



INSIGHT

THE RUSSIAN WAR AGAINST UKRAINE AND THE LAW OF THE EUROPEAN UNION

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WHO ARE THE RUSSIAN OLIGARCHS? RECENT DEVELOPMENTS IN THE CASE LAW OF THE EUROPEAN COURT OF JUSTICE

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ABSTRACT: This *Insight* examines the developments in the EU restrictive measures against Russia in the aftermath of the full-scale aggression in Ukraine, focusing on the novel "(g) criterion" designed to target Russian businesspersons (often referred to as Russian oligarchs). The analysis illustrates the recent litigation before the General Court, in which targeted individuals seek to annul their designations. It highlights that, compared to previous sanctions practice, the new criterion adopts an innovative sector-based approach, establishing a new link between businesspersons operating in certain economic sectors and vital source of revenue for the Russian government. The *Insight* further explores the Court's cautious stance on de-listing Russian businesspersons, emphasizing the prudent assessment of evidence and circumvention attempts. Finally, the *Insight* points to the broad implications of the "(g) criterion" and suggests that the Council holds considerable political discretion in exerting maximum pressure on Russia's business elite, with the ultimate objective of reducing the Kremlin's ability to finance its war.

KEYWORDS: sanctions – restrictive measures – Common Foreign and Security Policy – Russia – oligarchs – Russian businesspersons.

I. INTRODUCTION

Russia's full-scale war of aggression against Ukraine has changed the Union in many respects,¹ and has led to the adoption of restrictive measures often described as

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¹ See the *Special Focus* 'The Russian War Against Ukraine and the Law of the European Union' edited by C Beaucillon, T Cabrita, M Fink, S Montaldo and J Odermatt, available at www.europeanpapers.eu. See also L Lonardo, *Russia's 2022 War Against Ukraine and the Foreign Policy Reaction of the EU* (Palgrave Macmillan 2023).



"unprecedented".² Although the sanctions regime against the aggressor state has been in place since 2014,³ the restrictions imposed after February 2022, both as sectoral and individual measures, present significant elements of novelty when compared to the initial regime. Indeed, since then, twelve "packages" have been adopted to maximise pressure on Putin's government, diminish Russia's economic base and the Kremlin's ability to finance the war. And, with the gradual adoption of "packages", the scope *ratione materiae* and *personae* of restrictive measures has significantly increased.⁴

Focusing on the most individualised form of EU sanctions, namely individual designations, today, over 1,900 persons (natural and legal persons) are currently "blacklisted" in the Russian regime – compared to just over 250 before the outbreak of the war. This represents the longest blacklist in the Union's sanctions history. The main reasons for this record number of designations are the introduction of new listing criteria and the unprecedented commitment to target the economic elite in Russia (as well as their associates).⁵

This *Insight* intends to analyse one of the new listing criteria, the so-called "(g) criterion", which was introduced by the Council on 25 February 2022 to target Russian oligarchs, more precisely, according to the EU jargon, "leading businesspersons involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine".⁶ Dozens of Russian individuals have been listed under this criterion and, as was widely expected, numerous actions for annulment have been brought before the General Court challenging the legality of these designations. In 2022, litigation concerning restrictive measures literally exploded in Luxembourg. With 103 new cases, restrictive measures accounted for 11.4 per cent of the total number of cases brought

² Council, *EU sanctions against Russia explained* www.consilium.europa.eu; Commission, *EU sanctions against Russia following the invasion of Ukraine* eu-solidarity-ukraine.ec.europa.eu. See also K Meissner and C Graziani, 'The Transformation and Design of EU Restrictive Measures against Russia' (2023) *Journal of European Integration* 377. By the same Author, see S Poli and F Finelli, 'Context specific and structural changes in EU restrictive measures adopted in reaction to Russia's aggression on Ukraine' (2023) *Eurojus* 19.

³ Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (complemented by Regulation (EU) No 269/2014); Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (complemented by Regulation (EU) No 833/2014).

⁴ See A Hofer, 'The EU's "Massive and Targeted" Sanctions in Response to Russian Aggression, a Contradiction in Terms' (2023) *CYELS* 1.

⁵ On the unprecedented targeting of Russian oligarchs by US sanctions, see C Abely, 'The Oligarchs, and Others' in C Abely (ed), *The Russia Sanctions: The Economic Response to Russia's Invasion of Ukraine* (Cambridge University Press 2023) 88-98.

⁶ See Council Decision (CFSP) 2022/329 of 25 February 2022 amending Decision 2014/145/CFSP. The "(g) criterion" has been subsequently amended by Council Decision (CFSP) 2023/1094 of 5 June 2023. See also Council Regulation (EU) 2022/330 of 25 February 2022 and Council Regulation (EU) 2023/1089 of 5 June 2023.

before the in 2022 (compared to 4.8 per cent in 2021 and 3 per cent in 2020).⁷ This new wave of litigation shows the strong interest of Russian targets in using the Court to seek annulment of their designation (which makes them subject to asset freezes and travel bans in the Union).

The following analysis will examine the litigation before the Court in the aftermath of the aggression of February 2022,⁸ and illustrate the main legal issues that have arisen in the targeting of Russian businesspersons. It will outline the reasons why oligarchs have (generally) not succeeded in having their names removed from the list, as the Court has emphasised their positions in strategic economic sectors and the risk of circumvention.

II. WHO ARE THE OLIGARCHS IN THIRD COUNTRIES?

II.1. TARGETING LEADING BUSINESSPERSONS: THE PRECEDENT OF SYRIA

The inclusion of prominent entrepreneurs on EU blacklists is not something new. Already in the restrictive measures in view of the situation in Syria, the Council had deemed it necessary to freeze the funds and economic resources of certain businesspersons operating in the country, to prevent them from providing financial support to the political regime. In 2015, the Council had found that, due to the close control exercised over the economy by the Syrian regime, a small circle (“an inner cadre”) of leading businesspersons “is only able to maintain its status by enjoying a *close association* with, and the *support* of, the regime, and by having *influence* within it”.⁹ The Court of Justice, following the Council’s position, also recognised that “the business community and that [political] regime have established a relationship of interdependence” and it must be concluded that “a leading businessman is a man who cannot *but be associated with the Syrian regime*”, benefiting from its policies, providing support or exerting an influence over it.¹⁰

Being a “leading businesspersons operating in Syria” carries with it a clear presumption of association with the political regime.¹¹ The link between the individual and the regime is presumed, and it is sufficient for the Council to prove that a person is a prominent businessperson operating in that country in order to subject him or her to restrictive measures, without providing further evidence.¹² This person is entitled to rebut and

⁷ Court of Justice, *Statistics concerning the judicial activity of the General Court* curia.europa.eu.

⁸ A handful of judgments rendered by the General Court from September to December 2023.

⁹ Recital (6) Council Decision (CFSP) 2015/1836 of 12 October 2015 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (emphasis added).

¹⁰ Case T-5/17 *Sharif v Council* ECLI:EU:T:2019:216 para. 56 (emphasis added).

¹¹ See case T-249/20 *Sabra v Council* ECLI:EU:T:2022:140 para. 130; case C-241/19 P *Haswani v Council* ECLI:EU:C:2020:545 paras 71-74; case T-5/17 *Sharif v Council* ECLI:EU:T:2019:216 paras 55-56; and case T-231/15 *RENV - Haswani v Council* ECLI:EU:T:2019:589 para. 56.

¹² In light of art. 28 Decision 2013/255/CFSP, as amended by Council Decision (CFSP) 2015/1836 of 12 October 2015.

overturn such designation before the Court of Justice, in so far as he or she succeeds in putting forward “arguments or evidence capable of *seriously calling into question* the reliability of the evidence submitted by the Council or the Council’s assessment, [...], or if he or she produces [...] a set of indicia establishing that he or she was *never* associated, or is *no longer* associated, with that regime, that he or she had *no influence* over the regime and that he or she did *not pose a real risk of circumvention* of the restrictive measures”.¹³ Given the complexity in overturning the Council’s presumption, the inclusion of Syrian entrepreneurs on the Union’s blacklist has been challenged with little success, and the actions brought before the Court have been largely dismissed over the years.¹⁴

Although the Syria sanctions, and the presumption employed by the Council, set a very important precedent for the blacklisting of prominent businesspersons operating in third countries, the restrictive measures taken against the Russian oligarchs have significant distinguishing features.

II.2. TARGETING RUSSIAN BUSINESSPERSONS: EMERGING TRENDS

It must be noted, first of all, that the notion of “oligarchs” is not included in the Council Decisions and Regulations imposing restrictive measures. Rather, the term “leading businesspersons” (in the French version “les femmes et hommes d’affaires influents”) is employed, in terminological continuity with the Syria regime. However, in the Russia sanctions, such entrepreneurs are identified for the first time as persons “involved in economic sectors providing a substantial source of revenue to the Government”.¹⁵ Russian businesspersons are considered *influential* if they belong to certain economic sectors that are particularly lucrative for the Russian government. In other words, they are not considered influential because of their close association with the political leadership, but rather because of their business activity in certain sectors.

As of September 2023, the Court started to examine the designations of Russian targets under the “(g) criterion”. *Pumpyanskiy*,¹⁶ *Khudaverdyan*,¹⁷ *Shulgin*,¹⁸ were the first cases decided at the beginning of September 2023, followed by *Rashnikov*,¹⁹ *Mordashov*,²⁰

¹³ Case T-186/19 *Zubedi v Council* ECLI:EU:T:2020:317 para. 71 (emphasis added).

¹⁴ The designation of a Syrian businessperson was exceptionally annulled in the case *Sabra v Council*, *supra* cit., on the ground that the Council “has not shown to the requisite legal standard that the grounds for listing based on the applicant’s status as a leading businessperson operating in Syria, or that the grounds for listing based on his association with the Syrian regime, are well founded” (para. 224). See also case T-256/19 *Assi v Council* ECLI:EU:T:2021:818, and T-257/19 *Al Zoubi v Council* ECLI:EU:T:2021:819.

¹⁵ See art. 2(1)(g), Decision 2014/145/CFSP *cit.* See also art. 3(1) letter g), Council Regulation (EU) No 269/2014 *cit.*

¹⁶ Case T-270/22 *Pumpyanskiy v Council* ECLI:EU:T:2023:490.

¹⁷ Case T-335/22 *Khudaverdyan v Council* ECLI:EU:T:2023:500.

¹⁸ Case T-364/22 *Shulgin v Council* ECLI:EU:T:2023:503.

¹⁹ Case T-305/22 *Rashnikov v Council* ECLI:EU:T:2023:530.

²⁰ Case T-248/22 *Mordashov v Council* ECLI:EU:T:2023:573.

and then *Mazepin*,²¹ *OT*,²² *Khan*,²³ and *Zubitskiy*,²⁴ and, at the end of 2023, *Moshkovich*,²⁵ *Mndoiants*,²⁶ and *Abramovich*.²⁷ The wording of the new “(g) criterion”, according to the General Court, “leaves no room for doubt as to the fact that the revenue referred to is that of the economic sectors and not of the leading businesspersons”.²⁸ This corresponds to one of the objectives pursued by the Union’s restrictive measures “namely to affect economic sectors which constitute a substantial source of revenue for the Russian Federation”.²⁹ There is no nexus required between the individual entrepreneur and the Russian government;³⁰ in fact, it is not the status of a prominent entrepreneur that is the basis of the designation criterion, but the exercise of an activity in certain economic sectors. In the words of the General Court, there is “a rational connection” (in the French version “un lien logique”) between the targeting of certain businesspersons in Russia, in view of their importance and the *importance of the economic sectors* in which they operate for the Russian economy,³¹ and the objective of the restrictive measures, which is to increase the pressure on the Russian Federation as well as the costs of the war in Ukraine.³² In its rulings, the Court repeatedly argued that the purpose of the “(g) criterion” is to pressure Russian authorities into ending the war.

Differently from the Syria regime, the Court is now called upon to assess the importance of the economic sector in which the entrepreneur operates. This sector must constitute “a significant source of revenue for the Russian government”, therefore, it is *not* the individual, but the *sector* in which he or she operates, that is identified as the main source of profit. As further clarified by the Court, the quantification of the taxes paid in Russia (by the designated individuals or their companies) is irrelevant; there is no requirement for a direct fiscal contribution to the national budget in order to be subject to sanctions,³³ as the

²¹ Case T-282/22 *Mazepin v Council* ECLI:EU:T:2023:701.

²² Case T-193/22 *OT v Council* ECLI:EU:T:2023:716.

²³ Case T-333/22 *Khan v Council* ECLI:EU:T:2023:758.

²⁴ Case T-359/22 *Zubitskiy v Council* ECLI:EU:T:2023:779.

²⁵ Case T-283/22 *Moshkovich v Council* ECLI:EU:T:2023:849.

²⁶ Case T-390/22 *Mndoiants v Council* ECLI:EU:T:2023:850.

²⁷ Case T-313/22 *Abramovich v Council* ECLI:EU:T:2023:830.

²⁸ *Pumpyanskiy* cit. para. 66, emphasis added.

²⁹ *Rashnikov* cit. para. 69; *Mazepin* cit. para. 56; *Khan* cit. para. 45.

³⁰ See A Kunst ‘Leading businesspersons and their family members under the Russian sanctions framework and the CJEU’s case law’ (21 September 2023) Pavocat Chambers Blog pavocatchambers.com.

³¹ The importance of leading businesspersons should be assessed in the light, inter alia, of “their occupational status, the importance of their economic activities, the extent of their capital holdings or their functions within one or more of the companies in which they pursue those activities”, *Khudaverdyan* cit. para. 80; *Rashnikov* cit. para. 67; *Mordashov* cit. para. 125; *Mazepin* cit. para. 54; *OT* cit. para. 143; *Khan* cit. para. 91; *Zubitskiy* cit. para. 71; *Mndoiants* cit. para. 63; *Abramovich* cit. para. 96.

³² *Khudaverdyan* cit. para. 81; *Rashnikov* cit. para. 108; *Mordashov* cit. para. 127; *Mazepin* cit. para. 91; *OT* cit. para. 139; *Khan* cit. para. 89; *Zubitskiy* cit. para. 50; *Moshkovich* cit. para. 63; *Mndoiants* cit. para. 63; *Abramovich* cit. para. 93.

³³ *Khudaverdyan* cit. para. 95.

“(g) criterion” refers to “all the income generated by the sector” in which the individual is involved.³⁴ It encompasses any revenue directly or indirectly paid to the Russian State budget (including VAT) *generated by the sector* at stake (or collected on the goods from that sector), but not necessarily paid by the individual businessperson.³⁵

At this point, it is legitimate to ask *which sectors* of the Russian economy are considered “a significant source of revenue for the government”. Unfortunately, the Council does not provide an exhaustive list of the sectors affected by the restrictive measures, to be taken into account for the implementation of the “(g) criterion”. One might think that the military, metallurgical, energy sectors would be in the Union’s crosshairs, given their obvious involvement in the dynamics of the war. However, the Tribunal seems to extend this understanding to other sectors, apparently less directly related to the war in Ukraine.

On the one hand, the Tribunal emphasizes the importance of the metallurgical and energy sectors in the Russian economy; “it is undeniable” that these economic sectors provide, directly or at least indirectly, a substantial source of revenue for the government (such as the oil and gas sectors;³⁶ the metallurgy;³⁷ the steel and mining sector).³⁸ Moreover, these sectors are crucial for the production of weapons, which ultimately favors the continuation of war.

A similar reasoning is extended to the fertilizer industry, in light of the significance of this sector in the Russian, as well as global, economy,³⁹ and to the agricultural industry, given the considerable exports and cash inflows generated in this sector,⁴⁰ even in the absence of a direct link to military activity. The banking sector is also considered to provide a substantial source of revenue for the government.⁴¹

On the other hand, the General Court decides to expand the list of sectors covered by the “(g) criterion”, identifying additional strategic sectors. For example, that of information and communication technologies (such as e-commerce, transport, maps, and web navigation services, provided by the company *Yandex*, which aims to develop innovative digital products and services)⁴² is defined as “strategic in terms of economic growth”.⁴³ More precisely, the exponential growth of this sector’s importance in terms of

³⁴ *Rashnikov* cit. para. 98.

³⁵ *Mazepin* cit. para. 82; *Khan* cit. para. 45; *Moshkovich* cit. para. 113. The Court also clarified that paying taxes does *not* amount to support for the regime (see *Rashnikov* cit. paras 96-97).

³⁶ *Pumpyanskiy* cit. para. 57.

³⁷ *Rashnikov* cit. para. 87.

³⁸ *Mordashov* cit. para. 138 and *Abramovich* cit. para. 111. In the French version “il est de *notoriété publique* que le secteur [...] fournit une source substantielle de revenus au gouvernement russe” (see *Mordashov* cit. para. 138).

³⁹ *Mazepin* cit. para. 74-75.

⁴⁰ *Moshkovich* cit. para. 109.

⁴¹ *OT* cit. para. 156; *Khan* cit. para. 111.

⁴² *Yandex* was described as the equivalent of Google in Russia (see *Khudaverdyan* cit. para. 99)

⁴³ *Khudaverdyan* cit. para. 102.

GDP is compared to that of the energy supply sector and, for this reason, it is “necessarily” qualified as a substantial source of revenue for the Russian government.⁴⁴ Ultimately, the Court seems to give the term “strategic” a broad meaning.

The interpretation of the new “(g) criterion” seems to introduce a new link between leading businesspersons in Russia and the government. As opposed to the case of Syria, the connection now appears to be sector-based. This makes it particularly difficult to challenge the validity of the listing decisions before the Luxembourg judges. Indeed, the majority of applicants have seen their action dismissed at first instance. Few unsuccessful applicants have decided to appeal to the Court of Justice, which will soon intervene on the matter.⁴⁵

III. LOSING THE STATUS OF RUSSIAN OLIGARCH: ANY POSSIBILITY TO BE DE-LISTED?

Given the broad scope of the new “(g) criterion”, it is necessary to consider the conditions for de-listing, *i.e.* being removed from the EU blacklist. Can one lose the status of a “leading businessperson” in Russia? If so, under what conditions?

In the *Shulgin* judgment,⁴⁶ the General Court recognized that there is no justification for maintaining the applicant on the EU list if the factual evidence refers “exclusively to his former functions”.⁴⁷ The Council cannot therefore assume that a prominent businessman maintains his status “even several months after leaving his position” in his company.⁴⁸ Such position may justify the initial listing, but it cannot lead to “a freezing of the applicant’s situation and depriving of any useful effect the periodic review exercise”.⁴⁹ As the Council failed to provide sufficiently convincing indications to reasonably consider that Mr. Shulgin is *still* engaged in economic sectors that constitute a substantial source of income for the Russian government, his name was removed from the list.

That said, the *Shulgin* judgment represents an isolated case. In subsequent proceedings, the Court appears, in fact, to be more cautious in assessing the actions brought by *former* businesspersons in Russia. It tends to dismiss the requests for annulment even when there have been changes in the applicant’s position, most probably out of concern that such changes are dictated by an attempt to circumvent the restrictive measures imposed on that individual.

More specifically, the Court excludes the possibility of de-listing when the entrepreneur resigns from his or her functions and/or divests the shares held in Russian

⁴⁴ *Ibid.* para. 103.

⁴⁵ See case C-696/23 P *Pumpyanskiy* (pending); case C-704/23 P *Khudaverdyan* (pending).

⁴⁶ Case T-364/22 *Shulgin v Council* ECLI:EU:T:2023:503. The judgment is currently only available in French, the English translation has been made by the Author.

⁴⁷ *Ibid.* para. 114. Mr. Shulgin is the *former* CEO of the Ozon group, one of the first e-commerce companies in Russia, sometimes referred to as “the Amazon of Russia”.

⁴⁸ *Ibid.* para. 116.

⁴⁹ *Ibid.*

companies, if he or she retains the ability to influence those companies. It recognizes that the fact that a person has ceased to perform his functions within a company does not, in itself, imply that those former functions are irrelevant, insofar as his past activities could influence his behavior.⁵⁰ Moreover, it holds that the “(g) criterion” refers to factual elements that are both in the past and in the long term (in the French version “des éléments factuels qui s’inscrivent à la fois dans le passé et dans la durée”).⁵¹ The fact that the reasons for listing refer to a factual situation that existed *in the past*, which has allegedly *changed very recently*, does *not* necessarily mean that the restrictive measures have become *obsolete*.⁵²

The General Court’s concern about possible circumvention of EU sanctions is clear. Tacitly, it seems to recognize a significant risk of circumvention practices employed by designated individuals, particularly in the days preceding (or immediately following) their inclusion in the list. Accordingly, it exercises caution in evaluating any changes in the ownership of assets, such as resignations from companies, transfers of shares, and property sales by sanctioned individuals. In *Pumpyanskiy*, it excluded the possibility that the Council had made an error of assessment by not considering the resignation of the applicant from his companies on the same day of his listing and the sale of his shares held in such companies a few days prior. It held that, despite the formal resignation and divestment, the applicant has retained the ability to influence his companies.⁵³ In *Khan*, it confirmed that a sudden change occurring the day before the listing cannot make it possible to rule out the applicant’s status as an influential businessperson in Russia and finding an assessment error by the Council in this regard.⁵⁴

Furthermore, in assessing the credibility to evidence produced in relation to the “(g) criterion”, the Court argues that it must be considered, *inter alia*, *the origin* of the document, the *circumstances* in which it was drafted, its *addressees*, and whether, on the basis of its *content*, it appears *sound* and *reliable*.⁵⁵ For instance, it finds that the Council can legitimately consider that the individual situation of the applicant has not evolved if the transfer of shares is evidenced only by obscured documents which do not identify the exact date, the beneficiary,⁵⁶ or the terms of such transfer.⁵⁷ Such documents appear

⁵⁰ *Khudaverdyan* cit. para. 117. The judgment is currently only available in French, the English translation has been made by the Author.

⁵¹ *OT* cit. para. 154.

⁵² *Ibid.* para. 154, emphasis added.

⁵³ *Pumpyanskiy* cit. para. 63.

⁵⁴ *Khan* cit. para. 101.

⁵⁵ *OT* cit. para. 180; *Khan* cit. para. 103; *Moshkovich* cit. para. 112, emphasis added. The first two judgments are currently only available in French, the English translation has been made by the Author.

⁵⁶ *Khan* cit. para. 104.

⁵⁷ *OT* cit. para. 182.

insufficiently convincing to prove the change in the applicant's status,⁵⁸ and "must be relativized" in light of contextual evaluations.⁵⁹

Thus, the Court opts for a prudent assessment of the evidence provided by the applicants, emphasizing that, in the absence of proof of a transfer to a third person who is unrelated to the applicant (in the French version "à une tierce personne qui ne lui serait pas liée"), the Council may legitimately consider that the applicant's individual situation has not evolved/changed in such a way as to render his designation obsolete and therefore unlawful.⁶⁰ It follows that, losing the status of "prominent businessperson" in Russia is subject to a careful assessment of the factual evidence, taking into account the circumvention attempts of designated persons. In this way, the recent jurisprudence of the General Court appears, for the time being, to be in line with the position of the Council, the Parliament, and the Commission, which have extensively expressed their commitment to a robust response to circumvention in the context of the restrictive measures adopted by the Union against Russia.⁶¹

IV. CONCLUSIONS

As the designations of Russian oligarchs (under the new "(g) criterion") has resulted in a significant amount of new litigation in Luxembourg, this *Insight* intended to illustrate how the General Court has assessed the legality of these designations after February 2022. In presenting a handful of recent rulings, it has been argued that the Union is far from targeting oligarchs *stricto sensu*. Indeed, by referring to "leading businesspersons involved in economic sectors providing a substantial source of revenue to the Government", the Council has broadened the category of potentially targeted individuals. Although an oligarchy, from the ancient Greek *oligarkhía*, is supposed to be "rule by a few", the "(g) criterion" seems to have an impact on anyone doing business in certain economic sectors, regardless of whether there is any connection between the individual and the ruling class. This is further demonstrated in the updated version of the "(g) criterion". In fact, on 5 June 2023, the Council amended and further expanded this listing criterion to include both "leading businesspersons" operating in Russia (because of their systematic accumulation of wealth through the exploitation of natural and other public resources, in a relationship

⁵⁸ *OT* cit. para. 183; *Khan* cit. para. 129.

⁵⁹ *Khan* cit. para. 101.

⁶⁰ *OT* cit. para. 183; *Khan* cit. para. 131.

⁶¹ See Commission's Proposal for a Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures, COM/2022/684 final; Commission, Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention, 2023. See also C Portela and K Olsen, 'Implementation and Monitoring of the EU Sanctions' Regimes, Including Recommendations to Reinforce the EU's Capacities to Implement and Monitor Sanctions' (2023) European Parliament www.europarl.europa.eu. By the same Author see F Finelli, 'Countering circumvention of restrictive measures: The EU response' (2023) CMLRev 733.

of interdependence with the Russian government), and “*other* businesspersons” as long as they are involved in certain economic sectors that provide a substantial source of revenue to the Russian government.⁶² Therefore, the relevance of certain (unspecified) sectors (rather than individual conduct and status in Russia) is clearly unprecedented in the Council’s targeting practice. It remains to be seen what the limits of this practice will be, but so far, the Council appears to enjoy a wide political discretion in exerting maximum pressure on the Russian economy, as confirmed by the General Court.

⁶² See Recital (4) Council Decision (CFSP) 2023/1094 of 5 June 2023 amending Decision 2014/145/CFSP.