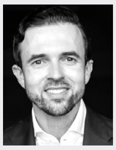
Annual Developments in EU Sanctions Litigation



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More than one out of 10 cases before the European Court of Justice ("**CJEU**"), currently relate to the sanctions imposed by the European Union ("**EU**") against the Russian Federation ("**Russia**") and Belarus in the context of the war in Ukraine.[1] This is not surprising, with the unprecedented amount of sanctions with which the EU has condemned the Russian full-scale invasion of Ukraine and Belarus' involvement. The restrictive measures against Russia affect almost all sectors of the Russian economy, with the result that the impact of sanctions is greater than ever. Over the years, the restrictive measures that are an essential part of the EU's Common Foreign and Security Policy ("**CFSP**") evolved from simple asset freezes measures to more sophisticated restrictions, encompassing trade, finance, technology, investments and currently even legal services.

The year 2023 has been marked by the further expansion of the already existing sanctions regime against Russia and Belarus, with an extension of the scope and adopting measures that allow the sanctions to be better enforced and implemented, based on the lessons learned. Countering circumvention is high on the agenda of EU policymakers, in order to ensure the imposed restrictive measures have the desired effect. In this context, the Council of the EU ("**Council**") unanimously decided on 28 November 2022 to add the violation and circumvention of restrictive measures to the list of EU crimes.[2] At the time of writing this chapter, under the EU Russia sanctions regime, 1,572 individuals and 244 legal entities are targeted by an asset freeze and a prohibition to make funds or economic resources available. Since restrictive measures have far-reaching implications, affecting not only the targeted individuals or entities but also their business partners, customers, and financial institutions, targeted individuals and entities are actively challenging their listing with the CJEU. Although with limited success, the constant challenging of sanctions by those affected by the measures keeps the institutions of the EU imposing the sanctions on their toes.

This year, most of the cases currently pending before the CJEU are delisting cases where targeted individuals and entities seek to annul their listing on the relevant sanctions list. However, also other cases with different substantive or procedural questions have been brought before the General Court (the "**General Court**") or the Court of Justice (the "**ECJ**"). In this chapter, we will be discussing the cases over the past year before the CJEU that have caught our eye. These cases range from an application for annulment of an exemption under the EU Blocking Regulation; a case which provides a clear warning to EU operators who have applied for an authorisation but are waiting a decision. Furthermore, we will discuss three "delisting" cases that address the reasoning and evidence the Council must provide when deciding to list individuals on the EU's sanctions list. We will then discuss an interesting case regarding a claim for damages, following the annulment of the listing of the former Ukrainian Minister of Revenues and Duties. Last, we will discuss two procedural cases that once again show that the bar for admissibility of a request for interim relief measures is set high by the General Court.

Annulment of an Exemption Under the EU Blocking Statute

In the 2023 edition of this chapter, we discussed the first-ever judgment of the ECJ on the EU Blocking Statute.[3] One year ahead, there is a new ruling from the General Court on the EU Blocking Statute that is worthy of discussion.

The withdrawal of the United States ("**US**") from the Joint Comprehensive Plan of Action in 2018 and the following reimposition of the US sanctions against Iran have resulted in discrepancies between opportunities to conduct business from the US and EU respectively with Iran. In order to protect its interests and to provide protection against the extraterritorial application of the US sanctions against Iran, the EU swiftly responded by updating Regulation No 2271/96 ("**EU Blocking Statute**").[4] Following that amendment, EU companies are prohibited from complying with the US sanctions against Iran, unless an authorisation is applied for and granted by the European Commission ("**Commission**"). Such an exemption can be granted by the Commission on the basis of Article 5, in circumstances where non-compliance with the US sanctions against Iran would seriously damage the interests of the persons covered by the EU Blocking Statute or those of the EU.[5]

In the case at hand, IFIC Holding AG ("**IFIC**"), a German company whose shares are indirectly held by Iran with shareholdings in various German undertakings, sought the annulment of an authorisation granted by the Commission to Clearstream Banking AG ("**Clearstream Banking**") on the basis of Article 5 of the EU Blocking Statute.[6] Clearstream Banking, as the only bank in Germany where securities may be deposited, was responsible for paying IFIC's dividends from its shareholdings in the German undertakings. Acting in line with the granted authorisation, Clearstream Banking withheld payment of dividend to IFIC. This was necessary for Clearstream banking in order to ensure compliance with the US sanctions against Iran, now that IFIC was listed on the Specially Designated Nationals and Blocked Persons List (the "**SDN List**"). While the proceedings were unsuccessful for IFIC, resulting in the dismissal of IFIC's action, the General Court provides important new insights concerning the EU Blocking Statute.

By arguing that due to the authorisation granted to Clearstream Banking, IFIC was unable to carry out its business activities in full, IFIC plead that the Commission made an error of assessment by not taking into account IFIC's situation and interest, nor the impact that the decision had on IFIC. In addition, IFIC argued that the European Commission did not take into account the possibility of less onerous alternatives or the possibility for the applicant to claim compensation.[7] The General Court ruled, taking into account the wording of Article 5 of the EU Blocking Regulation and the non-cumulative criteria as laid down in Implementing Regulation 2018/1101, which seek to give effect to Article 5, that the Commission has no obligation to take into account the interests of third parties affected by the restrictive measures, such as (legal) persons listed on the SDN list. Both legal frameworks only make reference to the interests of the applicant and of the Union, to determine whether they will be seriously harmed in case of non-compliance with the "blocked sanctions". According to the General Court, this indicates that there was no intention of the EU legislator that other interests should be taken into account.[8] Moreover, the General Court ruled that when the Commission concludes that there is sufficient evidence that serious damage to the interests of the applicant or the Union have occurred, the legal framework does not oblige the Commission to examine whether there are less onerous alternatives to the authorisation.[9]

In principle, under the Charter of Fundamental Rights of the EU ("**Charter**"), parties against whom an adverse decision has been taken, have the right to be heard.[10] IFIC claimed that by not being heard by the Commission during the procedure that led to the authorisation, there was a violation of this fundamental principle of EU law, now that IFIC claimed to be indirectly harmed by the decision.[11] While the General Court acknowledges the importance of the principle to be heard by devoting a substantial assessment to it, it finds that the EU legislator chose to establish a regime in which the interests of third parties are not to be taken into account and those third parties are not to be involved in the procedure. The adoption of an authorisation decision on the basis of Article 5 of the EU Blocking Statute, meets the general interests objectives of protection the interests of the Union or of persons exercising rights under the TFEU against the serious damage which can result from non-compliance with the "blocked sanctions". It even follows by stating that the exercise of the right to be heard is not only inconsistent with the general interest objectives of the EU Blocking Statute, but that it also risks jeopardising, through the uncontrolled circulation of information that can be brought to the attention of the authorities in the third country that has enacted the "blocked sanctions", the achievement of these objectives. As a result, the General Court concluded that the limitation of the right to be heard of third parties that are targeted by the "blocked sanctions" in the procedure of the authorisation decision, does not appear to be disproportionate and to fail the essential content of that right.[12]

Finally, and most importantly, the General Court considers that decisions from the Commission authorising EU companies to comply with the "blocked" sanctions, under Article 5 of the EU Blocking Statute do not have retroactive effect.[13] As such, a granted authorisation does not cover any conduct that took place before the date on which the authorisation took effect, but only conduct which has taken place after that date. While irrelevant in the context of this case, being that only the legality of the decision was in dispute, it provides a clear warning to EU operators who have applied for an authorisation under the EU Blocking Statute but not yet received. Until an authorisation decision has been received from the Commission, the applicants will not be permitted to comply with the "blocked" sanctions. Given the long period of time that can elapse between the application and final decision, in the case at hand a year and-a-half, this can cause difficulties in practice.

Challenging a Listing Based on Family Ties

On 8 March 2022, the General Court annulled the inclusion of Violetta Prigozhina, the mother of Yevgeniy Prigozhin, on Annex I to Council Regulation (EU) 269/2014.[14] The General Court ruled that the family relationship as mother and son was in itself insufficient to justify Ms. Prigozhina's inclusion on the contested list.[15] Before discussing the ground that led to the annulment by the General Court, we will first shortly discuss the facts of this case.

This case concerns Council Decision (CFSP) 2022/265[16] and Council Implementing Regulation (EU) 2022/260,[17] both adopted on 23 February 2022, which imposed restrictive measures on individuals and entities linked to actions undermining or threatening the territorial integrity, sovereignty, and independence of Ukraine. Violetta Prigozhina was listed as one of the individuals subject to these sanctions. The Council included Ms. Prigozhina on the grounds of her status as the mother of Yevgeniy Prigozhin (the head of the Wagner Group) and her ownership of Concord Management and Consulting LLC, part of the Concord Group, previously founded and owned by her son.[18] Additionally, the Council stated Violetta Prigozhina indirectly benefitted through her son from major public contracts with the Russian Ministry of Defence following the illegal annexation of Crimea and the occupation of eastern Ukraine by Russian-backed separatists. Under these findings, the Council argued that she supported actions and policies which undermine the territorial integrity, sovereignty and independence of Ukraine.

As a result, Violetta Prigozhina sought annulment of her listing and argued that the Council failed to explain how she exercised influence over the decision of the Russian President to undermine Ukraine's territorial integrity. In addition, she argued that the Council provided no other ground for her listing other than being an immediate family member of Yevgeniy Prigozhin.[19] Furthermore, Violetta Prigozhina argued that her listing lacked a sufficient factual basis and consisted of errors of assessment by the Council, considering her role in Concord Management and Consulting LLC had ceased in 2017.[20]

The General Court ruled that, under the applicable sanctions regime, *a sole family relationship is not sufficient to justify an individual's listing*.[21] According to the General Court, the Council had failed to provide adequate evidence showing that Violetta Prigozhina still held shares in the companies linked to her son at the time of the contested acts.[22] As a result, the Court ruled in favour of Violetta Prigozhina and annulled the listing of Violetta Prigozhina from the EU's sanctions list, now that her family relationship with Yevgeniy Prigozhin was not sufficient to justify her inclusion on the contested list, and there was an absence of a solid factual basis to support her inclusion.[23] This ruling emphasises the obligation for the Council to state reasons and include sufficient evidence when imposing sanctions on individuals and entities.

Interestingly, rather than accepting the removal of Violetta Prigozhina from the EU's sanctions list following her successful appeal with the General Court, the Council chose to take the two following actions. First, on 5 June 2023, the Council amended the grounds under which it can target individuals with sanctions to also include family members, now reading "leading businesspersons operating in Russia and their immediate family members, or other natural persons benefiting from them, as well as businesspersons, legal persons, entities, or bodies involved in economic sectors providing substantial revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine".[24] Secondly, the Council arguably fulfilled its obligation to provide a statement of reasons and simply revised the justifications for imposing EU sanctions on Violetta Prigozhina to better align with the factual circumstances.[25] Consequently, despite her successful efforts in challenging her listing, Violetta Prigozhina currently remains on the EU's sanctions list.

This case shows the tension between the ECJ's duty to review the legality of a sanctions measure and the Council's discretion to amend the legal basis for these listing measures as it deems necessary. It remains to be seen if these amendments to the rules will hold up when these are challenged in future applications.

Modified Sanctions to Continue as a Racing Driver

On 9 March 2022, the Council added Nikita Dmitrievich Mazepin to the EU's sanctions list. Nikita Mazepin had been a driver at Haas Formula One Team until March 2022, when he was dismissed by Haas. The reasons for his dismissal included poor performance and the impact of the Russian invasion of Ukraine. The invasion and the subsequent inclusion as a sanctioned individual under the EU Russia sanctions regime affected the ability of Nikita's father, Dmitry Mazepin, to continue sponsoring his son's career at Haas through Russian company UralKali.

On 25 November 2022, Nikita Mazepin filed an action for annulment of the contested measure including him on the EU's sanctions list.[26] Additionally, on 9 December 2022, Nikita Mazepin brought an application for interim measures to suspend the effects of the sanctions, particularly to enable him to negotiate his recruitment as a professional Formula One driver or as a driver in other motor sport championships active within the EU.[27] His request also aimed to allow his participation in various motor sport events, such as Formula One Grand Prix, tests, training sessions, and free sessions taking place in the EU.

In order to establish the urgency for interim measures, Nikita Mazepin needed to demonstrate that waiting for the final decision could lead to serious and irreparable damage. In that regard, Nikita Mazepin argued that as a result of the restrictive measures imposed against him, he was and is unable to negotiate his recruitment in the 2023 season to a team as a full-time or reserve Formula 1 driver or as a driver of any other motor sport competition taking place in Europe.

By order of 1 March 2023, the President of the General Court held that the merits of Nikita Mazepin's listing were to be discussed in further detail in the *prima facie* case that was already pending by virtue of Nikita Mazepin's appeal on 25 November 2022.[28] However, the President held that in awaiting the *prima facie* case, Nikita Mazepin successfully demonstrated that there is a justified discussion surrounding the arguments for listing him on the EU's sanctions list. According to the President of the General Court, the operation of the contested measures were to be suspended in so far as the name of Nikita Mazepin was maintained on the EU's sanctions list. The suspension was limited to situations where it was necessary to facilitate his negotiations for potential recruitment as a professional Formula One driver or for participation in other motor sport championships held within the EU or in events solely occurring in the EU. Additionally, the suspension allowed him to take part in Formula One Grand Prix, tests, training sessions, and free sessions within the EU, as well as participate in other motor sport championships, races, tests, training sessions, and free sessions held in the EU.[29]

Despite this order from the President of the General Court partially suspending the effect of the listing of Nikita Mazepin, the Council decided to maintain Nikita Mazepin's name on the EU's sanctions list. The Council simply amended the "identifying information" and the "reasons" for Nikita Mazepin's inclusion on the list.[30]

Consequently, on 4 May 2023, Nikita Mazepin modified his application for interim measures, so the President of the General Court had to decide again.[31] In essence, Nikita Mazepin claimed that the Council has not shown that he unduly benefitted from his father to obtain the role as a Formula One racing driver for Haas Formula One.[32] In order to demonstrate the serious and irreparable nature of the damage alleged to demonstrate the urgency for interim proceedings, Nikita Mazepin further argued that, as a result of the restrictive measures taken against him, he was and is unable to negotiate his recruitment for the 2023 season, to a team as a full-time or reserve Formula One driver or as a driver of any other motor sport competition taking place in Europe, such as Formula Two or the Deutsche Tourenwagen Masters.[33]

Interestingly, the Council tried to rebut these arguments by providing negative assessments concerning Nikita Mazepin's results as a Formula One driver by substantiating that he would never have been offered a role as a Formula One driver without involvement of his father. As such, the Council concludes that Nikita Mazepin has unduly benefitted from his father.[34] Nikita Mazepin responded to these claims by indicating that he finished fifth in the overall standings in the Formula Two season the year before, meaning that he has shown potential in the lower classes before moving to the big stage.

Notwithstanding the discussion on the merits of Nikita Mazepin's listing, the President of the General Court held on 19 July 2023 that there are sufficient reasons to doubt that the restrictive measures concerning Nikita Mazepin are founded on a sufficiently solid factual basis.[35] In light of the discussion surrounding the merits of Nikita Mazepin's inclusion on the EU's sanctions list, the President of the General Court upheld his earlier decision of 1 March 2023 to suspend the operation of the contested measures, to allow Nikita Mazepin to do what is strictly necessary to enable him to negotiate his recruitment as a professional Formula One driver or as a driver in other motor sport championships taking place also or only in the EU, as well as to participate in Formula One Grand Prix, tests, training sessions and free sessions and in other motor sport championships, races, tests, training sessions and free sessions taking place in the EU.[36]

This case sets a precedent that sanctions can be suspended via interim proceedings once the applicant sufficiently demonstrates that there is discussion surrounding the merits, or the evidence of the listing, and when the applicant demonstrates that suspension of the sanctions is strictly necessary to negotiate recruitment to work within the EU. However, it remains to be seen whether this judgement is limited to high-profile sportsmen, such as Nikita Mazepin, or could also apply to other individuals listed on the EU's sanctions list.

The Obligation for Up-To-Date Evidence

On 20 April 2023, the ECJ delivered a ruling in the case of *Council v El-Qadhafi*.[37] The ECJ dismissed the appeal brought by the Council against the judgment of the General Court and upheld the General Court's decision that the Council had no factual basis to justify the retention of Ms Aisha El-Qadhafi's name on the contested acts of 2017 and 2020. The judgment reiterated a crucial principle that the Council must diligently review and provide up-to-date justifications when subjecting an individual to EU sanctions.[38] This diligent review is essential to verify whether changes in the behaviour or circumstances of targeted individuals have occurred after imposing sanctions, being the overall purpose of the imposition of EU sanctions.

Ms Qadhafi's was designated in 2011 when the United Nations Security Council (the "**UNSC**") adopted UN Resolution 1970 (2011), which imposed sanctions on Libya and individuals linked to severe human rights abuses and attacks on civilians.[39] The Council adopted EU decisions and regulations to implement this UN Resolution, including travel bans and asset freezes on listed individuals.[40] When designating Ms Qadhafi, the Council relied on statements by Ms Qaddafi dating from 2011 and 2013. Even when extending her listing in 2017 (and 2020), the Council still made use of these statements.

On 27 May 2019, Ms Qadhafi had already brought an action before the General Court to have her name removed from the list.[41] By the judgment under appeal, the General Court annulled the acts at issue in so far as they maintained Ms Qadhafi's name on the list. Subsequently, the Council filed an appeal with the ECJ to set aside the judgment under appeal.

On appeal, the ECJ concluded as follows. The ECJ noted that the issue of the statement of reasons, which concerns an essential procedural requirement, is separate from that of the evidence of the alleged conduct, which concerns the substantive legality of the act in question and involves assessing the truth of the facts set out in that act and the classification of those facts as evidence justifying the use of restrictive measures against the person concerned.[42] Consequently, the ECJ emphasised the need for up-to-date information and evidence when justifying listings. In that light, the Court held that the considerable time gap between the statements and the challenged acts and changes in Ms Qadhafi's circumstances rendered the Council's decision insufficiently motivated.[43] The Council needed to demonstrate how the information from 2011 and 2013 was still relevant when upholding her listing in 2017 and 2020 or how Ms Qadhafi threatened international peace and security in the region during those years.

The ECJ's judgment showcases its commitment to conduct judicial reviews of listings based on UNSC resolutions. This ensures that individual listings are supported by accurate, relevant, and up-to-date evidence. Notably, ECJ has become an important place for challenging UN listings since the landmark case of Kadi I, where the ECJ held that EU instruments implementing UN measures must respect the fundamental rights of targeted individuals, including judicial protection.[44] While Ms Qadhafi cannot directly challenge her UN listing before an independent judicial mechanism, the ECJ's review of EU sanctions measures implemented under UN obligations provides an indirect route to judicial review.

The ruling in *El-Qadhafi v Council* moreover underlines the importance of an effective delisting procedure through the ECJ. However, despite the ECJ's ruling, Ms Qadhafi remains on the EU's sanctions list at of the time of writing. It remains to be seen whether the Council will renew her listing based on an up-to-date assessment supported by new evidence or whether they will finally decide to delist her after 12 years.

The Rejected Claim for Damages of Oleksandr Klymenko

On 1 February 2023, the General Court issued a ruling in which it has rejected the claim of Oleksandr Klymenko, the former Ukrainian Minister of Revenues and Duties.[45] In the case at hand, Mr Klymenko sought compensation for damages arising from his listings on the EU's sanctions list. The case saw Mr Klymenko pursuing EUR 50,000 in reputational damages and EUR 2,000,000, plus EUR 500 per month in damages for the period he was listed (from 2015 to 2021). The General Court's ruling rejected the claims made by Mr Klymenko based on three grounds. Before discussing these grounds of rejection, it is crucial to note that Mr Klymenko has a history of success in having his listings annulled. His designation was eventually annulled by the ECJ. Nonetheless, the General Court's decision to reject Mr Klymenko's claim for damages indicates that a successful annulment procedure does not automatically lead to financial compensation.

Firstly, the General Court determined that the damages claim for acts carried out in 2015 and 2016 was brought too late.[46] The limitation period for these actions commenced on the dates when the acts were published in the Official Journal of the European Union (6 March 2015 and 5 March 2016, respectively) and ended after five years.[47] However, Mr Klymenko did not initiate the action for damages until 30 July 2021, well beyond the five-year limitation period.[48] Consequently, the General Court deemed these claims relation to Mr Klymenko's listing in 2015 and 2016 to be inadmissible since the five-year period had exceeded.[49]

Secondly, Mr Klymenko argued that the General Court had committed errors when designating him on the EU's sanctions list.[50] Subsequently, the General Court assessed the alleged errors committed by the EU in relation to the designation of Mr Klymenko from 2017 to 2020.[51] The General Court refers to case-law in which it was stated that only a manifest and serious breach by the institution concerned of the limits imposed on its discretion is capable of giving rise to non-contractual liability.[52] Further, the factors to be taken into consideration in that regard being, in particular, the complexity of the situations to be regulated, the difficulties in applying or interpreting the provisions and the extent of the discretion which the rule infringes leaves it to the EU institution.[53] Upon this assessment, the General Court concluded that the errors were not serious enough to warrant a payment of damages and did not meet the threshold necessary to justify financial compensation for Mr Klymenko.[54]

Lastly, the damages claim regarding the listing of Mr Klymenko in 2021 was also rejected. In principle, the General Court found that the Council did not have sufficient evidence to establish that Mr Klymenko's rights of defence and right to effective judicial protection had been respected.[55] In essence, the General Court held that the Council committed a serious breach in relation to the listing of Mr Klymenko in 2021, opening the Council to liability for damages.[56] However, even though the Council committed a serious breach, the General Court found that Mr Klymenko had failed to sufficiently establish the extent of the damages suffered and to demonstrate a direct causal link between his designation and the damage he had incurred as a result thereof.[57]

This case highlights the responsibility of the Council to exercise due diligence and ensure the restrictive measures are imposed based on accurate information, but also sets a precedent for individuals seeking a payment for damages arising from designation on the EU's sanctions list. The General Court's ruling expresses the need for a claimant to file for damages timely first, to prove that the Council has committed a serious breach in their judgement, and present evidence to establish the causal connection between the damages suffered and the designation on the EU's sanctions list.

Lessons Learned From Interim Relief Proceedings

Although exceptionally successful, the General Court in 2023 was also occupied with a variety of interim relief proceedings in the field of sanctions. Since an action for annulment brought before the Court does not have suspensive effect, the General Court may, on the basis of Articles 278 and 279 TFEU, order a suspension of the execution of the contested act or prescribe any necessary interim relief measures. The court hearing an application for interim measures may only grant a suspension of operation or other interim measures, if it is established that (i) such measures appear prima facie justified in fact and law, and (ii) are urgent in the sense that, in order to prevent serious and irreparable damage to the interests of the applicant. These conditions are cumulative, which means that the application must be dismissed if any of them is not met.[58] Two recent 2023 cases demonstrate again that interim relief proceedings before the General Court do not simply succeed. Without extensive reasoning on the aforementioned criteria, an application for interim relief measures makes little sense.

The first case was brought by a businessperson and former director of the African Gold Refinery Limited, who is listed under the EU sanctions regime against the Democratic Republic of Congo since 2022.[59] The General Court dismissed the application for interim measures of the applicant, by arguing that the applicant had failed to meet the criteria for interim measures pending the annulment application. In this case, the criterion of urgency was specifically at issue. One of the applicants' pleas was that the freezing of his assets and funds held in the Union constitutes a far-reaching interference with the enjoyment of his property, the consequences of which could be disastrous, and adversely affects his activity as manager and shareholder in three companies in Belgium, of which he also is a national.[60] Although the General Court recalls that, according to settled case-law, an interim measure is justified if it appears that the applicant will find itself in a situation it cannot meet its basic needs or if the financial damage will be irreparable, it finds that the applicant did not provide any evidence of the harm allegedly suffered by him or his companies, or of the causal link between the contested acts and that harm, nor does it comment on the irreparable nature of any financial damage.[61] The General Court rejected the request without assessing the criterion of whether the measures requested were justified in fact and in law, now that the applicant failed to demonstrate that the urgency criterion was met. The case at hand shows that for an application for interim measures to be successful, the applicant must at least provide concrete and precise evidence supported by detailed and certified documentary evidence, showing the situation in which the applicant finds itself and on the basis of which it is possible to assess what the likely consequences would be if the requested measures are not granted. Without proper substantiation of the two cumulative conditions, an application may be better left behind.

The second case was lodged by Cogebi, an EU manufacturer of industrial products based on mica.[62] As part of the eight EU sanctions package against Russia, goods falling under CN code 6815, namely worked mica and articles of mica, were added to the import ban. Following this addition, Cogebi brought an action for annulment, in so far as it includes CN code 6814.[63] In addition, Cogebi made a request for interim measures, in order to suspend the operation of the addition of CN code 6814 to the import ban. The General Court's reasoning for rejecting the applicant's request was very brief. Taking into account that in the application for interim measures, the applicants did not make any argument in respect of the *prima facie* case requirement or the balancing of competing interests, the General Court ruled that the application was not intelligible in itself without referring to the application in the main proceedings.[64] It follows, however, from the Rules of Procedure from the General Court that an application for interim measures must be sufficient in itself, in order for the defendant to prepare it defence and the judge hearing the application to rule on it, where necessary, without other supporting information.[65] A sole reference to the application on the main proceedings is not sufficient in this context. This case highlights that in case of applying for interim measures at the General Court, the application itself must contain a separate document arguing why the two cumulative conditions for the interim measures are met.

Endnotes

1. This was already the case in 2022, as confirmed by press release No 42/23 of the Court of Justice of the European Union <https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-03/cp230042en.pdf>.
2. Council Decision (EU) 2022/2332 of 28 November 2022 on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83(1) of the Treaty of the Functioning of the European Union (*OJ* L308/18).
3. Case C-124/20, *Bank Melli Iran v Telekom Deutschland GmbH*, ECLI:EU:C:2021:1035, 21 December 2021.
4. Commission Delegated Regulation (EU) 2018/1100 of 6 June 2018 amending the Annex to Council Regulation (EC) No 2271/96 protecting against the effects of extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, *OJ* 2018, L 199 I/1.
5. The criteria application for an authorisation under Article 5 can be found in the second paragraph of that article, as well as in Commission Implementing Regulation (EU) 2018/1101 of 3 August 2018 laying down the criteria for the application of the second paragraph of Article 5 of Council Regulation (EC) No 2271/96 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, *OJ* 2018, L 199 I/7.
6. Case T-8/21, *IFIC Holding AG v Commission*, ECLI:EU:T:2023:387, 12 July 2023.
7. *Id.*, paragraph 62.
8. *Id.*, paragraphs 68–72.
9. *Id.*, paragraphs 78–80.
10. Article 41 Charter of Fundamental Rights of the European Union.
11. Case T-8/21, *IFIC Holding AG v Commission*, ECLI:EU:T:2023:387, 12 July 2023, paragraph 94.
12. *Id.*, paragraphs 100–22.
13. *Id.*, paragraph 57.
14. Case T-212/22, *Violetta Prigozhina v Council*, ECLI:EU:T:2023:104, 8 March 2023.
15. *Id.*, paragraph 95.
16. Council Decision (CFSP) 2022/265 of 23 February 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.
17. Council Implementing Regulation (EU) 2022/260 of 23 February 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

18. *Supra* n 11 and 12, under listing name: 223.
19. *Supra* n 9, paras 88 and 89.
20. *Ibid.*
21. *Id.*, paras 94 and 95.
22. *Ibid.*
23. Id., para 98.
24. Council Regulation (EU) 2023/1089 of 5 June 2023 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.
25. The statements of reasons now reads: "*Violetta Prigozhina is the mother of Yevgeny Prigozhin and former owner of Concord Management and Consulting LLC, which is linked to other 'Concord family' businesses, including Combinat Pitaniya. The 'Concord family' businesses are closely associated with Yevgeny Prigozhin. She is the former co-owner of other companies with links to her son, including 'NOVYI VEK' Restaurant Equestrian Sport Complex LLC. She is associated with Yevgeny Prigozhin, who is responsible for the deployment of Wagner Group mercenaries in Ukraine and for benefitting from large public contracts with the Russian Ministry of Defence following the illegal annexation of Crimea by Russia and occupation of Eastern Ukraine by Russia-backed separatists.*
She has therefore supported actions and policies which undermine the territorial integrity, sovereignty and independence of Ukraine."
26. Action brought on 25 November 2022 – *Mazepin v Council* (Case T-743/22).
27. Separate document lodged at the Court Registry on 9 December 2022.
28. Case T743/22 R, *Mazepin v Council*, (not published), EU:T:2023:102, 1 March 2023, para 52.
29. *Id.*, para 101.
30. Council Implementing Regulation (EU) 2023/571 of 13 March 2023 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.
31. Case T743/22 R II, *Mazepin v Council*, ECLI:EU:T:2023:406, 19 July 2023.
32. *Id.*, paras 44 to 48.
33. *Id.*, paras 86 and 87.
34. *Id.*, para 67.
35. *Ibid.*
36. *Id.*, para 124.
37. Case C-413/21, *Council v El-Qadhafi*, ECLI:EU:C:2023:306, 20 April 2023.
38. *Id.*, paras 75 to 76.
39. United Nations Resolution 1970 (2011) Adopted by the Security Council at its 6491st meeting, on 26 February 2011.
40. Regulation (EU) No 204/2011 concerning restrictive measures in view of the situation in Libya.
41. The decision was rendered in Case T322/19, *El-Qadhafi v Council*, ECLI:EU:T:2021:206, 21 April 2021.
42. *Supra* n 34, para 45.
43. *Id.*, para 69.
44. Case C–402/05 P and C–415/05 P, *Kadi and Al Barakaat International Foundation v. Council and Commission*, ECLI:EU:C:2008:461, 3 September 2008.
45. Case T-470/21, *Klymenko v Council*, ECLI:EU:T:2023:26, 1 February 2023.
46. *Id.*, paras 48 to 57.
47. *Id.*, para 55.
48. *Id.*, para 56.
49. *Id.*, para 57.
50. *Id.*, para 60.
51. *Id.*, paras 58 to 98.
52. *Id.*, para 78. The General Court refers to, inter alia, Case C-123/18 P, *HTTS v Council*, EU:C:2019:694, 10 September 2019, paras 33 and 42.
53. *Ibid.*
54. *Id.*, para 98.
55. *Id.*, paras 99 to 103.
56. *Ibid.*
57. *Id.*, paras 105 to 129.
58. Case C-162/15 P-R, EU:C:2016:142, paragraph 21 and the case-law cited.
59. Case T-6/23 R, *UC v Council*, ECLI:EU:T:2023:205.
60. *Id.*, paragraph 24.
61. *Id.*, paragraphs 29–32.
62. Case T-782/22 R, *Cogebi v Council*, ECLI:EU:T:162.
63. By Council Regulation (EU) 2022/1904 of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine goods falling under CN code 6814 were added to Annex XXI, as a result of which it became prohibited to import goods falling under CN code 6814 into the European Union from the Russian Federation.
64. *Id.*, para 16.
65. *Id.*, para 13.

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BenninkAmar assists its clients in all aspects of sanctions, export controls and other trade law matters. In light of the increase in trade law regulations and enforcement measures globally, BenninkAmar has a proactive approach to trade law in international business and offers tailored advice to its clients, helping them navigate a complex legal landscape, ensure their compliance with applicable trade laws, while enabling them to focus on their business opportunities.
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