

JUDGMENT OF THE GENERAL COURT (Fifth Chamber)

22 October 2025 (\*)

( Common foreign and security policy – Restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine – Freezing of funds – Restrictions on admission to the territory of the Member States – Lists of persons, entities and bodies subject to the freezing of funds and economic resources or subject to restrictions on entry into the territory of the Member States – Maintenance of the applicant’s name on the lists – Error of assessment )

In Case T-233/24,

**Mikhail Safarbekovich Gutseriev**, residing in Moscow (Russia), represented by B. Kennelly, Senior Counsel, J. Pobjoy, Barrister-at-Law, and D. Anderson, lawyer,

applicant,

v

**Council of the European Union**, represented by E. Kübler and A. Antoniadis, acting as Agents,  
defendant,

THE GENERAL COURT (Fifth Chamber),

composed, at the time of the deliberations, of J. Svenningsen, President, J. Laitenberger and M. Stancu (Rapporteur), Judges,

Registrar: M. Zwodziak-Carbonne, Administrator,

having regard to the written part of the procedure,

further to the hearing on 4 June 2025,

gives the following

**Judgment**

1 By his action under Article 263 TFEU, the applicant, Mr Mikhail Safarbekovich Gutseriev, seeks the annulment of Council Decision (CFSP) 2024/769 of 26 February 2024 amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (OJ L, 2024/769) and of Council Implementing Regulation (EU) 2024/768 of 26 February 2024 implementing Article 8a of Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (OJ L, 2024/768), in so far as those acts (together, ‘the contested acts’) concern the applicant.

**Background to the dispute**

2 The applicant is a Russian businessperson operating in Belarus.

3 The present case has been brought in connection with the restrictive measures adopted by the European Union, from 2004 onwards, in view of the situation in Belarus with regard to democracy, the rule of law and human rights. More specifically, the case is linked to the persistent gravity of the situation in Belarus and the involvement of Belarus in the Russian Federation’s unlawful aggression against Ukraine.

4 On 18 May 2006, the Council of the European Union adopted, pursuant to Articles 60 and 301 EC (now Articles 75 and 215 TFEU), Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus (OJ 2006 L 134, p. 1) and, on 15 October 2012, on the basis of Article 29 TEU, Decision 2012/642/CFSP concerning restrictive measures against Belarus (OJ 2012 L 285, p. 1).

5 The criterion applied in order to adopt the restrictive measures against the applicant ('the listing criterion at issue') is laid down in Article 3(1)(b) and Article 4(1)(b) of Decision 2012/642 and in Article 2(5) of Regulation No 765/2006, in the versions thereof in force when the contested acts were adopted.

6 Article 3(1)(b) of Decision 2012/642 provides for the prohibition on entry into, and transit through, the territory of the European Union for persons who benefit from or support the regime of President Lukashenko. Article 4(1)(b) of Decision 2012/642 and Article 2(5) of Regulation No 765/2006, which refers to the former provision, provide for the freezing of all funds and economic resources belonging to natural or legal persons, entities and bodies who benefit from or support the regime of President Lukashenko, as well as legal persons, entities and bodies owned or controlled by them.

7 By Council Implementing Decision (CFSP) 2021/1002 of 21 June 2021 implementing Decision 2012/642 (OJ 2021 L 219 I, p. 70) and Council Implementing Regulation (EU) 2021/997 of 21 June 2021 implementing Article 8a(1) of Regulation No 765/2006 (OJ 2021 L 219 I, p. 3) (together, 'the initial acts'), the applicant's name was included on the lists of persons, entities and bodies subject to the restrictive measures set out in the annex to Decision 2012/642 and in Annex I to Regulation No 765/2006 (together, 'the lists at issue').

8 By Council Decision (CFSP) 2022/307 of 24 February 2022 amending Decision 2012/642 (OJ 2022 L 46, p. 97) and Council Implementing Regulation (EU) 2022/300 of 24 February 2022 implementing Article 8a of Regulation No 765/2006 (OJ 2022 L 46, p. 3) (together, 'the 2022 maintaining acts'), the measures imposed on the applicant were extended until 28 February 2023.

9 In those acts, the Council justified the extension of the restrictive measures against the applicant by identifying him as a 'businessman, shareholder and chairman of the board of executives of Safmar and Slavkali companies' and by giving the following reasons:

'[The applicant] is a prominent Russian businessman, with business interests in Belarus in the sectors of energy, potash, hospitality and others. He is a long-time acquaintance of [President Lukashenko] and thanks to that association has accumulated significant wealth and influence among the political elite in Belarus. Safmar, a company which has been controlled by [the applicant], was the only Russian oil firm that carried on supplying oil to Belarusian refineries during the energy crisis between Belarus and Russia in early 2020.

[The applicant] also supported [President Lukashenko] in disputes with Russia over oil deliveries. [The applicant] has been the chairman of the board of directors of, and a shareholder in, the Slavkali company, which is building the Nezhinsky potassium chloride mining and processing plant based on the Starobinsky potash salt deposit near Lyuban. It is the largest investment in Belarus, worth USD 2 billion. [President Lukashenko] promised to rename the town of Lyuban "Gutserievsk" in his honour.

His other businesses in Belarus have included fuelling stations and oil depots, a hotel, a business centre and an airport terminal in Minsk. [President Lukashenko] came to [the applicant's] defence after a criminal investigation was initiated against him in Russia. [President Lukashenko] also thanked

[the applicant] for his financial contributions to charity and investments worth billions of dollars in Belarus. [The applicant] is reported to have gifted [President Lukashenko] luxurious presents.

[The applicant] also declared himself to be the owner of a residency which de facto belongs to [President Lukashenko], thus covering him up when journalists started to investigate [President Lukashenko's] assets. [The applicant] attended [President Lukashenko's] secret inauguration on 23 September 2020. In October 2020 [President Lukashenko] and [the applicant] both appeared at the opening of an orthodox church, which the latter sponsored.

According to media reports, when the striking employees of Belarusian state-owned media were fired in August 2020, Russian media workers were flown to Belarus on board aircraft belonging to [the applicant] in order to replace the fired workers, and lodged in the Minsk Renaissance Hotel belonging to [the applicant]. [The applicant] assisted with the acquisition of CT scanners for Belarus during the COVID-19 crisis.

[The applicant] is therefore [benefiting] from and supporting the ... regime [of President Lukashenko].'

10 By Council Decision (CFSP) 2023/421 of 24 February 2023 amending Decision 2012/642 (OJ 2023 L 61, p. 41) and Council Implementing Regulation (EU) 2023/419 of 24 February 2023 implementing Article 8a of Regulation No 765/2006 (OJ 2023 L 61, p. 20), the measures imposed on the applicant were extended until 28 February 2024.

11 By those acts, the Council justified the extension of the restrictive measures imposed on the applicant by restating all of the grounds for the 2022 maintaining acts (see paragraph 9 above), with, in essence, a few amendments concerning the applicant's identifying information, namely that he was a 'businessman, shareholder and chairman of the board of executives of Slavkali, chairman of the board of directors and shareholder of: JSC Mospromstroï, Industrial Financial Group Safmar JSC, LLC Proekt Grad [and a member] of the board of directors and shareholder of JSC NKNeftisa'.

12 On 27 November 2023, the applicant requested that his name be removed from the lists at issue.

13 On 21 December 2023, the Council informed the applicant of its intention to maintain his name on the lists at issue after 28 February 2024 and sent him document WK 16884/2023 INIT. The Council also gave the applicant the opportunity to submit observations by 12 January 2024.

14 On 11 January 2024, the applicant submitted his observations on the new evidence provided by the Council and again requested that his name be removed from the lists at issue.

15 On 26 January 2024, the Council confirmed its intention to maintain the restrictive measures against the applicant and forwarded documents WK 735/2024 INIT, WK 735/2024 ADD 1 and WK 16884/2023 ADD 1 to him. The Council also requested that the applicant provide, before 8 February 2024, a schedule of his divested assets, with the dates on which they were disposed of and all supporting documents confirming the sale of those assets.

16 On 7 February 2024, the applicant submitted his observations on the new evidence provided by the Council along with a schedule of his divested assets in Belarus.

17 On 26 February 2024, the Council adopted the contested acts and extended the restrictive measures imposed on the applicant until 28 February 2025, without changing the grounds for listing compared with those referred to in paragraphs 9 and 11 above.

#### **Forms of order sought**

18 The applicant claims, in essence, that the Court should:

- annul the contested acts in so far as they concern him;
- order the Council to pay the costs.

19 The Council contends that the Court should:

- dismiss the action as manifestly unfounded;
- in the alternative, should the Court annul the contested acts, order that the effects of Decision 2024/769 be maintained as regards the applicant until the partial annulment of Implementing Regulation 2024/768 takes effect;
- order the applicant to pay the costs.

## **Law**

20 In support of his application for annulment, the applicant essentially raises four pleas in law.

21 By his first plea, which is divided into two limbs, the applicant asserts, first, that the Council misinterpreted the concepts of ‘support’ and ‘benefit’ within the meaning of the listing criterion at issue (first limb) and, second, that the Council made ‘manifest’ errors of assessment in considering that there was a sufficient factual basis to justify the maintenance of his name on the lists at issue under the listing criterion at issue (second limb). The second plea alleges breach of the obligation to state reasons. The third plea alleges infringement of fundamental rights. The fourth plea, which is put forward in the alternative, raises a plea of illegality relating to Article 4(1) of Decision 2012/642 and Article 2(5) of Regulation No 765/2006.

22 At the hearing, the applicant, in essence, withdrew the first limb of the first plea and the fourth plea alleging that the listing criterion at issue was unlawful, formal note of which was taken in the minutes of the hearing.

23 Having made that clarification, the Court considers that the second limb of the first plea in law should be examined first.

### ***The second limb of the first plea in law, alleging ‘manifest’ errors of assessment***

24 As is apparent from paragraphs 9, 11 and 17 above, the applicant’s name was included and maintained on the lists at issue for a number of reasons, which can be grouped into four main reasons relating to (i) the applicant’s business interests as a prominent businessperson in Belarus, particularly in the fields of energy, potash and commercial property, (ii) his personal relationship with President Lukashenko, (iii) the Russian journalists flown to Belarus on board an aircraft owned by the applicant and (iv) his contribution to the purchase of scanners during the COVID-19 pandemic. According to the applicant, those allegations are vitiated by ‘manifest’ errors of assessment.

25 At the outset, it should be noted that, in so far as the present plea alleges ‘manifest’ errors of assessment, it must be regarded as alleging errors of assessment. While it is true that the Council has a degree of discretion to determine, on a case-by-case basis, whether the legal criteria on which the restrictive measures at issue are based are satisfied, the fact remains that the Courts of the European Union must ensure the review, in principle the full review, of the lawfulness of all EU acts (see judgment of 11 September 2024, *Tokareva v Council*, T-744/22, EU:T:2024:608, paragraph 31 and the case-law cited).

26 The effectiveness of the judicial review guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union requires, in particular, that the Courts of the European Union are to ensure that the decision by which restrictive measures were adopted or maintained, which affects

the person or entity concerned individually, is taken on a sufficiently solid factual basis. That entails a verification of the factual allegations in the summary of reasons underpinning that decision, with the consequence that judicial review cannot be restricted to an assessment of the cogency in the abstract of the reasons relied on, but must concern whether those reasons, or, at the very least, one of those reasons, deemed sufficient in itself to support that decision, is substantiated (see judgment of 11 September 2024, *Tokareva v Council*, T-744/22, EU:T:2024:608, paragraph 32 and the case-law cited).

27 Such an assessment must be carried out by examining the evidence and information not in isolation, but in their context. The Council discharges its burden of proof if it presents to the Courts of the European Union a body of sufficiently specific, precise and consistent evidence to establish that there is a sufficient link between the person or entity subject to a measure freezing its funds and the regime or, in general, the situations being combated (see judgment of 11 September 2024, *Tokareva v Council*, T-744/22, EU:T:2024:608, paragraph 33 and the case-law cited).

28 It is the task of the competent EU authority to establish, in the event of challenge, that the reasons relied on against the person or entity concerned are well founded, and not the task of that person or entity to adduce evidence of the negative, that those reasons are not well founded. For that purpose, there is no requirement that the Council produce before the Courts of the European Union all the information and evidence underlying the reasons alleged in the act in respect of which annulment is sought. It is necessary that the information or evidence produced should support the reasons relied on against the person or entity concerned (see judgment of 11 September 2024, *Tokareva v Council*, T-744/22, EU:T:2024:608, paragraph 34 and the case-law cited).

29 In such a situation, it is for the Courts of the European Union to determine whether the facts alleged are made out in the light of that information or evidence and to assess the probative value of that information or evidence in the circumstances of the particular case and in the light of any observations submitted in relation to them by, among others, the person or entity concerned (see judgment of 11 September 2024, *Tokareva v Council*, T-744/22, EU:T:2024:608, paragraph 35 and the case-law cited).

30 As regards, more specifically, the review of legality carried out with regard to the maintenance of the name of the person concerned on the lists at issue, it should be recalled that restrictive measures are of a precautionary and, by definition, provisional nature, and their validity always depends on whether the factual and legal circumstances which led to their adoption continue to apply and on the need to persist with them in order to achieve their objective. It is thus incumbent on the Council, in the course of its periodic review of those measures, to conduct an updated assessment of the situation and to appraise the impact of such measures, in order to determine whether they have made it possible to achieve the objectives pursued by the initial inclusion of the names of the persons and entities concerned on the list at issue or whether the same conclusion in respect of those persons and entities can still be drawn (see judgment of 11 September 2024, *Tokareva v Council*, T-744/22, EU:T:2024:608, paragraph 36 and the case-law cited).

31 It follows that, in order to justify maintaining a person's name on a list of persons and entities subject to restrictive measures, the Council is not prohibited from basing its decision on the same evidence justifying the initial inclusion, re-inclusion or previous retention of the applicant's name on the list in question, provided that (i) the grounds for inclusion remain unchanged and (ii) the context has not changed in such a way that that evidence is now out of date. On that basis, changes in the context include the taking into consideration of, first, the situation in the country in respect of which the system of restrictive measures has been established as well as the specific situation of the person concerned and, second, all of the relevant circumstances and, in particular, the fact that the

objectives pursued by the restrictive measures have not been achieved (see judgment of 11 September 2024, *Tokareva v Council*, T-744/22, EU:T:2024:608, paragraph 37 and the case-law cited).

32 It is in the light of those preliminary observations that it is necessary to ascertain whether the Council made an error of assessment in deciding, by means of the adoption of the contested acts, to maintain the applicant's name on the lists at issue on the basis of the listing criterion at issue.

*The applicant's business interests in Belarus*

33 The applicant maintains, in essence, that, since June 2022, he no longer has any business interests in Belarus, as is clear from the schedule of divestments of his assets that he submitted to the Council at the latter's request.

34 First, the applicant denies being chairman of the board of directors and a shareholder in JSC Mospromstroj, Industrial Financial Group Safmar JSC and LLC Proekt Grad.

35 Second, concerning interests in the energy sector, the applicant assumes that, by referring to the oil company Safmar, the Council is in fact referring to the companies Russneft and Neftisa, which the applicant describes as operating under the Safmar brand name.

36 With regard, in the first place, to Neftisa, the applicant argues that he has not been a member of the company's board of directors since 28 June 2021, that he currently only has an indirect shareholding of 6.75% and that, in any event, the company has no interests in Belarus. In support of that statement, the applicant produces a letter dated 8 February 2022 from the CEO of that company stating that he does not hold a controlling interest. In the second place, with regard to the company Russneft, the applicant claims that he currently only holds a minority stake. He also states that he transferred the majority of his shares in those companies to his brother on 10 June 2021, and thus 11 days before the initial acts were adopted, to settle a dispute with him, as can be seen from the share transfer deed dated 31 March 2020. Finally, the applicant submits that the Council has not adduced any evidence that he had any interests in fuelling stations and oil depots. In the third place, with regard to Safmar's activities during the energy crisis between Belarus and Russia in 2020 and the allegation that the applicant supported President Lukashenko in his disputes with Russia over oil deliveries, the applicant argues that not only is this ground out of date and not sufficiently substantiated, but also that Russneft and Neftisa had continued to supply Belarus because of pre-existing obligations and not to support President Lukashenko's regime.

37 Third, as regards interests in the potash sector, the applicant claims, in essence, that the development of the potassium chloride mining and processing plant in Nezhinsky (Belarus) ('the Nezhinsky project') was nationalised by the Belarus State in 2023.

38 In support of that assertion, the applicant produces a letter from the Belarusian Council of Ministers dated 30 August 2023 and a letter dated 5 September 2023 signed by the director of the company Slavkali stating that the Nezhinsky project was nationalised and Slavkali is no longer in charge of that project which was awarded to the state-owned company Nedra Nezhyn, in which Slavkali has no shareholding. In addition, the investment agreement concluded between the English public limited company GCM Global Energy Plc ('GCM'), which created Slavkali, and the Belarusian Government relating to that project of 5 October 2011 ('the investment agreement of 5 October 2011') was terminated. The applicant infers from this that, since Slavkali is no longer in charge of that project and since the applicant has not held any shares in GCM since 24 June 2022, as can be seen from the extract from the United Kingdom Companies Register, he no longer derives any benefit from the Nezhinsky project.

39 Fourth, with regard to business interests in the commercial property sector, namely the ‘Renaissance’ hotel in Minsk (Belarus), the business centre and the airport terminal that are mentioned in the contested acts, the applicant maintains, relying on a table showing his investments and divestments of assets in Belarus, that that infrastructure no longer belongs to him and that, in any case, he has never benefited from them. According to the applicant, that infrastructure was built as part of the implementation of the investment agreement of 5 October 2011, under which, in order to retain the building licence for the Nezhinsky project, GCM was obliged to invest up to 250 million United States dollars (USD) in socioeconomic projects in Belarus. Furthermore, the infrastructure in question benefits the people of Belarus and is not intended for the use of the Belarusian Government or the regime of President Lukashenko.

40 The Council disputes those arguments.

41 With regard, first, to the entities referred to in paragraph 34 above, the Council submits that the information concerning those companies serves only to identify the applicant, not to substantiate the grounds for listing.

42 Second, the Council responds – with regard to interests in the energy sector – that the applicant does not deny that he is still a shareholder in Russneft and Neftisa. Furthermore, according to the Council, the share transfer deed of 31 March 2020 is not reliable in so far as it was drawn up between members of the same family, with no involvement by a third party, so that the date of transfer cannot be independently verified. The same applies to the schedule of divestments provided to the Council, since it is not accompanied by supporting documents proving the sale of the assets. It follows, according to the Council, that it is likely that the applicant has not lost his influence over the companies in question and that this is therefore a case of the restrictive measures being circumvented.

43 Third, the Council maintains, with regard to interests in the potash sector, that the disposal of Slavkali’s assets on 24 June 2022 is doubtful because, in his request of 27 November 2023 to be removed from the lists at issue, the applicant mentioned that, on that date, he still held a 3.66% shareholding in Slavkali. Furthermore, the Council states that while it is true that the applicant provided the extract from the United Kingdom Companies Register concerning the change in shareholding within GCM, he did not produce a copy of the deed of transfer of assets underlying that change. According to the Council, such a change in shareholding is in line with the practice of certain Russian businessmen to circumvent restrictive measures by means of companies established in Cyprus. In support of that argument, the Council refers to two articles – from *Forbes* and *The Guardian* respectively – submitted for the first time in the rejoinder. Moreover, the Council maintains that, even if the Nezhinsky project has been nationalised, the applicant is still involved and continues to benefit from it, in so far as that nationalisation serves only to circumvent the restrictive measures. On that point, the Council also mentions two articles – from the websites of the Centre for European Policy Analysis (CEPA) and the Atlantic Council respectively – which were first submitted in annex to the rejoinder.

44 Fourth, with regard to business interests in the commercial property sector, the Council replies that, although they were made within the framework of the investment agreement of 5 October 2011, that infrastructure represents investments made for commercial purposes, from which the applicant expected substantial revenues.

– *Interests in the potash sector*

45 The applicant’s business interests in that sector concern the development of the Nezhinsky project.

46 In that regard, it is apparent from the letter from the Belarusian Council of Ministers dated 30 August 2023 submitted by the applicant that, on the basis of Decree No 51 rp-dsp of the President of Belarus of 14 March 2022, as amended on 17 November 2022, the Nezhinsky project was nationalised and that Slavkali is no longer in charge of that project which was awarded to the state-owned company Nedra Nezhyn, in which Slavkali has no shareholding. Furthermore, the investment agreement of 5 October 2011 was terminated.

47 The Council does not seriously dispute the reliability of that evidence. The Council never called into question the content of that letter, which was submitted to it by the applicant on 27 November 2023 in the context of his request that his name be removed from the lists at issue, since it did not check whether the company Nedra Nezhyn existed, how its shareholding was composed or whether the applicant had any involvement in that company. In that regard, it must be held that the documents WK 16884/2023 INIT, WK 735/2024 INIT, WK 735/2024 ADD 1 and WK 16884/2023 ADD 1 which contain the evidence relating to the contested acts do not contain any updated evidence concerning the applicant's business interests in the potash sector following the nationalisation of the Nezhinsky project.

48 In its written pleadings, the Council only asserts that the nationalisation of the Nezhinsky project is merely a means of circumventing the restrictive measures, since the applicant, who benefits from a long-standing friendship with President Lukashenko, is still involved in that project and continues to benefit from it.

49 It should be noted that such an assertion is not sufficient to demonstrate that, despite the nationalisation of the Nezhinsky project, the applicant continued to have, on the date of adoption of the contested acts, business interests in the potash sector in Belarus. In the absence of any evidence establishing a current link between that project and the applicant, the Council cannot maintain that, owing to his past role in the company Slavkali and the past involvement of that company in the Nezhinsky project, the applicant still has business interests in that project, since such reasoning would amount to asserting that a businessperson is presumed to continue to have links with the regime of President Lukashenko, even though he or she no longer has investments in Belarus. However, such a presumption cannot be accepted without reversing the burden of proof borne by the Council, as stated in paragraphs 28 and 30 above.

50 It is true that, in support of that assertion, the Council produced, at the stage of the rejoinder, the two press articles referred to in paragraph 43 above. However, and without it being necessary to rule on the admissibility of the annexes to the rejoinder, it suffices to note that those articles dating from 2020 and 2021 concern the general situation of the Belarusian economy and do not allow the conclusion to be drawn that, in general, the regime of President Lukashenko uses the nationalisation of economic structures such as the Nezhinsky project in order to enable businesspersons such as the applicant to circumvent the restrictive measures adopted against them while retaining links with the regime.

51 In the light of the foregoing considerations, it must be concluded that the Council made an error of assessment in finding that the applicant still had, on the date of adoption of the contested acts, interests in the potash sector in Belarus.

– *Interests in the energy sector*

52 The applicant's business interests in the energy sector referred to in the contested acts relate, in essence, first, to Safmar activities in that sector, and more particularly to the fact that that undertaking was the only Russian oil firm to continue supplying Belarusian refineries during the

energy crisis between Belarus and Russia in early 2020, and, second, to fuelling stations and oil depots owned by the applicant.

53 As regards, in the first place, Safmar's activities in the oil sector referred to in the contested acts, it should be noted at the outset that it is common ground between the parties that these are the activities of the part of the Safmar Group that is active in the production and refining of Russian oil, namely the companies Russneft and Neftisa. The applicant does not call into question his status as a 'shareholder' in those companies, but claims to have only a minority shareholding in them. Nor does the applicant dispute that those companies were the only Russian oil firms to continue supplying oil to Belarusian refineries during the energy crisis between Belarus and Russia in early 2020 but he asserts that Russneft and Neftisa no longer operate in Belarus.

54 The Court points out that the factual basis of the grounds for listing relating to the activities of the companies Russneft and Neftisa in Belarus refers exclusively to past events. As stated in paragraph 53 above, it is apparent from the statement of reasons that the business interests in the oil sector concern, in essence, the activities of the companies Russneft and Neftisa in Belarus during the energy crisis between that country and Russia in 2020, that is to say, four years before the adoption of the restrictive measures at issue.

55 Although such circumstances made it possible, in themselves, at the date of the adoption of the initial acts and the 2022 maintaining acts, to regard the applicant as a prominent businessperson with business interests in the energy sector (judgment of 6 September 2023, *Gutseriev v Council*, T-526/21, not published, EU:T:2023:512, paragraph 98), the same is not true as regards maintaining acts, such as the contested acts, which are based on a periodic review of the restrictive measures at issue in order to enable the Council to take account of any changes in circumstances concerning, inter alia, the individual situation of the persons subject to them. Such acts represent the outcome of that periodic review exercise (see, to that effect, judgment of 26 October 2022, *Ovsyannikov v Council*, T-714/20, not published, EU:T:2022:674, paragraph 85).

56 The Council cannot presume that, merely because two Russian companies, in which the applicant is a shareholder, supplied Belarusian refineries during the energy crisis between Belarus and Russia in 2020, the applicant still had interests in the energy sector in Belarus, even several years after that event, namely when the contested acts were adopted. That would have the effect of freezing the applicant's situation and depriving of all practical effect the periodic review procedure provided for, inter alia, in Article 8 of Decision 2012/642 and Article 8a(4) of Regulation No 765/2006 (see, to that effect and by analogy, judgment of 26 October 2022, *Ovsyannikov v Council*, T-714/20, not published, EU:T:2022:674, paragraph 86 and the case-law cited).

57 Therefore, it remains to be ascertained whether the extent of the activities of the companies Russneft and Neftisa in Belarus continued, at the time of the extension of the restrictive measures in question by the contested acts, to be such that the applicant could still be regarded as a prominent businessperson with business interests in the energy sector in that country.

58 In that regard, it suffices to note that documents WK 735/2024 INIT, WK 735/2024 ADD 1, WK 16884/2023 INIT and WK 16884/2023 ADD 1 do not contain any updated evidence demonstrating the extent of the activities of the companies Russneft and Neftisa on the Belarusian oil market at the time when the contested acts were adopted. In its defence, the Council, at most, merely asserts that, in the judgment of 6 September 2023, *Gutseriev v Council* (T-526/21, not published, EU:T:2023:512), the Court confirmed its conclusion that the continued supply of oil to Belarus during the energy crisis in 2020 by Russneft and Neftisa was indicative of closeness on the part of the applicant to the regime.

59 However, as stated in paragraph 56 above, that finding, which is based on facts dating back almost four years before the adoption of the contested acts, is no longer sufficient to justify the applicant's still being regarded as a prominent businessperson with business interests in the energy sector in Belarus. It should be noted that, even though the oil sector is heavily regulated in Belarus (see, to that effect, judgment of 12 May 2015, *Ternavsky v Council*, T-163/12, not published, EU:T:2015:271, paragraph 120), such a circumstance does not permit the inference, without other evidence that was up to date at the time of adoption of the contested acts and demonstrating the extent of the activities on the Belarusian oil market of the Russian companies in which the applicant is a shareholder, that the applicant still has business interests in the energy sector in Belarus.

60 As regards, in the second place, the grounds relating to the fuelling stations and oil depots owned by the applicant in Belarus, it should be borne in mind that the Court has already held that, as regards Slavneft and the fuelling stations and oil depots, the evidence produced by the Council demonstrated only that the applicant had been chairman of that company from 2000 to 2002, which, moreover, the applicant confirms, and that his appointment to that role had been made by approval of the Presidents of the Russian Federation and of the Republic of Belarus. However, it does not prove that the applicant ever held shares in that company (see, to that effect, judgment of 6 September 2023, *Gutseriev v Council*, T-526/21, not published, EU:T:2023:512, paragraphs 99 and 100). Furthermore, and in any event, for the reasons set out in paragraph 59 above, that fact, which is based on events dating back more than 20 years before the adoption of the contested acts, is not sufficient to justify the applicant's still being regarded as a prominent businessperson with business interests in the energy sector in Belarus.

61 It follows from the foregoing that the Council erred in considering that the applicant still had, on the date of adoption of the contested acts, business interests in the energy sector in Belarus.

– *Interests in the commercial property sector*

62 In this regard, it should be noted that the applicant does not deny having made investments in that sector relating to the Renaissance Hotel in Minsk, a business centre and an airport terminal. He disputes, however, that he benefits from them, since they were implemented under the investment agreement of 5 October 2011 for the benefit of the Belarusian people and, in any event, he no longer owns them.

63 Even if the applicant were still the owner of those buildings constructed under that agreement, there is nothing in the file before the Court to show the current extent of companies owned by the applicant on the Belarusian property market, or indeed whether the applicant has made any new investments in that sector. It must be noted that documents WK 735/2024 INIT, WK 735/2024 ADD 1, WK 16884/2023 INIT and WK 16884/2023 ADD 1 do not contain any evidence in that regard.

64 Furthermore, as the Council itself states, those investments were crucial for maintaining the Nezhinsky project, from which the applicant expected substantial revenue. As has been stated in paragraphs 49 and 51 above, following the nationalisation of that project, the applicant no longer had interests in the potash sector on the date of adoption of the contested acts.

– *Conclusion in respect of the applicant's business interests in Belarus*

65 It is apparent from paragraphs 51 and 61 above that the Council erred in its assessment that, on the date of adoption of the contested acts, the applicant could still be considered to be a prominent businessperson with business interests in the potash and energy sectors in Belarus.

66 Furthermore, as regards the applicant's business interests in the commercial property sector, assuming that he is still the owner of the Renaissance Hotel in Minsk, the business centre and the

airport terminal referred to in the statement of reasons of the contested acts, it should be noted that those interests do not, in themselves, enable him to be regarded as a prominent businessperson in Belarus since, as the Council itself states, those interests are secondary to those in the potash sector, which are no longer relevant.

67 Thus, the Council cannot rely on the applicant's business interests in the commercial property sector in order to draw the conclusion that the applicant benefits from or supports the regime of President Lukashenko.

68 To accept the contrary would amount to introducing a presumption that any businessperson in Belarus supports or benefits from that regime. In the context of the regime of restrictive measures adopted in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine, the fact of being a prominent businessperson in Belarus, taken in isolation, does not suffice to establish that the applicant maintains good relations with public authorities or that his activities are indicative of sufficient closeness to the regime of President Lukashenko to constitute support for that regime. When the contested acts were adopted, neither Decision 2012/642 nor Regulation No 765/2006 had introduced a presumption of support for the regime of President Lukashenko against prominent businesspersons operating in Belarus (see, to that effect, judgment of 6 September 2023, *Gutseriev v Council*, T-526/21, not published, EU:T:2023:512, paragraph 113).

*The personal relationship between the applicant and President Lukashenko*

69 The applicant submits, in essence, that he was a mere acquaintance of President Lukashenko and that, as someone who had invested substantial funds in Belarus, he maintained professional relations with the political leadership there as a matter of prudence. However, the applicant asserts that he has not had any communication with President Lukashenko for a considerable period of time. In particular, he maintains that, contrary to the Council's assertion, he did not meet with President Lukashenko in May and November 2023. Lastly, the applicant acknowledges that he has accumulated considerable wealth, but argues that this is not because of his links with President Lukashenko and that, in any case, he no longer derives any wealth from his investments in Belarus, in particular on account of the fact that the Nezhinsky project was nationalised.

70 The Council disputes the applicant's arguments.

71 The Council argues that, as the Court stated in the judgment of 6 September 2023, *Gutseriev v Council* (T-526/21, not published, EU:T:2023:512, paragraphs 106 to 110), the applicant is, at the very least, a long-standing acquaintance of President Lukashenko and a person whom President Lukashenko trusts implicitly, and that President Lukashenko has made statements on several occasions praising the applicant. In addition, the Council maintains that the applicant flew to Belarus in May and November 2023 to meet President Lukashenko, notably at a residence that he confirms having owned and which President Lukashenko has regularly visited in the past. In that regard, the Council has doubts about the reliability of the exhibit of the airline that operated the flights in question, since it was produced at the request of the applicant. Finally, the Council notes that the applicant has not proved that he was in Moscow (Russia), as he claims, on the date of those flights.

72 At the outset, it should be noted that the applicant does not deny knowing President Lukashenko personally. He submits, however, that they are mere acquaintances and that they have not been in contact for 'a considerable period of time', contrary to what is claimed by the Council, which maintains that the applicant flew to Belarus in May and November 2023 to meet President Lukashenko.

73 The applicant disputes the reliability of items of evidence Nos 1 and 2 contained in document WK 16884/2023 INIT and items of evidence Nos 1 to 3 of document WK 16884/2023 ADD 1, namely:

- an article from the website ‘charter97.org’ of 20 November 2023, stating that the applicant landed at Orsha airport (Belarus) on 18 November on board the RA-02786 aircraft and that he met President Lukashenko in Alexandria (Belarus) on 18 and 19 November 2023;
- an article from the website ‘reform.by’ of 20 May 2023, stating that the applicant travelled from Moscow to Minsk on the same day on board the DXT-9680 aircraft to meet President Lukashenko at the applicant’s residence in Shershuny (Belarus) and that that aircraft had also made return trips between Moscow and Minsk on 18 and 19 May 2023. The article also states that the aircraft belongs to the airline DEXTER and that it is listed in flight monitoring services under the name ‘Dexter Air Taxi (Embraer EMB-135BJ Legacy 600 RA-02880)’. That article states, moreover, that the aircraft left Moscow Vnukovo airport at 12:34 on 20 May and arrived in Minsk at 13:32 and that on the same evening the aircraft returned to Moscow at 23:23;
- a message published on the Telegram channel ‘Motolko Help’ on 20 May 2023, stating that that same day the applicant met President Lukashenko at the applicant’s residence in Shershuny;
- a screenshot from the website ‘flightradar24.com’, stating that the DXT-9686 aircraft flew between Moscow and Mogilev (Belarus) between 18 and 19 November 2023;
- a screenshot from the website ‘flightradar24.com’, stating that the DXT-9686 aircraft flew between Moscow and Brest (Belarus) on 20 May 2023;

74 In order to challenge that evidence, the applicant relies on a certificate issued by the airline JSC Avia Management Group, in which it is written that the applicant was not on board the RA-02786 and RA-02880 aircraft either on 18, 19 and 20 May 2023 or on 18 and 19 November 2023.

75 The Council merely submits that that certificate is unreliable in so far as it was produced at the applicant’s request and the applicant has not proved that he was in Moscow on the days in question.

76 First of all, the Council does not prove, or even claim, that the airline is linked to the applicant, which could possibly justify the limited probative value of the certificate which it issued (see, to that effect and by analogy, judgment of 4 September 2024, *Shamalov v Council*, T-651/22, not published, EU:T:2024:576, paragraph 135).

77 Next, the Council cannot criticise the applicant, without reversing the burden of proof, for not having adduced evidence that he was not in Belarus on 18, 19 and 20 May 2023, or on 18 and 19 November 2023, and that, on the contrary, he was in Moscow on those dates. It was for the Council, in the context of the constant and periodic review of the restrictive measures provided for in Article 8 of Decision 2012/642 and Article 8a(4) of Regulation No 765/2006, to examine carefully the evidence substantiating the maintenance of the applicant’s name on the lists at issue. Of course, this does not prevent the applicant from submitting, at any time, observations or new evidence. However, this is a power vested in the applicant which cannot relieve the Council of the burden of proof incumbent on it (see, to that effect and by analogy, judgment of 26 October 2022, *Ovsyannikov v Council*, T-714/20, not published, EU:T:2022:674, paragraph 73).

78 Finally, the evidence provided by the Council is contradictory. As regards the meeting of 20 May 2023, item of evidence No 3 of document WK 16884/2023 ADD 1 mentions another aircraft, namely DXT-9686, and another airport, in particular Brest, as compared with item of evidence No 2 of document WK 16884/2023 INIT, which states that the applicant was on board the DXT-9680 aircraft which had landed and had left Minsk. As regards the meeting of 18 and 19 November 2023, it must

be stated that, while item No 1 of document WK 16884/2023 INIT states that the applicant landed at Orsha airport on 18 November, item No 2 of document WK 16884/2023 ADD 1 refers to another Belarusian airport, specifically Mogilev airport.

79 Thus, the applicant is correct in maintaining that the Council has not proved in a sufficiently concrete, precise and consistent manner that he travelled to Belarus on 20 May and on 18 and 19 November 2023 to meet President Lukashenko.

80 In addition, it must be stated that, even though the Court has already recognised that there was a long-standing relationship between President Lukashenko and the applicant and that that relationship had enabled the applicant to accumulate considerable wealth and gain influence in Belarus (judgment of 6 September 2023, *Gutseriev v Council*, T-526/21, not published, EU:T:2023:512, paragraphs 110, 128 and 129), there is nothing in the file before the Court to show that that was still the case on the date of adoption of the contested acts. The Council has not demonstrated that that relationship continued to thrive, that the applicant was able to carry out sizable new economic projects or social and cultural projects in order to enhance the image of the regime of President Lukashenko or that the applicant continued to develop existing projects, such as the Nezhinsky project. On the contrary, as has been noted in paragraph 46 above, the applicant has demonstrated that he is no longer involved in the Nezhinsky project, in which he had nevertheless invested heavily.

81 In the light of the foregoing considerations, it must be concluded that the Council made an error of assessment in stating that, on the date of adoption of the contested acts, the applicant continued to engage with President Lukashenko enabling him to accumulate significant wealth and gain influence among the Belarusian political elite.

*The Russian journalists at the Renaissance Hotel in Minsk*

82 The applicant submits, in essence, that he was not involved in the transport or accommodation arrangements for Russian journalists in Belarus. He states that no Russian media workers were flown to Belarus on board an aircraft belonging to or chartered by him. He asserts that – contrary to what is indicated in the Council’s evidence – flights between Moscow and Minsk operated between 1 August and 4 September 2020, either on an Embraer P4-MSG or a Global Express P4-GMS aircraft, were chartered on behalf of the applicant by Russneft and Neftisa and that the passengers on those flights included the applicant, two of his employees and a Russneft employee. The applicant adds that those flights were chartered through a Russian company, STI LTD, acting as an agent, which confirmed that information in a memorandum of 18 November 2021. The applicant also submits that, while it is true that the Renaissance Hotel in Minsk was built as a result of the investment agreement of 5 October 2011, that establishment was managed until 2022 by the United States hotel group Marriott, with the result that he was not responsible for the day-to-day management and bookings of that hotel.

83 The Council disputes the applicant’s arguments, replying that its evidence shows that a deputy branch director of *Russia Today* arrived in Minsk on board the applicant’s private jet with tail number P4-MSG and that, given the applicant’s prominent status and previous investments in the Renaissance Hotel, it is reasonable to expect that he could have used his influence to accommodate the journalists.

84 In that regard, it should be noted that the Council submitted in support of that ground for listing only one press article the veracity of which the applicant disputes, namely the article published on 30 March 2021 on the website ‘iSans.org’, which appears as item of evidence No 11 of document WK 7409/2021 REV 1, stating that the Renaissance Hotel in Minsk belonged to the applicant, that that hotel had hosted Russian journalists and that a deputy branch director of *Russia Today* had arrived in Minsk on 18 August 2020 on board the applicant’s private jet with tail number P4-MSG. The

same article also mentions four journeys between Moscow and Minsk in August 2020 made by that private jet.

85 First, it should be noted that the Council merely asserts that, since the Renaissance Hotel belongs to the applicant, it is 'reasonable to expect that [the applicant] could have used his influence to accommodate the journalists', which is mere speculation that is moreover not substantiated. Second, whereas, in the statement of reasons for listing, the Council refers to several 'Russian media workers [who] were flown to Belarus on board ... aircraft belonging to [the applicant]', item of evidence No 11 of document WK 7409/2021 REV 1 mentions that only a deputy branch director of *Russia Today* arrived in Minsk on board the private jet with tail number P4-MSG, which belongs to the applicant.

86 Thus, it does not follow in a sufficiently specific, precise and consistent manner from all the Council's evidence that the applicant accommodated Russian media professionals at the Renaissance Hotel in Minsk and flew them to Belarus on board an aircraft belonging to him.

*The applicant's activities during the COVID-19 pandemic*

87 As regard the supply of scanners to a hospital during the COVID-19 pandemic, the applicant maintains that this fact, which he does not deny, is irrelevant for the purposes of the listing criterion at issue, since those scanners were supplied exclusively to support the Belarusian people during that pandemic.

88 The Council disputes the applicant's arguments, asserting that the scanners were supplied in response to a personal, direct request made to the applicant by President Lukashenko, that the President's office published the initiative on its website, and that, consequently, that gesture is a sign of support for the President's regime.

89 In that regard, it is sufficient to note that, even though the applicant acquired scanners for Belarus during the COVID-19 crisis in order to satisfy a request of President Lukashenko, the events mentioned in that ground date from November 2020, as is apparent from President Lukashenko's statement of 27 November 2020 in item No 6 of document WK 15386/2021 REV 1, that is to say, more than three years before the adoption of the contested acts.

90 Since the Court has found, in paragraphs 65 to 68 and 81 above, that the Council had not proved that the applicant continued to have, at the time of the adoption of the contested acts, business interests in Belarus enabling him to be regarded as a prominent businessperson with substantial business interests in several sectors, such as potash, energy and commercial property, or as having a prosperous personal relationship with President Lukashenko (see, *a contrario*, judgment of 6 September 2023, *Gutseriev v Council*, T-526/21, not published, EU:T:2023:512, paragraph 139), it must be held that the present ground for listing, which has a factual basis that relates exclusively to past events, is obsolete and cannot suffice, in accordance with the case-law cited in paragraph 31 above, to demonstrate that the applicant's support for the regime of President Lukashenko was ongoing on the date of adoption of the contested acts.

*Conclusion concerning the second limb of the first plea in law*

91 In the light of all of the foregoing, it should be noted that, by failing to carry out an updated assessment of the applicant's situation in order to ascertain whether, at the time of the adoption of the contested acts, it was still possible to regard him as a person benefiting from and supporting the regime of President Lukashenko, the Council made an error of assessment.

92 It follows that, since the plea alleging an error of assessment must be upheld, the contested acts must be annulled, without it being necessary to examine the other pleas raised by the applicant.

***The temporal effects of the annulment of the contested acts***

93 In its defence, the Council claims, in the alternative, that, in the event of partial annulment of Implementing Regulation 2024/768, for reasons of legal certainty, the Court should declare that the effects of Decision 2024/769 should be maintained until the partial annulment of that implementing regulation takes effect.

94 In that regard, it should be borne in mind that, by Council Decision (CFSP) 2025/385 of 24 February 2025 amending Decision 2012/642 (OJ L, 2025/385), which is not covered by the present action, the applicant's name was maintained on the lists at issue until 28 February 2026.

95 Consequently, since the applicant is now subject to new restrictive measures, the Council's subsidiary claim relating to the temporal effects of the partial annulment of Decision 2024/769 must be rejected as having become devoid of purpose (see, by analogy, judgment of 17 July 2024, *Makhlouf v Council*, T-209/22, EU:T:2024:498, paragraph 83).

**Costs**

96 Under Article 134(1) of the Rules of Procedure of the General Court, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

97 In the present case, since the Council has been unsuccessful, it must be ordered to bear its own costs and to pay those of the applicant, in accordance with the form of order sought by the applicant.

On those grounds,

THE GENERAL COURT (Fifth Chamber)

hereby:

**1. Annuls Council Decision (CFSP) 2024/769 of 26 February 2024 amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine and Council Implementing Regulation (EU) 2024/768 of 26 February 2024 implementing Article 8a of Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine in so far as they concern Mr Mikail Safarbekovich Gutseriev;**

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

Svenningsen

Laitenberger

Stancu

Delivered in open court in Luxembourg on 22 October 2025.

V. Di Bucci

S. Papasavvas

Registrar

President

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\* Language of the case: English.