

**CURRENT CHALLENGES
FOR THE RULE OF LAW
IN EUROPE**

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(Coord.)

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Publication developed within the framework of the EUROPIA Project funded by the European Union, Erasmus+ Programme; Key action 2: Cooperation partnerships; Sector: Higher education, PIC 999888029, Reference: Grant Agreement No.: 2022-1-PL01-KA220-HED-000086334. Main Researcher: Professor Spasimir Domaradzki.

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Madrid, 2025

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ISBN: 979-13-7006-675-8
Depósito Legal: M-22563-2025
DOI: <https://doi.org/10.14679/4396>

Preimpresión:
Besing Servicios Gráficos, S.L.
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SOME JURISPRUDENTIAL CLARIFICATIONS ON THE EUROPEAN UNION SANCTIONS AGAINST RUSSIA

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SUMMARY: 1. INTRODUCTION. 2. THE ONGOING RELEVANCE OF THE GROUNDS FOR SANCTIONING AN INDIVIDUAL. 3. CLARIFICATION OF THE CONCEPT OF "ASSOCIATION" WITH SANCTIONED PERSONS. 4. CLARIFICATION OF THE CONCEPT OF MATERIAL OR FINANCIAL SUPPORT TO RUSSIAN POLITICIANS RESPONSIBLE FOR THE ANNEXATION OF CRIMEA OR THE DESTABILIZATION OF UKRAINE. 5. DEFINITION OF THE CONCEPT OF LEADING BUSINESSPERSONS OPERATING IN RUSSIA. 6. CLARIFICATION OF THE CONCEPT OF BUSINESSPERSONS, LEGAL PERSONS, ENTITIES, OR BODIES INVOLVED IN ECONOMIC SECTORS PROVIDING A SUBSTANTIAL SOURCE OF REVENUE TO THE GOVERNMENT OF THE RUSSIAN FEDERATION. 7. CLARIFICATION OF THE CONCEPT OF ADVANTAGES OR BENEFITS REFERRED TO IN THE SECOND PART OF ARTICLE 3.1(G) OF REGULATION (EU) NO 269/2014. 8. CONCLUSIONS.

1. INTRODUCTION.

I would like to begin by thanking the organizers of this important international conference for the great honour they have shown me by inviting me to participate, as well as for including this modest contribution of mine in the resulting publication. My gratitude goes to all the organizers, but especially to my esteemed colleague Alejandro Torres, for whom I have the utmost admiration.

The European Union's sanctions against the Russian Federation are extensive and complex. They are articulated through a wide array of legal instruments, affect a multitude of natural and legal persons – including many who are not Russian nationals – and target a broad range of economic, financial, and industrial sectors. Moreover, these measures encompass a variety of restrictions, such as asset freezes, travel bans within the EU, bans on the export and import of specific goods, restrictions in credit and financial markets, and prohibitions on the provision of certain banking services, among others.

Unsurprisingly, this complex framework of sanctions has led to a large number of legal challenges before the General Court and the Court of Justice of the European Union. In addition, national courts in several member states have referred significant preliminary questions to the Court of Justice, whose rulings – once delivered – are expected to clarify many aspects of the current sanctions regime.¹

Naturally, the case law relating to the EU's sanctions against Russia has reiterated a number of principles established in earlier judgments on related matters. These include, for example, the criteria for determining insufficient reasoning as grounds for annulment, standing to challenge restrictive measures, and the conditions under which rights enshrined in the Charter of Fundamental Rights of the European Union may be lawfully restricted. However, these general issues fall outside the scope of this paper. Here, without any claim to exhaustiveness, I will focus on the main jurisprudential developments that specifically concern the EU sanctions against Russia. With one exception: in the following section, I will briefly refer to recent case law clarifying the requirement that the grounds for sanctioning an individual must remain current. This is a

1 For example, the rulings that will eventually be issued regarding the issue of trusts and the potential control of trust assets by sanctioned persons will be of great interest. In this regard, the judgments that resolve the preliminary questions raised in cases C-483/23, *A and others v. Ministero dell'Economia e delle Finanze* and others will be particularly relevant, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=279370&pageIndex=0&doclang=es&mode=lst&dir=&occ=first&part=1&cid=14052732>; C-428/24, *FZ AR Spa/Ministero dell'Economia e delle Finanze and others*, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=289705&pageIndex=0&doclang=ES&mode=lst&dir=&occ=first&part=1&cid=14051034> y C-476/24, *SX Ltd/Ministero dell'Economia e delle Finanze and others*, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=290517&pageIndex=0&doclang=ES&mode=lst&dir=&occ=first&part=1&cid=14055932>

Apart from the issues raised by trusts, other interesting preliminary questions have also been brought forward, whose future rulings should provide significant clarification. For example, the question concerning the scope and meaning of Article 3 paragraph (1) of Council Regulation (EU) 833/2014 on restrictive measures motivated by Russia's actions destabilizing the situation in Ukraine, when it prohibits the import of products listed in Annex XXI of the said Regulation, in case C-619/24, *J C v. Hauptzollamt Düsseldorf*, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=294145&pageIndex=0&doclang=ES&mode=lst&dir=&occ=first&part=1&id=14059146>

legal question that has already been addressed in prior case law, but it has gained renewed prominence in many of the recent rulings concerning the sanctions imposed in connection with the situation in Russia.

2. THE ONGOING RELEVANCE OF THE GROUNDS FOR SANCTIONING AN INDIVIDUAL.

European case law has consistently held that the grounds for sanctioning a natural or legal person must remain valid at the time the sanctions are maintained or renewed. Accordingly, a change in the personal circumstances of the sanctioned individual, or a shift in the broader context, should lead to the lifting of the sanctions or the annulment of the relevant restrictive measures. For instance, in its judgment of 26 October 2022 in the case *Ovsyannikov v. Council*,² the General Court held that, in order to justify the continued inclusion of a person's name on the sanctions list, the Council is not prohibited from relying on the same evidence that justified the initial listing, the re-listing, or the previous renewal of the listing – provided that, on the one hand, the grounds for inclusion have not changed, and, on the other hand, the context has not evolved in such a way as to render that evidence outdated. The General Court further emphasized that the term “context” includes not only the situation of the country in respect of which the restrictive measures were adopted, but also the individual circumstances of the person concerned. Therefore, even if the general context remains unchanged, a change in the personal situation of the sanctioned individual should lead to the lifting of the sanctions. As a result, a current assessment of the grounds for the sanction is required, and the Council may not rely on evidence that has become obsolete.

Nevertheless, the General Court itself has introduced some important qualifications in this regard. For example, in its judgment of 7 February 2024 in the case *Shuvalov v. Council*,³ the Court stated that “... il est possible de prendre en compte des faits intervenus dans un temps relativement éloigné de la date d'édiction d'une mesure restrictive, pour autant que, d'une part, ces faits étayent l'un des critères justifiant l'inscription du nom de l'intéressé sur la liste des mesures restrictives et, que, d'autre part, il soit établi que, au moment de l'édiction des mesures restrictives, cette personne n'avait pas définitivement mis un terme à toute activité de nature à justifier une telle édiction.”⁴ While it is true that this jurisprudential position grants a very wide margin of discretion to the courts of

² Case T-714/20; ECLI:EU:T:2022:674, mainly paragraphs 67 and 94-99.

³ Case T-289/22; ECLI:EU:T:2024:57, paragraph 65.

⁴ In those cases where there is no English version of the European judgments cited in this work, the French-language version is reproduced.

the European Union, it somewhat contradicts – or at least does not align well with – what the General Court itself held, for example, in its judgment of 27 April 2022 in the case *Ilunga Luyoyo v. Council*.⁵ In that case, the Court ruled that the applicant, who had been sanctioned under the EU restrictive measures relating to the Democratic Republic of the Congo, should be removed from the sanctions list. This was despite the fact that the individual had committed extremely serious acts in the past involving brutal human rights violations and had not severed ties with the regime in question, even continuing to hold positions of some significance.

3. CLARIFICATION OF THE CONCEPT OF “ASSOCIATION” WITH SANCTIONED PERSONS.

Article 3(1), last paragraph, of Council Regulation (EU) No. 269/2014, concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty, and independence of Ukraine, lists the circumstances under which natural and legal persons will be sanctioned, concluding that sanctions also apply to “natural or legal persons, entities or bodies associated with them”. Consequently, it is essential to determine when such an association exists, especially in cases where the alleged association is based on family ties.

The case law on this matter was summarized in the recent judgment of the General Court of 30 April 2025, in the case *SBK Art 000 v. Council and Others*,⁶ in which it is stated that: “165 In that regard, while the concept of ‘association’ is often used in Council acts relating to restrictive measures, it is not, as such, defined and its meaning reports to the context and circumstances at issue. That being so, such a concept may be regarded as covering natural or legal persons who are, generally speaking, linked by common interests without, however, requiring a link by means of an economic activity, but which nonetheless cannot be based exclusively on a family relationship (judgment of 25 October 2023, *QF v Council*, T-386/22, not published, EU:T:2023:670, paragraph 54; see also, to that effect, judgment of 8 March 2023, *Prigozhina v Council*, T-212/22, not published, EU:T:2023:104, paragraphs 93, 103 and 104 and the case-law cited). [...] 166 The association criterion may therefore be interpreted as referring to any natural or legal person, or any entity, having a link, as defined in paragraph 165 above, with a person who is subject to restrictive measures under one of the listing criteria laid down in Decision 2014/145, as amended by Decision 2022/329, and Regulation No 269/2014, as amended by Regulation 2022/330. [...] 167 Furthermore,

⁵ Case T-108/21; ECLI:EU:T:2022:253.

⁶ Case T-102/23; ECLI:EU:T:2025:416, paragraphs 165-167.

where an entity belongs to, or is controlled by, an entity subject to restrictive measures under one of the listing criteria laid down in Decision 2014/145, as amended by Decision 2022/329, and Regulation No 269/2014, as amended by Regulation 2022/330, the shareholding link or relationship of control between those two entities clearly constitutes a link as referred to in paragraph 165 above, since there is a not insignificant danger of the parent entity in question exerting pressure on the entity belonging to or controlled by it in order to circumvent the effect of the measures applying to it (see, by analogy, judgment of 4 September 2015, *NIOC and Others v Council*, T-577/12, not published, EU:T:2015:596, paragraph 114).”

Several important conclusions can be drawn from these judicial statements. First, the concept of “association” is not legally defined; in other words, it constitutes an indeterminate legal concept whose meaning must be assessed on a case-by-case basis, depending on the specific context (political, legal, economic, etc.) and the particular circumstances of the case and of the sanctioned natural or legal person. This interpretation grants a considerable degree of discretion and latitude to the Council when imposing restrictions, as well as to the General Court and the Court of Justice when adjudicating appeals brought by sanctioned individuals or entities. This reality raises serious concerns from the perspective of legal certainty – a principle enshrined in the constitutions of the member states of the European Union, the Charter of Fundamental Rights of the European Union, and generally in international human rights treaties.

Secondly, “association” cannot be based solely on a family relationship; in other words, family ties alone, when they operate exclusively, do not imply the existence of an “association”. This principle has been repeatedly upheld by European case law in numerous judgments, such as those referenced earlier, but also in other cases, for example, in the General Court’s rulings of 6 September 2023 in the *Pumpyanskaya v. Council*⁷ and *Elena Petrovna Timchenko v. Council and Commission* cases.⁸ In these cases, the women were sanctioned for being associated with their husbands, who were also prominent businessmen subject to sanctions. However, European case law also holds that a family relationship combined with other circumstances – such as a wife owning half the shares of a foundation that controls all her husband’s businesses, or a wife holding significant positions in her husband’s companies – can justify the existence of an “association” for the purposes of the sanctions regime. In such situations, the courts’ assessment will play a decisive role.

Thirdly, the existence of an “association” is determined by the presence of “common interests”, which do not necessarily have to be economic – although

7 Case T-272/22; ECLI:EU:T:2023:491.

8 Case T-361/22; ECLI:EU:T:2023:502.

economic interests often play a very important and almost decisive role – but may also be of other natures, such as political interests. Indeed, the aforementioned judgment states that, for these purposes, any natural or legal person who has a connection with a sanctioned subject may be considered associated. Most often, there will be a combination of common interests: economic, familial, political, business-related, etc. However, we should conclude that, once again, we are dealing with an indeterminate legal concept that grants the Council and the courts of the European Union a very wide margin of discretion.

Finally, the ownership or control of a legal person by a sanctioned natural or legal person implies the existence of a link between them in the sense relevant here. A legal person is considered owned by a sanctioned individual when more than 50% of its capital is directly or indirectly owned by that individual. Control can also be attributed to the sanctioned person even if they do not hold a majority of the capital, provided that they control the entity by other means, such as having the power to appoint the majority of the members of the board of directors, the power to appoint most of the members of the governing and management bodies, control over its operations and its means of production, and so forth.

4. CLARIFICATION OF THE CONCEPT OF MATERIAL OR FINANCIAL SUPPORT TO RUSSIAN POLITICIANS RESPONSIBLE FOR THE ANNEXATION OF CRIMEA OR THE DESTABILIZATION OF UKRAINE.

Article 3(1)(d) of Regulation (EU) No 269/2014 provides that, among others, the following shall be subject to sanctions “natural or legal persons, entities or bodies supporting, materially or financially, or benefiting from Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Ukraine”. In this way, it is necessary to clarify through case law what is meant by providing material or financial support to these Russian politicians.

Very recently, reaffirming previous case law, the General Court held in its judgment of 5 March 2025, in the case *Ponomarenko v. Council*,⁹ that *S’agissant du critère d), il convient d’observer que celui-ci n’exige pas que les personnes ou entités concernées apportent un soutien directement ou indirectement lié à l’annexion de la Crimée ou à la déstabilisation de l’Ukraine. Il suffit qu’elles apportent un soutien matériel ou financier quantitativement ou qualitativement important aux décideurs russes responsables de ces actions (voir, en ce sens, arrêt du 20 septembre 2023, Mordashov/Conseil, T-248/22, non publié, EU:T:2023:573, point 91; voir*

⁹ T-249/22; ECLI:EU:T:2025:202, paragraph 118.

également, par analogie, arrêt du 7 avril 2016, Central Bank of Iran/Conseil, C-266/15 P, EU:C:2016:208, point 44)".

Several points should be highlighted from these judicial statements. The first is that, for the sanctioning criterion under Article 3(1)(d) of Regulation (EU) No 269/2014 to apply, it is not necessary for the affected natural or legal persons to provide support directly or indirectly related to the annexation of Crimea or the destabilization of Ukraine. What matters is that they provide material or financial support to the Russian decision-makers responsible for those actions. In other words, once significant material or financial support is provided to these individuals – for example, financing a holiday complex personally used by President Putin, as was the case with Mr. Ponomarenko – the sanctioning provision is engaged, even if the support is not directly or indirectly related to the annexation or destabilization of Ukraine. In this regard, it is also important to bear in mind that, in the judgment in the *Mordashov v. Council* case mentioned above, it is expressly stated that *"l'expression "décideurs russes"; placée dans le contexte des mesures restrictives en cause, fait référence aux hauts fonctionnaires de la Fédération de Russie, y compris le président de la Fédération de Russie et les membres du gouvernement russe"*.¹⁰

Regarding the nature and extent of material or financial support, case law has indicated that *"De plus, et dans la mesure où le critère d) fait état d'un soutien matériel ou financier sans apporter d'autre précision sur la nature de ce soutien, le critère litigieux doit être compris en ce sens qu'il vise tout appui qui, bien que n'ayant aucun lien direct ou indirect avec l'invasion de l'Ukraine, permet aux décideurs russes, du fait de son importance quantitative et qualitative de poursuivre cette politique (voir, en ce sens et par analogie, arrêt du 16 juillet 2014, National Iranian Oil Company/Conseil, T-578/12, non publié, EU:T:2014:678, point 140)"*.¹¹ In other words, the material or financial support must be of such magnitude that it enables the Russian decision-makers to continue pursuing their policies regarding Ukraine. Naturally, determining this aspect grants a wide margin of discretion to both the Council and the Courts.

5. DEFINITION OF THE CONCEPT OF LEADING BUSINESSPERSONS OPERATING IN RUSSIA.

Article 3.1(g) of Regulation (EU) 269/2014 states in its first part that "leading businesspersons operating in Russia and their immediate family members, or other natural persons benefiting from them" shall be included in the

¹⁰ Paragraph 92.

¹¹ Judgment of the General Court of 12 June 2024; Case T-288/22; state Development Corporation VEB.RF v. Council and Commission; ECLI:EU:T:2024:372, paragraph 123.

list of sanctioned individuals. Naturally, case law has been compelled to clarify the concept of leading businesspersons operating in the Russian Federation or to provide criteria for assessing this notion.

In this regard, the judgment of the General Court of 22 January 2025, in *Andrey Melnichenko v. Council and Commission*¹² is highly illustrative, where it states the following: "61. As a preliminary point, it should be noted that criterion (g) uses the notion of 'leading businesspersons' in conjunction with involvement 'in economic sectors providing a substantial source of revenue to the [Russian] Government', without any other condition relating to a link, whether direct or indirect, with that government. The aim pursued by that criterion is to exert maximum pressure on the Russian authorities so that they bring an end to their actions and policies destabilising Ukraine and to the military aggression against Ukraine (judgment of 15 November 2023, *OT v Council*, T-193/22, EU:T:2023:716, paragraph 138). [...] 62 In that regard, there is a rational connection between the targeting of leading businesspersons involved in economic sectors providing a substantial source of revenue to the Russian Government and the objective of the restrictive measures in the present case, which is to increase pressure on the Russian Federation and the costs of its actions to undermine Ukraine's territorial integrity, sovereignty and independence (see judgment of 15 November 2023, *OT v Council*, T-193/22, EU:T:2023:716, paragraph 139 and the case-law cited). [...] 63 However, there is nothing in the recitals or the provisions of Decision 2014/145 and Regulation No 269/2014, as amended, to indicate that it is for the Council to demonstrate the existence of a close link or interdependence between, on the one hand, the person whose name is included on the lists at issue and, on the other, the Russian Government or its actions undermining the territorial integrity, sovereignty and independence of Ukraine (judgment of 15 November 2023, *OT v Council*, T-193/22, EU:T:2023:716, paragraph 140). [...] 64 Thus, in the light of the wording of criterion (g), the persons referred to must be considered to be influential due to their importance in the sector in which they are involved and the importance of that sector for the Russian economy. In that regard, the notion of 'leading businessperson' must therefore be understood as referring to their importance in the light of their professional status, the importance of their economic activities, the extent of their capital holdings or their functions within one or more undertakings in which they pursue those activities (see judgment of 15 November 2023, *OT v Council*, T-193/22, EU:T:2023:716, paragraph 143 and the case-law cited). [...] 65 The objective of the restrictive measures at issue is not to penalise certain persons or entities because of their links with the situation in Ukraine or their links with the Russian Government, but to impose economic sanctions on the Russian Federation in order to increase pressure on it and the costs of its actions to undermine Ukraine's territorial integrity,

¹² T-271/22; ECLI:EU:T:2025:47, paragraphs 61-65 and 75.

sovereignty and independence and to put an end, as quickly as possible, to the aggression suffered by Ukraine (see judgment of 15 November 2023, *OT v Council*, T-193/22, EU:T:2023:716, paragraph 144 and the case-law cited). [...] 75. In any event, in view of criterion (g), the notion of ‘leading businesspersons’ refers to factual matters occurring both in the past and over time. Therefore, even assuming that the grounds for including the applicant’s name on the lists at issue refer to a factual situation which existed before the adoption of the initial acts and which was modified shortly before that date, that fact would not necessarily mean that the restrictive measures adopted against him by those acts are obsolete (see, to that effect, judgment of 15 November 2023, *OT v Council*, T-193/22, EU:T:2023:716, paragraph 154)”.

That is, the individuals concerned must be considered influential due to their importance within the sector in which they operate and the significance of that sector for the Russian economy. In this regard, the concept of “leading businessperson” should be understood as referring to the individual’s importance in relation to their professional position, the significance of their economic activities, the extent of their shareholdings in major companies, or their roles within one or more companies where they conduct such activities. In other words, to determine whether someone qualifies as a leading businessperson, two factors must be weighed: the person’s prominence within their sector and the importance of that sector to the Russian economy – without requiring a direct or indirect link to the Government of the Russian Federation or the situation in Ukraine.

Furthermore, it is important to note that European case law holds that, under criterion (g), the notion of “leading businessperson” pertains to factual elements that are both historical and long-term. Therefore, even if the reasons for including an individual’s name on the sanctions list relate to circumstances that existed prior to the adoption of the initial sanctions and that had changed shortly before that date, this does not necessarily render the restrictive measures imposed against them obsolete.

6. CLARIFICATION OF THE CONCEPT OF BUSINESSPERSONS, LEGAL PERSONS, ENTITIES, OR BODIES INVOLVED IN ECONOMIC SECTORS PROVIDING A SUBSTANTIAL SOURCE OF REVENUE TO THE GOVERNMENT OF THE RUSSIAN FEDERATION.

Article 3.1(g) of Regulation (EU) 269/2014 states in its second part that the sanctions list shall also include “businesspersons, legal persons, entities or bodies involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation

of Crimea and the destabilisation of Ukraine”. Therefore, it is necessary to clarify the scope and meaning of this provision.

For example, in the General Court’s judgment of 20 November 2024 in the case *Uss v. Council*,¹³ it is stated that: “109 Il y a lieu de constater que, selon son libellé même, le troisième volet du critère g) modifié emploie la notion de “femme et homme d’affaires” en corrélation avec l’exercice d’une “activité dans des secteurs économiques qui fournissent une source substantielle de revenus au gouvernement russe”; sans autre condition concernant un lien, direct ou indirect, avec ledit gouvernement. La finalité poursuivie par ce critère est en effet d’exercer une pression maximale sur les autorités russes, afin que celles-ci mettent fin à leurs actions et politiques déstabilisant l’Ukraine ainsi qu’à l’agression militaire de ce pays (voir, par analogie, arrêt du 15 novembre 2023, OT/Conseil, T-193/22, EU:T:2023:716, point 46 et jurisprudence citée). [...] 111 Quant à la notion de “secteurs économiques qui fournissent une source substantielle de revenus au gouvernement de la Fédération de Russie”, il convient de relever que, certes, ni la décision 2014/145 modifiée ni le règlement n° 269/2014 modifié ne définissent la notion de “source substantielle de revenus”. Toutefois, l’emploi de l’adjectif qualificatif “substantielle”, qui se rapporte au groupe nominal “source de revenus”, implique que cette source de revenus doit être significative et donc non négligeable (arrêt du 6 septembre 2023, Pumpyanskiy/Conseil, T-291/22, non publié, EU:T:2023:499, point 63). [...] 116 Deuxièmement, s’agissant du secteur dans lequel Sibugol exerce son activité, le requérant avance que le Conseil n’a pas produit de données chiffrées relatives à la contribution du secteur du charbon au budget de la Russie et que les données fournies par le Conseil relatives à la part de ce secteur dans les exportations de la Russie et à l’augmentation des exportations de charbon ne sont pas pertinentes. Il ajoute que ce dernier élément est sans influence sur l’importance des revenus générés par le secteur du charbon au gouvernement et, à tout le moins, qu’une telle influence n’a pas été démontrée par le Conseil. En outre, le fait que le Tribunal ait pu considérer que le secteur minier fournissait une source de revenus substantielle au gouvernement russe ne serait pas non plus pertinent, dans la mesure où le secteur du charbon serait un secteur plus étroit que le secteur minier, lequel engloberait notamment le secteur des pierres et métaux précieux et le secteur du schiste bitumineux”.

Several important conclusions can be drawn from these statements. First, it is not necessary that the individuals be linked to the Russian government or the events in Ukraine; rather, the person is sanctioned due to their participation in a specific economic sector. Second, the sector in question must be the source of a substantial revenue stream for the Russian government; therefore, if such revenues are not significant, the provision would not apply. Most importantly,

13 T-571/23; ECLI:EU:T:2024:839, paragraphs 109, 111 and 116.

and this point is made very clear in the judgment of the aforementioned *Melnichenko* case, the case law emphasizes that it is the economic sector or sectors – not the specific individual whose name appears on the sanctions list – that must constitute a substantial source of revenue for the Government of the Russian Federation. In other words, the person is sanctioned because they operate in sectors that represent a significant source of revenue for the Russian government, but it is not required that the sanctioned individual in particular provides substantial revenue to the Government of the Russian Federation.

Furthermore, the statements made in the judgment in the *Uss v. Council* case regarding the potential violation of the principles of legal certainty and protection of legitimate expectations are of interest. Indeed, the appellant argued that the provision in question violated these principles because the scope of affected persons is unpredictable and does not allow those concerned to adjust their behaviour to the Council's regulations. Furthermore, the sectors referred to are not clearly defined. In other words, the appellant raised an issue that has been repeatedly mentioned throughout this work: the existence of rules that foster legal uncertainty and, consequently, give rise to case law solutions that also fail to guarantee legal certainty.

However, in the judgment,¹⁴ these arguments put forward by the appellant are rejected, holding that *"87 S'agissant des principes de sécurité juridique et de protection de la confiance légitime, il convient de rappeler que le droit de se prévaloir de ce dernier principe s'étend à tout justiciable à l'égard duquel une institution de l'Union a fait naître des espérances fondées du fait d'assurances précises qu'elle lui aurait fournies. Toutefois, lorsqu'un opérateur économique prudent et avisé est en mesure de prévoir l'adoption d'une mesure de l'Union de nature à affecter ses intérêts, il ne saurait invoquer le bénéfice de ce principe lorsque cette mesure est adoptée (voir arrêt du 17 février 2017, Islamic Republic of Iran Shipping Lines e.a./Conseil, T-14/14 et T-87/14, EU:T:2017:102, point 191 et jurisprudence citée). [...] 88 Par ailleurs, le principe de sécurité juridique implique que la législation de l'Union soit claire et précise et que son application soit prévisible pour les justiciables (voir arrêts du 5 mars 2015, Europäisch-Iranische Handelsbank/Conseil, C-585/13 P, EU:C:2015:145, point 93 et jurisprudence citée, et du 17 février 2017, Islamic Republic of Iran Shipping Lines e.a./Conseil, T-14/14 et T-87/14, EU:T:2017:102, point 192 et jurisprudence citée). [...] 89 S'agissant de l'argument du requérant tiré de l'absence d'identification des secteurs d'activités qui fournissent une source substantielle de revenus au gouvernement russe, il convient de relever que, certes, ni la décision 2014/145 modifiée ni le règlement n° 269/2014 modifié, ne définit la notion de "source substantielle de revenus". Toutefois, l'emploi de l'adjectif qualificatif "substantielle", qui se rapporte au*

14 Paragraphs 87-90.

groupe nominal “ source de revenus ”, implique que cette source de revenus doit être significative et donc non négligeable (arrêt du 6 septembre 2023, Pumpýanskiy/Conseil, T-291/22, non publié, EU:T:2023:499, point 63). [...] 90 Eu égard au lien logique, rappelé au point 81¹⁵ ci-dessus, entre le fait de cibler les personnes visées par le troisième volet du critère g) modifié et l’objectif des mesures restrictives en l’espèce, il convient de considérer que le libellé du troisième volet du critère g) modifié est clair et précis et que son application est prévisible pour les justiciables, lesquels sont en mesure de prévoir l’adoption d’une mesure de l’Union de nature à affecter leurs intérêts, conformément à la jurisprudence rappelée aux points 87 et 88 ci-dessus”.

That is, the judgment acknowledges that the sanctions legislation does not define the concept of a “substantial source of revenue”, but holds that “substantial” implies that it must be significant and not negligible. Furthermore, the legislation does not violate the principles of legal certainty and protection of legitimate expectations, since, taking into account the logical link between the persons sanctioned and the objective pursued by the restrictive measures, the wording of the provision is clear and foreseeable to a prudent and discerning individual who can anticipate the adoption of a restrictive measure that may affect their interests.

7. CLARIFICATION OF THE CONCEPT OF ADVANTAGES OR BENEFITS REFERRED TO IN THE SECOND PART OF ARTICLE 3.1(G) OF REGULATION (EU) NO 269/2014.

Article 3.1(g), in its first part, establishes that other persons who benefit from prominent businesspersons operating in the Russian Federation shall also be included in the list of sanctioned individuals. This requires us to clarify the concept of advantages or benefits for these purposes. The General Court, in its judgment of 26 February 2025 in the *Tokareva v. Council* case¹⁶ stated the following in this regard: *“Ainsi, la notion d’“avantage”, au sens du deuxième volet du critère g) modifié, doit être interprétée en tenant compte des objectifs visés par ce critère, énoncés au point 50 ci-dessus, lesquels impliquent un accroissement du coût*

15 In this section of the judgment, it states: *“Par conséquent, il existe toujours un lien logique entre, d’une part, le fait de cibler les femmes et les hommes d’affaires exerçant leurs activités dans des secteurs économiques fournissant une source substantielle de revenus au gouvernement, au vu de l’importance que revêtent ces secteurs pour l’économie russe, et, d’autre part, l’objectif des mesures restrictives en l’espèce, qui est d’accroître la pression sur la Fédération de Russie ainsi que le coût de ses actions visant à compromettre l’intégrité territoriale, la souveraineté et l’indépendance de l’Ukraine (voir, par analogie, arrêt du 15 novembre 2023, OT/Conseil, T-193/22, EU:T:2023:716, point 49 et jurisprudence citée)”.*

16 T-269/24; ECLI:EU:T:2025:179, paragraph 51.

des actions de la Fédération de Russie visant à compromettre l'intégrité territoriale, la souveraineté et l'indépendance de l'Ukraine. Dès lors, l'avantage au sens de cette disposition vise tout avantage de quelque nature que ce soit, qui n'est pas nécessairement indu, mais qui doit être quantitativement ou qualitativement non négligeable. Il peut donc s'agir d'un avantage financier ou non financier, tel qu'un don, un transfert de fonds ou de ressources économiques, une intervention en vue de favoriser l'attribution de contrats publics, une nomination ou une promotion. Par ailleurs, eu égard à l'objectif d'éviter les pratiques de contournement des mesures restrictives, expressément visé au considérant 5 de la décision 2023/1094, peuvent également relever du deuxième volet du critère g) modifié les avantages octroyés par les femmes ou les hommes d'affaires influents exerçant une activité en Russie dans une situation susceptible de conduire à un contournement des mesures restrictives qui les visent (arrêt du 11 septembre 2024, Tokareva/Conseil, T-744/22, EU:T:2024:608, point 142)".

Consequently, the concept of "advantage" within the meaning of the second part of the amended criterion (g) should be interpreted in the light of the objectives pursued by that criterion, which involve increasing the cost of the actions undertaken by the Russian Federation aimed at undermining the territorial integrity, sovereignty, and independence of Ukraine. Therefore, "advantage" under this provision refers to any benefit of any nature, which is not necessarily undue, but which is neither quantitatively nor qualitatively negligible. Such advantage may be financial or non-financial, such as a donation, a transfer of funds or economic resources, an intervention to promote the awarding of public contracts, an appointment, or a promotion. Furthermore, considering the objective of preventing circumvention practices of restrictive measures, advantages granted by influential businesspersons operating in Russia, in situations that may lead to circumventing restrictive measures targeted against them, may also fall within the scope of the second part of the amended criterion (g).¹⁷

¹⁷ Furthermore, regarding the temporal scope for the realization of advantages or benefits, the judgment specifies the following (paragraphs 53-55): "53 En outre, contrairement à ce que soutient la requérante, les avantages visés par le deuxième volet du critère g) modifié ne sauraient se limiter aux avantages accordés, à une date concomitante à leur désignation sur les listes litigieuses, par des femmes ou des hommes d'affaires influents exerçant des activités en Russie à un membre de leur famille proche ou à d'autres personnes. En effet, une telle limitation temporelle des avantages susceptibles d'être pris en considération afin de permettre l'application dudit critère ne ressort pas du libellé de la disposition qui prévoit ce critère. En outre, une telle interprétation limitative proposée par la requérante serait incompatible avec les objectifs poursuivis par l'introduction dudit critère, lesquels visent à accroître la pression exercée sur le gouvernement de la Fédération de Russie et à éviter le risque de contournement des mesures restrictives, notamment par des avantages accordés par des femmes et des hommes d'affaires influents avant l'inscription de leur nom sur les listes litigieuses (arrêt du 11 septembre 2024, Tokareva/Conseil, T-744/22, EU:T:2024:608, point 144). [...] 54 Il n'en demeure pas moins que les circonstances de l'octroi de l'avantage et l'écoulement du temps entre l'octroi d'un

8. CONCLUSIONS.

This study provides a limited overview of the case law of the General Court and the Court of Justice concerning the European Union's sanctions on the Russian Federation. It primarily focuses on the main issues raised by the application of Council Regulation (EU) 269/2014, concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty, and independence of Ukraine. This regulation is the source of the most significant and recent judicial pronouncements, which is why this paper concentrates on the fundamental case law responses to it. It is from this perspective that these conclusions should be understood.

We do not intend to address the specific conclusions of each section here and prefer to refer to what has been said in each of them. However, we wish to highlight a basic conclusion: several very important concepts in the aforementioned Regulation (EU) No 269/2014 – such as association with sanctioned persons, material or financial support to Russian politicians responsible for the events in Ukraine, and others – are not legally defined.

This situation leads to a case-by-case interpretation, largely depending on the specific context (political, legal, economic, etc.) and the particular circumstances of the case and the sanctioned natural or legal person. Consequently, a considerable degree of discretion and latitude is granted to the Council when imposing restrictions, as well as to the General Court and the Court of Justice when adjudicating appeals brought by sanctioned parties, which results in a significant undervaluation of the principle of legal certainty.

avantage par une femme ou un homme d'affaires ayant des activités en Russie et la date d'inscription du nom de ces derniers sur les listes litigieuses sont des éléments à prendre en compte pour apprécier le bien-fondé de l'inscription, sur lesdites listes, du nom de la personne qui a reçu cet avantage. En tout état de cause, l'avantage reçu par la personne dont le nom est inscrit sur les listes litigieuses au titre du deuxième volet du critère g) modifié, ou à tout le moins ses conséquences, doit demeurer au moment de l'adoption des mesures restrictives à l'encontre de ladite personne (arrêt du 11 septembre 2024, Tokareva/Conseil, T-744/22, EU:T:2024:608, point 145). [...] 55 De plus, l'interprétation du deuxième volet du critère g) modifié doit être conforme au principe de sécurité juridique. Il y a lieu de rappeler que le régime des mesures restrictives eu égard à la situation en Ukraine a été mis en œuvre, d'abord, par l'adoption de la décision 2014/145, en réaction à l'annexion de la Crimée et à la déstabilisation de l'est de l'Ukraine survenues à la fin du mois de février 2014, puis par une consolidation progressive dudit régime afin de l'adapter en fonction de la gravité des atteintes, par la Fédération de Russie, à l'intégrité territoriale, à la souveraineté et à l'indépendance de l'Ukraine. Il en résulte que, étant donné que les mesures restrictives en cause s'inscrivent dans la continuité de la réaction de l'Union aux politiques et aux activités des autorités russes concernant spécifiquement l'Ukraine, amorcées par l'annexion de la Crimée, le Conseil ne saurait, au titre du second volet du critère g) modifié, se prévaloir d'avantages dont l'octroi, par des femmes ou des hommes d'affaires influents aux membres de leur famille proche ou à d'autres personnes, est antérieur la fin du mois de février 2014 (arrêt du 11 septembre 2024, Tokareva/Conseil, T-744/22, EU:T:2024:608, point 146)".