16, EU:T:2018:138, paragraph 224, and of 12 February 2020, *Kande Mupompa* v *Council*, T-170/18, EU:T:2020:60, paragraph 107 (not published)).

107 In the present case, as regards the applicant’s argument that most of the press articles are not ‘seriously documented’, it should be pointed out that the state of war in Syria makes it difficult, if not impossible, in practice, to gather evidence from persons who are prepared to be identified and the ensuing difficulties of investigation and the danger to which those providing information are exposed constitute a barrier to the production of precise sources of personal conduct in support of the regime (see, to that effect, judgment of 21 April 2015, *Anbouba* v *Council*, C-605/13 P, EU:C:2015:248, paragraph 46, and Opinion of Advocate General Bot in *Anbouba* v *Council*, C-605/13 P and C-630/13 P, EU:C:2015:2, point 204).

108 Furthermore, it should be observed, first of all, that the evidence in document WK 46/2019 INIT, the probative value of which is disputed by the applicant, comes from digital information sources of various origins, not only local but also foreign. Thus, the local information sources include ‘The Syria Report’, the leading

source of economic, business and financial information on Syria, which is independent and not connected with any religious, social or political organisation; ‘The Syrian Observer’, an online news service which essentially collects and translates into English news content produced by the official Syrian press, opposition groups to the regime or civil society and which is financed by donors, among which the Konrad Adenauer Foundation and the Swiss Federal Department of Foreign Affairs; ‘Zaman al-Wasl’, a Syrian news website; ‘Eqtsad News’, a press body forming part of ‘Zaman al-Wasl’, which belongs to the largest media group independent of the Syrian regime; ‘Orient News’, a Syrian press group owned by a figure of the opposition and which provides information services to the Middle East and ‘Syrian Law Journal’, a site specialising in legal matters and covering news from Syria in that field and in the economic and business fields. The foreign information sources include ‘Reuters’, a reputable press agency; ‘News Deeply’, an undertaking established in New York (United States) specialising in single-issue news websites and building online databases of stakeholders; ‘Open Democracy’, a website that examines social and political issues whose founders are active in established media and in political activism and whose contributors include internationally known figures; ‘Arabisk London’, a quarterly journal established in London (United Kingdom) which publishes, inter alia, interviews and economic and business information; ‘Atlantic Council’, a US think tank active in international affairs; ‘Brookings Institution’, a leading US think tank, and ‘The Foundation for Strategic Research’, an independent not-for-profit organisation recognised in France as a public benefit foundation. In addition, the Council produced pages from the website of the Syrian Government. Those various sources relay corroborating information, with the result that the applicant cannot rely solely on the fact that they are screenshots of websites and press articles in order to challenge their soundness and reliability.

109 Next, it should be pointed out that the applicant’s argument that he falls under the criticism from ‘Brookings Institution’ in the context of the opposition between the State of Qatar and the United Arab Emirates is not substantiated in any way. In any event, if the State of Qatar exercised the influence on the website ‘Brookings Institution’ alleged by the applicant, the fact that the applicant resides in Dubai does not seem, as such, sufficient to draw criticism from that institution.

110 In addition, concerning the applicant’s criticism regarding the website ‘Arabisk London’, the evidence adduced by the Council consists in an interview of the applicant published on that website. In that regard, the applicant does not dispute the authenticity of the questions and replies set out on that website. He also specified, at the hearing, that he did not dispute that item of evidence in particular but, rather, the fact that the Council relies on that type of magazine to adopt restrictive measures. That criticism, formulated in general terms, is not such as to call into question the reliability of the content of the interview that constitutes one of the items of evidence on which the Council relied in order to adopt the contested measures. Consequently, that argument must be rejected.

111 Moreover, as regards the applicant’s arguments relating to the website ‘The Syrian Observer’, it should be noted, first of all, that the description of that source of information contains nothing to cast doubt on its reliability. On the contrary, by indicating in a transparent manner that the content of the articles published on that website is not systematically verified, that source informs its readers that it may be necessary to cross-reference the information communicated by the published articles in order to assess its veracity. That is why it is also useful that that website publishes articles from various sources, some close to the Syrian regime and others opposing it. Accordingly, that argument must be rejected.

112 The same applies to the applicant’s arguments concerning the website ‘The Syria Report’. More specifically, as regards the claim that that publication failed to comply with journalistic rules of professional conduct, it is clear that, first of all, the applicant does not specify the rules under which he should have been approached by that website. Furthermore, there is nothing in the file to indicate that the applicant reacted to that alleged failure to comply with such rules, in particular by bringing an action for defamation. Lastly, in any event, the fact that the applicant was not contacted in order to verify the information relayed, even if that were true, is not, in itself, sufficient to refute the reliability of the information published on that website. That argument must therefore be rejected.

113 Next, as regards, first, the applicant’s claim that the websites ‘The Syrian Observer’ and ‘The Syria Report’ essentially publish the same information in order to make it appear objective, it is clear, first of all, that the

applicant has adduced no evidence of this alleged collusion. Nor does it follow from document WK 46/2019 INIT that the information published on those two websites is so similar as to attest to any such collusion. Moreover, the applicant acknowledged that some of the facts reported by the website ‘The Syria Report’ are correct, with the result that, even if the information published on that website was presented subjectively, it is nonetheless reliable. In any event, the fact that two sources publish the same information cannot be sufficient to call into question the reliability of that information, since it is commonplace, in journalism, for different newspapers or news sites to relay the same facts. Accordingly, that argument must be rejected.

114 As regards, secondly, the doubts expressed by applicant as to A’s integrity, first of all, the applicant qualified them at the hearing, while maintaining that there was a certain degree of collaboration and mutual influence between the Council and A. Next, the fact remains that the applicant has not put forward any evidence in support of that claim. The applicant’s brief description of A does not mention the existence of relations between A and the Council. Nor can that circumstance be inferred from the article headed ‘Analysis: No Funds to Foot Syria’s Reconstruction Bill’ of which A is the author. Moreover, the applicant also fails to explain what interest A would have in publishing articles supporting the policies which the Council intends to apply, in order for those articles to be used subsequently as justification for restrictive measures to be adopted or for newly adopted ones. Lastly, the Council denied, at the hearing, that there exists any kind of cooperation between the Council and the sources of the evidence in the document bearing the reference WK 46/2019 INIT. That argument must therefore be rejected.

115 Lastly, the applicant’s criticism concerning the websites ‘Zaman al-Wasl’ and ‘Orient News’ are mere unsubstantiated assertions. In any event, the fact that those websites are close to certain parts of the opposition, even assuming that it is true, is not, in itself, such as to deprive the information published on those websites of all reliability. Those arguments must therefore be rejected.

116 In the light of the foregoing, the Court finds, in the absence of any material in the file capable of calling into question the reliability of the sources used by the Council, that they must be regarded as sound and reliable, within the meaning of the case-law referred to in paragraph 106 above.

The status of leading businessperson operating in Syria

117 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 83 above and thus constitutes a set of indicia sufficiently specific, precise and consistent to substantiate the first reason for listing.

118 In that regard, the Council took the view that the applicant is a leading business person operating in Syria because of his interests and activities in multiple sectors of Syria’s economy.

119 As regards, first, Aman Holding, it may be found, in view of the information from the websites ‘The Syria Report’, ‘Arabisk London’, ‘Factiva’, ‘Reuters’, ‘News Deeply’ and ‘Zaman al-Wasl’, that the applicant is responsible for the day-to-day management of that group of undertakings, created in 1988 in Latakia by his father and operating in multiple sectors of Syria’s economy.

120 Specifically, it is apparent from those articles that the undertakings forming part of Aman Holding develop activities in construction, by participating in the Marota City project through the joint venture Aman Dimashq; in foodstuff as a result, inter alia, of its participation in the wheat market and the creation of a company for the construction of a sugar refinery licensed exclusively to produce sugar; in tourism, with a 55% share in the Four Seasons hotel in Damascus; in automotive assembly, as a result of agreements concluded with several renowned car manufacturers, and in pharmaceutical products. It is also apparent that Aman Holding acquired certain properties from other businesspersons, including the Hamisho group, with which it created Emmar Industries, a company operating in the construction sector, as well as Syria Modern Cables, a company that produces insulated cables and high-voltage power cables, and the restaurant-dance club Orient Club.

121 Those elements are, in essence, confirmed by the applicant. In that regard, the applicant states that he is the ‘captain of industry’ of the undertakings that constitute Aman Holding. The applicant confirmed, at the hearing, that his role was that of director of the companies operating in the sectors referred to in paragraph 120 above and which are wholly owned by Aman Holding. Moreover, it is apparent from the articles of association of Aman Holding, produced by the applicant, that he owns 33.3% of the shares in that company. Lastly, the applicant confirms that he created the joint ventures with the Hamisho group and that he acquired Syria Modern Cables and the Orient Club.

122 As regards, secondly, the Marota City project, it is apparent from the websites ‘The Syria Report’, ‘Syrian Law Journal’, ‘The Foundation for Strategic Research’, ‘The Syrian Observer’, ‘Brookings Institution’, ‘Atlantic Council’, ‘Eqtsad News’, ‘News Deeply’ and ‘Open Democracy’ that it is a large-scale development backed by the Syrian regime and carried out on expropriated land in Basateen Al-Razi, in the Mazeeh neighbourhood, Damascus.

123 Specifically, it is apparent that Decree No 66/2012 laid down the zoning requirements for the areas of Damascus that would be allocated to the development projects, while Decree No 19/2015 allowed private companies to be set up by public entities with the aim of developing that project. In addition, it follows that Basateen Al-Razi, in the Mazeeh neighbourhood, Damascus, is one of two areas delimited in accordance with Decree No 66/2012, in which the Marota City project will be built. That area covers 2.15 million square meters and is close to the city centre of Damascus, the embassies and the security services, which makes it attractive to real estate developers. The Marota City project includes building skyscrapers, 12 000 residential units with housing capacity for 60 000 persons and commercial and leisure buildings. In October 2016, Commercial Bank of Syria announced that it had approved a loan for SYP 20 thousand million, a sum corresponding to USD 40 million (approximately EUR 35.65 million), requested by the Damascus Governorate in order to help it fund infrastructure works, which is claimed to be the highest loan granted by that bank since 2011. An official of the Damascus Governorate declared, in March 2017, that around 60 entrepreneurs had expressed their interest in the project and that the cost of the residential part of the project amounted to SYP 100 thousand million, a sum corresponding to USD 185 million (approximately EUR 164.91 million). Moreover, it is apparent from the said evidence that Damascus Cham Holding is an entity that was created in 2016 to develop the Marota City project, that it is wholly owned by the Damascus Governorate and that the Governor of Damascus is its chairman.

124 Those elements are, in essence, confirmed by the evidence produced by the applicant, in particular by the ‘Illustrated Handbook about the “Marota City” project and the Basateen Al-Razi area’, annexed to the reply. In addition, it should be noted that the applicant himself specified that Damascus Cham Holding was created to develop 30% of the plots dedicated to the Marota City project held by the Damascus Governorate and that the latter contributed those plots in kind in the capital of that company.

125 Furthermore, it can be inferred, from reading the articles from the websites ‘The Syria Report’, ‘Syrian Law Journal’, ‘News Deeply’ and ‘Open Democracy’, first of all, that Damascus Cham Holding created the joint venture Aman Dimashq with Aman Holding. This is confirmed, moreover, by the applicant, who indicates that, first, Foz for Trading and Aman Holding own, respectively, 11% and 40% of the shares in Aman Dimashq, and, secondly, Damascus Cham Holding owns 49% of the shares.

126 Next, it is apparent that Aman Dimashq has a capital of USD 18.9 million and was created to develop several buildings in the context of the Marota City project. In particular, according to the website ‘The Syria Report’, Damascus Cham Holding granted Aman Dimashq the right to build 3 skyscrapers of 70 floors each, and 5 residential buildings. According to the abovementioned ‘Illustrated Handbook about the “Marota City” project and the Basateen Al-Razi area’, the residential buildings will have up to 22 floors each. Lastly, Aman Dimashq’s investment amounts to USD 312 million.

127 In that context, in the first place, the applicant disputes, first, being directly involved in the Marota City project, and, secondly, the importance of his participation in that project.

128 As to the applicant’s argument that he is not directly involved in the Marota City project, it must be held, first of all, that that argument is irrelevant. In that respect, it must be observed that, according to the reasons for

including the applicant's name on the lists at issue, the adoption of the contested measures is based, inter alia, on the latter's interests and activities in a regime-backed joint venture involved in the development of the Marota City project, namely Aman Dimashq. In other words, it is not asserted, in the reasons for listing, that the applicant is directly involved in the Marota City project. Next, it should be noted that Foz for Trading and Aman Holding own, together, 51% of the shares in Aman Dimashq and that the applicant acknowledges being the 'ultimate beneficial owner' of those companies. Moreover, as has been pointed out in paragraph 121 above, the applicant also stated at the hearing that he is the director of those companies. In those circumstances, it can be concluded that the applicant has indeed interests and activities in Aman Dimashq, a company participating in the development of the Marota City project, without there being any need to examine whether that participation is direct or indirect.

129 In addition, the applicant submits that his participation in the Marota City project is extremely low. In that respect, he claims that Aman Dimashq is entitled to develop only 0.93% of the total size of the land dedicated to the Marota City project. Thus, the applicant argues that, in view of the fact that, through Foz for Trading and Aman Holding, he holds only 51% of the share capital of Aman Dimashq, he owns only 0.00445% of the Marota City project, which he argues is a very small percentage.

130 The Court notes, first of all, that the percentage of the land dedicated to the Marota City project, the development of which was, according to the applicant, assigned to Aman Dimashq, assuming it to be true, corresponds to a calculation based on the size of the plots and not the size of the development. Thus, that percentage is not necessarily illustrative of that company's participation, and ultimately the applicant's, in the Marota City project, in so far as it is apparent from the file that the project consists of buildings with at least ten floors each. Nor does that percentage take account of the purpose, whether residential, commercial or mixed, of those buildings, which could potentially have an effect on the value of Aman Dimashq's participation in that project.

131 In any event, the Court observes that the fact that the applicant is not directly involved in the Marota City project or that his participation in that project is low does not necessarily mean that he is not a leading businessperson operating in Syria. In that regard, the Court notes that it is apparent from the file that the applicant invested over USD 9 million (approximately EUR 7.4 million), through Foz for Trading and Aman Holding, in Aman Dimashq, a company that in turn invested USD 312 million in the Marota City project, which attests to the importance of the financial participation of those two companies of which the applicant acknowledged being the director. The applicant's investment cannot, therefore, be described as insignificant.

132 In the second place, the applicant submits that neither the Marota City project nor the joint venture Aman Dimashq can be considered to be backed by the Syrian regime. In that regard, the applicant submits, first, that Damascus Cham Holding, which owns 49% of the shares in Aman Dimashq, is a company governed by private law, and, secondly, the Damascus Governorate is a local entity entirely independent of the Syrian regime.

133 As regards Damascus Cham Holding, as noted in paragraph 123 above, it is apparent from the evidence produced by the Council that that company is wholly owned by the Damascus Governorate and that the Governor of Damascus is its chairman. This is confirmed by that company's articles of association, produced by the applicant in its replies to the measures of organisation of procedure adopted by the Court. It is apparent from those articles that, of the eight members who, in addition to the Governor of Damascus, make up that company's board of directors, four must be experts in trade, law and finance, not forming part of the Damascus Governorate, but appointed by it. Thus, there is nothing to preclude the other four members from being part of the Damascus Governorate. It is also stated that the Governor of Damascus, as chairman of the company's board of directors, has a casting vote. In addition, it should be borne in mind that, as noted in paragraphs 124 above, the Damascus Governorate contributed in the share capital of Damascus Cham Holding the plots of land that had been assigned to it and represented 30% of the total size of the Marota City project. Lastly, as observed by the Council at the hearing, it follows that Damascus Cham Holding is responsible, under the authority of the Damascus Governorate, inter alia, for the award of construction licences, the collection of charges, allowances and fines and the building of centres providing services to citizens. Thus, it follows from all of those factors that Damascus Cham Holding was created by the Damascus Governorate and is an instrument controlled by the latter for the

purpose of participating in the Marota City project. That conclusion cannot be invalidated by the fact that that company is governed by private law.

134 Concerning the description of the Damascus Governorate as an entity separate of the Syrian regime, the Court finds, first of all, that the applicant's argument formulated in general terms, is not supported by any specific evidence. In any event, given the authoritarian nature of the Syrian regime, the Council was fully entitled to regard as a matter of common experience the fact that the activities of the Damascus Governorate could not have prospered had it not received the support of the Syrian regime (see, to that effect, judgment of 13 September 2013, *Anbouba* v *Council*, T-592/11, not published, EU:T:2013:427, paragraph 48). In that regard, it should be noted that the applicant pointed out himself, in the application, that the meetings held to identify plans and timetables for developing the residential areas in Damascus were organised between representatives of EU entities, the Syrian Ministry of Local Administration and the Environment and the Damascus Governorate, which constitutes evidence corroborating that matter of common experience.

135 In the light of the foregoing, it is appropriate to conclude that the Council brought a set of indicia sufficiently specific, precise and consistent to establish that the applicant is a leading businessperson operating in Syria because of his interests and activities in multiple sectors of Syria's economy, including his holding, through Foz for Trading and Aman Holding, of 51% of the shares in Aman Dimashq, a company participating in the development of the Marota City project backed by the Syrian regime.

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

137 In that respect, in the first place, the applicant submits that the Marota City project is not built on expropriated land. He submits, to that effect, that the land dedicated to the Marota City project was never subject to compulsory expropriation, but rather was the subject of negotiation with the owners of unregulated housing situated on that land. In that regard, the applicant maintains that 359 transactions for the acquisition of those properties were carried out, their approximate total value being SYP 8.856 thousand million, that is to say EUR 18 335 403. The applicant produced, by way of illustration, evidence concerning the payment of the price to the owners in 20 of those 359 transactions. In addition, he adds, in essence, that a rent allowance was paid to the owners of unregulated housing who did not wish to sell their property. Lastly, the applicant claims, in essence, that that land was not the scene of conflicts between opposition forces and the Syrian regime and that the neighbourhoods of Damascus in that area were never destroyed during the armed conflict which took place in Syria.

138 It should be noted that the arguments set out in paragraph 137 above are irrelevant. In that regard, 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 [wa]s only able to maintain its status by enjoying a close association with, and the support of, the regime, and by having influence within it' and 'the Council considers that it should provide for restrictive measures to impose restrictions on admission and to freeze all funds and economic resources belonging to, owned, held or controlled by those leading businesspersons operating in Syria, as identified by the Council and listed in Annex I, in order to prevent them from providing material or financial support to the regime and, through their influence, to increase pressure on the regime itself to change its policies of repression'.

139 It follows that the criterion of 'leading businessperson operating in Syria' presupposes, inter alia, support by the Syrian regime and is intended to prevent persons belonging to that category from providing material or financial support to that regime. Thus, the question whether the Marota City project is built on expropriated land or whether that land was the scene of conflicts has no bearing on the applicant's participation in a project backed by the Syrian regime and, thus, on the application of that criterion to the present case.

140 In any event, the fact remains that, as rightly pointed out by the Council at the hearing, the evidence produced by the applicants seeking to establish payment of a purchase price to the previous owners of the properties located on the plots of land intended for the development of the Marota City project referred to in paragraph 137 above show certain inconsistencies. In particular, the amounts of those purchase prices on the receipts signed by the previous owners are inconsistent with the amounts on the bank receipts for the

corresponding cash deposits, the latter being significantly lower. Thus, in the absence of justification from the applicant on that point, those inconsistencies raise, at the very least, doubts as to those claims.

141 In the second place, the applicant submits, in the second statement of modification, that the economic, industrial and commercial importance of Aman Holding has declined, inter alia due to the adoption of the contested measures. The applicant submits that many projects and activities have completely ceased or function only at minimal capacity. He adds that Aman Holding put any new investment on hold and that many jobs are threatened. Lastly, he maintains that the steel melting plant has been liquidated.

142 In that regard, the fact remains that, with the exception of a resolution of the Syrian Ministry of Internal Trade and Consumer Protection of 2 March 2020 ratifying the decision of the General Assembly of Emaar for Iron Limited Liability to liquidate that company, seeking to establish the liquidation of the steel melting plant, the applicant has produced no evidence to substantiate those claims, nor has he specified which activities of Aman Holding's undertakings, in particular, have declined or ceased. Thus, even assuming that the steel melting plant is owned by Emaar for Iron and has been liquidated, the applicant has put forward nothing to support the conclusion that he no longer pursues his activities and interests in multiple sectors of Syria's economy. The arguments put forward by the applicant must therefore be rejected.

143 Lastly, in the third place, it is necessary to examine the applicant's arguments, first, that the application in the present case of the criterion of 'leading businessperson operating in Syria' requires the Council to demonstrate that there is a link between the applicant and the Syrian regime and, secondly, that, in any event, the applicant validly rebutted the presumption that, as an important businessperson, he is associated with the Syrian regime.

144 In that regard, it should be noted that, in the present case, the applicant's name was included on the lists at issue pursuant to Decision 2013/255, as amended by Decision 2015/1836. In this respect, 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 before it was amended, 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 does not follow from Decision 2013/255, as amended by Decision 2015/1836, that it is for the Council to provide evidence that the condition of being a leading businessperson as well as that of having sufficient links to the regime are both met (see, to that effect, judgments of 11 September 2019, *HX* v *Council*, C-540/18 P, not published, EU:C:2019:707, paragraph 38; 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)).

145 To that effect, the Court held that it is possible to infer from the criterion relating to the category of 'leading businesspersons operating in Syria' a rebuttable presumption that such individuals are associated with the Syrian regime (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 a 'leading' businessperson. 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.

146 In addition, it should be recalled that compliance by the General Court with the rules relating to the burden of proof and the taking of evidence as regards restrictive measures requires the General Court to respect the principle established in the settled case-law referred to in paragraph 83 above and reiterated 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 reasons for listing. The Court of Justice thus held that the burden of proving the existence of sufficient information, within the meaning of Articles 27(3) and 28(3) of Decision 2013/255, as amended by Decision 2015/1836, showing that the person concerned was never, or is no longer, associated with the Syrian regime, did not exercise influence over the regime and did not pose a real risk of circumvention of the restrictive measures adopted in respect of that regime did not fall on the person concerned (see, to that effect, judgments of 14 June 2018, *Makhlouf* v *Council*, C-458/17 P, not published, EU:C:2018:441, paragraph 86, and of 11 September 2019, *HX* v *Council*, C-540/18 P, not published, EU:C:2019:707, paragraphs 50 and 51).

147 Consequently, an excessive standard of proof may not be imposed on the applicant in order to rebut the presumption of a link to 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 Articles 27(3) and 28(3) of Decision 2013/255, as amended by Decision 2015/1836, or if he or she produces before the EU judicature a set of indicia 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 Articles 27(3) and 28(3) of that decision (judgment of 8 July 2020, *Zubedi* v *Council*, T-186/19, EU:T:2020:317, paragraph 71).

148 In the present case, the applicant denies being associated with the regime or having any influence on it. In support of that claim, the applicant notes, first of all, that it is apparent from the article published on the website 'The Syria Report' that he 'is not a member of Mr [Bashar Al-]Assad's close, or even extended family [and that] he is not known to have any close relative in the security service either, nor is he a member of the Alawite community'.

149 Next, the applicant claims that there are profound dissensions between [*personal data*] and the Al-Assad family. Those dissensions, according to the applicant, derive from the fact that [*personal data*] was put in jail, as a political prisoner, by Mr Hafez Al-Assad when the latter acceded to power in 1970. In support of that assertion, he produced two letters addressed to the Court signed, respectively, by [*personal data*], attesting, in essence, to the aversion [*personal data*] to the regime.

150 The Court finds, first of all, that the fact that the applicant is not part of Mr Bashar Al-Assad's family, that he has no link to the security service or even that he is not a member of the Alawite community, assuming it is true, is not, in itself, sufficient to rebut the presumption of a link to the Syrian regime, since his link to that regime is presumed because of his commercial activities. Next, it must be observed that the assertion relies on a truncated reading of the article published on the website 'The Syria Report'. As rightly pointed out by the Council at the hearing, that article states that 'the Foz family's strong tie to [the] first cousin of [Mr] Bashar [Al-Assad], [who is] the person in charge of the personal security of Syria's two last presidents, [Mr] Hafez Al-Assad, and [his successor], [Mr] Bashar [Al-Assad], is believed by several sources in Damascus to be a prime factor behind the ascendancy of the [Foz] family' and that 'now, the [Foz] family is believed to be directly tied to [Mr] Bashar Al-Assad himself'.

151 As to the dissensions between [*personal data*] and the Al-Assad family, the fact remains, first of all, that half a century has passed since [*personal data*] was put in jail by Mr Hafez Al-Assad. The applicant however failed to explain how, specifically, that event still constitutes a source of conflict between [*personal data*] nowadays nor has he put forward any evidence to support that claim. In that regard, concerning the letters brought by the applicant, referred to in paragraph 149 above, the Court notes that those statements, from persons [*personal data*], have little probative value (see, to that effect and by analogy, judgment of 31 May 2018, *Kaddour* v *Council*, T-416/16, EU:T:2018:316, paragraph 116).

152 In any event, the applicant's claim that he has no links to the Syrian regime is inconsistent with certain items of evidence which he himself produced. Specifically, as rightly pointed out by the Council at the hearing, it is apparent from a brochure from Foz Charity Association that that association supported government economic initiatives by organising, inter alia, workshops on consumer protection with the Syrian Ministry of Internal Trade and Consumer Protection or a forum for businesspersons in Latakia under the auspices of the Syrian Ministry of

Finance. While that evidence does not show, by itself, the existence of a link between the applicant and the Syrian regime, it attests to a certain degree of collaboration between that association and the Syrian ministries.

153 Consequently, the applicant failed to rebut the presumption of a link to the Syrian regime because he did not present any argument or evidence which might cast doubt on the reliability of the evidence submitted by the Council or on the assessment that should have been made of that evidence, nor did he put forward any specific evidence which would enable the Court to conclude that he was not, or was no longer, associated with that regime, that he did not exercise influence over that regime and that he did not pose a real risk of circumvention of the restrictive measures.

154 In the light of all of the foregoing, the Court finds that the reason for including the applicant's name on the lists at issue on account of his status as a leading businessperson operating in Syria is sufficiently substantiated, so that, in the light of that criterion, the inclusion of the applicant's name on the lists at issue is well founded.

155 According to the case-law, having regard to the preventive nature of decisions adopting restrictive measures, if the EU judicature considers that, at the very least, one of the reasons mentioned is sufficiently detailed and specific, that it is substantiated and that it constitutes in itself a sufficient basis to support that decision, the fact that the same cannot be said of other such reasons cannot justify the annulment of that decision (see judgment of 28 November 2013, *Council* v *Manufacturing Support & Procurement Kala Naft*, C-348/12 P, EU:C:2013:776, paragraph 72 and the case-law cited).

156 Accordingly, it is necessary, without there being any need to examine the merits of the other complaints raised by the applicant seeking to call into question the second reason for listing, to reject the first plea as unfounded.

Fourth plea, alleging 'abuse of power'

157 In support of his plea, the applicant argues that the Council adopted the contested measures in order to target not the Syrian regime but the applicant himself, although he has at all times, first, complied with the sanctions ordered by the European Union and the international community and, secondly, remained independent of the Syrian regime. Thus, the applicant claims that he is excluded from the market in order to favour other business operators. In submitting that argument, the applicant must be regarded as pleading a misuse of powers.

158 The Council disputes the applicant's arguments.

159 It should be borne in mind that a measure is vitiated by misuse of powers only if it appears on the basis of objective, relevant and consistent evidence to have been taken with the exclusive or main purpose of achieving an end other than that stated or of evading a procedure specifically prescribed by the Treaty for dealing with the circumstances of the case (see judgment of 25 November 2014, *Safa Nicu Sepahan* v *Council*, T-384/11, EU:T:2014:986, paragraph 30 and the case-law cited).

160 In the present case, the applicant merely raises suspicions as to the existence of an 'abuse of power' and does not explain how the Council pursued an objective other than that which is apparent from recital 6 of Decision 2015/1836, namely exerting pressure on the Syrian regime in order for it to change its policies of repression. The applicant has in no way substantiated that claim or adduced any evidence or argument in support of it.

161 In the light of the foregoing, the fourth plea must be rejected.

The second and third pleas, taken together, alleging infringement of the principle of proportionality, the right to property and the freedom to pursue an economic activity

162 First, the applicant claims that the restrictive measures concerning him are disproportionate. The applicant submits that, in view of the fact that he is deprived of any international trade contact and therefore excluded from his professional environment, he is left to forced unemployment. In practice, the restrictive measures concerning

him prevent him from pursuing any professional activity and from carrying out any economic activity in his professional and private life. He adds that neither he nor the companies in which he holds shares, whether directly or indirectly, support the Syrian regime, with the result that the restrictive measures concerning him are not appropriate compared to the objectives of the contested measures.

163 Secondly, he takes the view, in essence, that the contested measures infringe his right to property and his freedom to pursue an economic activity, which also constitutes an infringement of the First Additional Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

164 Thirdly, the applicant submits, in the first and second statements of modification, that the extension of the restrictive measures concerning him under, respectively, the 2019 maintaining acts and the 2020 maintaining acts exacerbates the disproportionate consequences of those measures for him.

165 The Council disputes the applicant's arguments.

166 It should be borne in mind that it is apparent from case-law that the fundamental rights relied on by the applicant, namely the right to property, enshrined in Article 17 of the Charter, and the freedom to pursue an economic activity, enshrined in Articles 15 and 16 of the Charter, are not absolute rights and that their exercise may be subject to restrictions justified by objectives of general interest pursued by the European Union. Thus, any restrictive economic or financial measure entails, *ex hypothesi*, consequences affecting the right to property and the freedom to pursue an economic activity of the person or entity subject to that measure, so causing harm to that person or entity. The importance of the aims pursued by the restrictive measures at issue is, however, such as to justify negative consequences, even of a substantial nature, for the persons or entities concerned (see, to that effect, judgment of 25 March 2015, *Central Bank of Iran* v *Council*, T-563/12, EU:T:2015:187, paragraph 115).

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

168 Moreover, it is clear from settled case-law that the principle of proportionality, which is one of the general principles of EU law and is referred to in Article 5(4) TEU, requires that measures implemented through provisions of EU law be appropriate for attaining the legitimate objectives pursued by the legislation at issue and must not go beyond what is necessary to achieve them (see, to that effect, judgments of 15 November 2012, *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraph 122; of 25 June 2015, *Iranian Offshore Engineering & Construction* v *Council*, T-95/14, EU:T:2015:433, paragraph 60 (not published); and of 14 March 2017, *Bank Tejarat* v *Council*, T-346/15, not published, EU:T:2017:164, paragraph 149).

169 As regards the applicant's right to property and freedom to pursue an economic activity, it is true that those rights are restricted by the restrictive measures concerning him, since he cannot, inter alia, make use of any of his funds which may be situated in the territory of the European Union, nor transfer them to the European Union, unless given special authorisation.

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

171 As regards the allegedly disproportionate nature of the inclusion of the applicant's name on the lists at issue, it should be borne in mind that Article 28(6) of Decision 2013/255, as amended by Decision 2015/1836, and Article 16 of Regulation No 36/2012, as amended by Regulation 2015/1828, provide for the possibility, first, to authorise the use of frozen funds to meet essential needs or to satisfy certain commitments and, secondly, to grant specific authorisation for the release of certain funds, other financial assets or other economic resources (see, to that effect and by analogy, judgments of 3 September 2008, *Kadi and Al Barakaat International Foundation* v *Council and Commission*, C-402/05 P and C-415/05 P, EU:C:2008:461, paragraph 364, and of 15 November 2012, *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraph 127).

172 It follows that, given the overriding importance of the protection of civilian populations in Syria, any restrictions on the applicant's rights caused by the contested measures are justified by an objective of general interest and are not disproportionate to the aims pursued.

173 Lastly, as regards the extension of the temporal application of the restrictive measures adopted in respect of the applicant, pursuant to the 2019 maintaining acts and the 2020 maintaining acts, which, according to the applicant, exacerbates the disproportionate consequences of those measures for him, it should be pointed out that, in the context of such restrictive measures, the Council is required to carry out a periodic re-examination, in accordance with the second and third sentences of Article 34 of Decision 2013/255, as amended by Decision 2015/1836, and with Article 32(4) of Regulation No 36/2012, as amended by Regulation 2015/1828, which entails each time the possibility for the person or entity concerned to put forward arguments and submit facts supporting its assertions (see, to that effect, judgment of 9 July 2020, *Haswani* v *Council*, C-241/19 P, EU:C:2020:545, paragraphs 106 and 107).

174 Accordingly, the Council was entitled, on the basis of a re-examination of whether to maintain the applicant's name on the lists at issue, to decide to extend those restrictive measures until 1 June 2020, and then until 1 June 2021.

175 In the light of all of the foregoing, the second and third pleas, taken together, must be rejected and, consequently, the action must be dismissed in its entirety.

Costs

176 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.

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

On those grounds,

THE GENERAL COURT (Fourth Chamber)

hereby:

1. **Dismisses the action;**

2. **Orders Mr Samer Foz to pay the costs.**

Gervasoni Madise Martín y Pérez de Nanclares

Delivered in open court in Luxembourg on 24 November 2021.

E. Coulon

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* Language of the case: English.

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i In accordance with the rules on the protection of personal data in the context of the judicial functions of the Court, data has been removed from the public version of the judgment by decision of the Registrar and replaced by ‘[*personal data*]’.