

JUDGMENT OF THE COURT (Fifth Chamber)

15 October 2026 (*)

(Reference for a preliminary ruling – Common foreign and security policy – Regulation (EU) No 1352/2014 – Restrictive measures in view of the situation in Yemen – Article 2(2) – Prohibition on making funds indirectly available to persons, entities or bodies targeted by those measures – Making funds available to public entities which are not targeted – Influence of the persons who are targeted competing with that of the legitimate government which is not targeted – Presumption of control – None – No cooperation by the legitimate government with the persons who are targeted – Relevance – Reasonable risk that the persons who are targeted will benefit from all or part of the funds)

In Case C-842/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the Cour de cassation (Court of Cassation, France), made by decision of 27 November 2024, received at the Court on 6 December 2024, in the proceedings

DNO Yemen AS

v

Petrolin Trading Limited,

Moe Oil & Gas Yemen Limited,

Ministry of Oil and Minerals (of The Republic of Yemen),

Yemen Oil & Gas Corporation/The Yemen Company,

Dove Energy Limited, liquidated,

THE COURT (Fifth Chamber),

composed of M.L. Arastey Sahún, President of the Chamber, B. Smulders, E. Regan, J. Passer and D. Gratsias, Judges,

Advocate General: M. Szpunar,

Registrar: F. Cathagne, Administrator,

having regard to the written procedure and further to the hearing on 19 November 2025,

after considering the observations submitted on behalf of:

- DNO Yemen AS, by J. Clark, Solicitor, I. Michou and J. Ortscheidt, avocats,
- the Ministry of Oil and Minerals (of The Republic of Yemen) and Yemen Oil & Gas Corporation/The Yemen Company, by S. Bayrou and A. Bénabent, avocats,

- the French Government, by B. Fodda, J.B. Merlin, E. Timmermans and B. Travard, acting as Agents,
- the Italian Government, by S. Fiorentino, acting as Agent, and by G. Palatiello and L. Paolucci, avvocati dello Stato,
- the Netherlands Government, by E.M.M. Besselink and M.K. Bulterman, acting as Agents,
- the European Commission, by L. Baumgart, J.-F. Brakeland and M. Carpus-Carcea, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 19 March 2026,

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 2(2) of Council Regulation (EU) No 1352/2014 of 18 December 2014 concerning restrictive measures in view of the situation in Yemen (OJ 2014 L 365, p. 60), as amended by Council Implementing Regulation (EU) 2021/397 of 5 March 2021 (OJ 2021 L 77 I, p. 1) ('Regulation No 1352/2014').
- 2 The request has been made in proceedings between DNO Yemen AS ('DNO'), on the one hand, and Petrolin Trading Limited ('Petrolin'), Moe Oil & Gas Yemen Limited ('Moe'), the Ministry of Oil and Minerals (of the Republic of Yemen) ('the Ministry of Oil and Minerals'), Yemen Oil & Gas Corporation/The Yemen Company ('YOGC') and Dove Energy Limited ('Dove'), on the other, concerning the validity of an arbitration award ordering DNO, Petrolin and Moe to pay damages to the Ministry of Oil and Minerals and to YOGC.

Legal context

International law

Resolution 2140 (2014)

- 3 On 26 February 2014, the United Nations Security Council ('the Security Council') adopted, on the basis of Chapter VII of the United Nations Charter, signed in San Francisco on 26 June 1945, Resolution 2140 (2014).

- 4 Under that resolution:

'The Security Council

...

Reaffirming its strong commitment to the unity, sovereignty, independence and territorial integrity of Yemen,

...

Expressing concern at the ongoing political, security, economic and humanitarian challenges in Yemen, including the ongoing violence,

...

Noting the formidable economic, security and social challenges confronting Yemen, which have left many Yemenis in acute need of humanitarian assistance, *reaffirming* its support to the [Government of the Republic of Yemen] to safeguard security, promote social and economic development, and put forward political, economic, and security reforms, and welcoming the work of the Mutual Accountability Framework Executive Bureau, the World Bank, and the International Monetary Fund (IMF) in their support to the Government of Yemen on economic reform,

...

Determining that the situation in Yemen constitutes a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

...

11. *Decides* that all Member States shall, for an initial period of one year from the date of the adoption of this Resolution, freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities designated by the [Sanctions Committee] established pursuant to paragraph 19 below, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and *decides further* that all Member States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of the individuals or entities designated by the [Sanctions Committee];

...

17. *Decides* that the provisions of [paragraph 11] shall apply to individuals or entities designated by the [Sanctions Committee] as engaging in or providing support for acts that threaten the peace, security or stability of Yemen;

...

19. *Decides* to establish ... a [Sanctions Committee] consisting of all the members of the Council ..., to undertake the following tasks:

...

- (c) To designate individuals and entities to be subject to the measures imposed in [paragraph 11] above;

...'

Resolution 2216 (2015)

5 On 14 April 2015, the Security Council adopted, following Resolution 2140 (2014) and subsequent resolutions, Resolution 2216 (2015).

6 Under the latter resolution:

'Security Council,

...

Noting the letter dated 24 March 2015 from the Permanent Representative of Yemen, to the United Nations, transmitting a letter from the President of Yemen, in which he informed the President of the

Security Council that “he has requested from the Cooperation Council for the Arab States of the Gulf and the League of Arab States to immediately provide support, by all necessary means and measures, including military intervention, to protect Yemen and its people from the continuing aggression by the Houthis”, ...

...

Reaffirming its support for the legitimacy of the President of Yemen, Abdo Rabbo Mansour Hadi, and *reiterating its call* to all parties and Member States to refrain from taking any actions that undermine the unity, sovereignty, independence and territorial integrity of Yemen, and the legitimacy of the President of Yemen,

...

Condemning in the strongest terms the ongoing unilateral actions taken by the Houthis, and their failure to implement the demands in Resolution 2201 (2015) to immediately and unconditionally withdraw their forces from government institutions, including in the capital Sana’a, normalise the security situation in the capital and other provinces, relinquish government and security institutions, and safely release all individuals under house arrest or arbitrarily detained, and *reiterating* its call on all non-State actors to withdraw from government institutions across Yemen and to refrain from any attempts to take over such institutions,

Deploring any attempt by the Houthis to take actions that are exclusively within the authority of the legitimate Government of Yemen, and *noting* that such actions are unacceptable,

...

Acting under Chapter VII of the Charter of the United Nations,

1. *Demands* that all Yemeni parties, in particular the Houthis, fully implement Resolution 2201 (2015), *refrain* from further unilateral actions that could undermine the political transition in Yemen, and *further demands* that the Houthis immediately and unconditionally:

- (a) end the use of violence;
- (b) withdraw their forces from all areas they have seized, including the capital Sana’a;

...

- (d) cease all actions that are exclusively within the authority of the legitimate Government of Yemen;

...

3. *Decides* that the individuals listed in the annex of this Resolution shall be subject to the measures imposed by [paragraph 11] of Resolution 2140 (2014);

...’

European Union law

Decision 2014/932

7 Council Decision 2014/932/CFSP of 18 December 2014 concerning restrictive measures in view of the situation in Yemen (OJ 2014 L 365, p. 147), as amended by Council Implementing Decision (CFSP) 2021/398 of 5 March 2021 (OJ 2021 L 77 I, p. 3) (‘Decision 2014/932’), states, in recitals 1, 2 and 4 thereof:

- ‘(1) On 26 February 2014, [the Security Council] adopted Resolution 2140 (2014), ... reaffirming [its] strong commitment to the unity, sovereignty, independence and territorial integrity of Yemen.
- (2) United Nations Security Council Resolution (UNSCR) 2140 (2014) requires that ... funds and assets of persons or entities to be designated by the [Sanctions Committee] be frozen.

...

- (4) Action by the [European] Union is needed in order to implement certain measures[.]’

8 Article 2b of that decision provides, in paragraphs 1 and 2 thereof:

‘1. All funds and economic resources belonging to or owned, held or controlled by persons or entities designated by the [Sanctions Committee] as engaging in or providing support for acts that threaten the peace, security or stability of Yemen ...

...

or persons or entities acting on their behalf or at their direction, or entities owned or controlled by them, shall be frozen.

The persons and entities referred to in this paragraph are listed in the Annex to this Decision.

2. No funds or economic resources shall be made available directly or indirectly, to or for the benefit of the persons or entities listed in the Annex to this Decision.’

9 Article 3 of Decision 2014/932 is worded as follows:

‘The Council [of the European Union] shall establish the list in the Annex and shall amend it in accordance with determinations made by the Security Council or by the [Sanctions Committee].’

10 The annex to Decision 2014/932 contains the list of persons and entities referred to in, inter alia, Article 2b(1) and (2) of that decision who have been the subject of determinations made by the Security Council or by the Sanctions Committee in accordance with Resolution 2140 (2014) and subsequent resolutions. That list includes persons belonging to the Houthi Movement or associated therewith.

Regulation No 1352/2014

11 Recitals 1, 3 and 5 of Regulation No 1352/2014 state:

‘(1) In accordance with the [Security Council] Resolution (UNSCR) 2140 (2014) of 26 February 2014, [Decision 2014/932] provides for ... the freezing of funds and economic resources of certain persons to be designated by the [Sanctions Committee] ...

...

(3) Certain measures provided for in [Decision 2014/932] fall within the scope of the Treaty on the Functioning of the European Union and, therefore, notably with a view to ensuring their uniform application by economic operators in all Member States, regulatory action at the level of the Union is necessary in order to implement them.

...

(5) The power to amend the list in Annex I to this Regulation should be exercised by the Council, in view of the specific threat to international peace and security in the region posed by the situation in

Yemen and in order to ensure consistency with the process for amending and reviewing the Annex to [Decision 2014/932].’

12 Under Article 1 of that regulation:

‘For the purposes of this Regulation, the following definitions shall apply:

...

(e) “freezing of economic resources” means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;

(f) “freezing of funds” means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;

(g) “funds” means financial assets and benefits of every kind ...

...’

13 Article 2 of Regulation No 1352/2014 provides:

‘1. All funds and economic resources belonging to, owned, held or controlled by any natural or legal person, entity or body as listed in Annex I to this Regulation shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies listed in Annex I.’

14 Article 3 of that regulation provides, in paragraph 1 thereof:

‘Annex I shall include natural or legal persons, entities and bodies identified by the Sanctions Committee as engaging in or providing support for acts that threaten the peace, security or stability of Yemen ...’

15 Article 15 of Regulation No 1352/2014 provides, in paragraph 1 thereof:

‘Where the United Nations Security Council or the Sanctions Committee lists a natural or legal person, entity or body and has provided a statement of reasons for the designation, the Council shall include that natural or legal person, entity or body in Annex I. ...’

16 Annex I to Regulation No 1352/2014 contains the list of persons, entities and bodies referred to in Article 2 thereof. That list reproduces, for the purpose of applying the measures provided for in that regulation, the list contained in the annex to Decision 2014/932, referred to in paragraph 10 of the present judgment.

The guidelines on restrictive measures

17 On 8 December 2003, the Council adopted the ‘Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the [European Union] Common Foreign and Security Policy’ (‘the guidelines on restrictive measures’), which were subsequently updated on 4 May 2018.

18 Paragraph 55b of those guidelines provides:

‘The criteria to be taken into account when assessing whether a legal person or entity is controlled by another person or entity, alone or pursuant to an agreement with another shareholder or other third party, could include, inter alia: ...

...

- (d) having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision;
- (e) having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right; ...
- (f) having the right to use all or part of the assets of a legal person or entity;

...’

19 Paragraph 55d of the guidelines on restrictive measures provides:

‘If the ownership or control is established in accordance with the above criteria, the making available of funds or economic resources to non-listed legal persons or entities which are owned or controlled by a listed person or entity will in principle be considered as making them indirectly available to the latter, unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into account all of the relevant circumstances, including the criteria below, that the funds or economic resources concerned will not be used by or be for the benefit of that listed person or entity.

The criteria to be taken into account include, *inter alia*:

...

- (c) the characteristics of the funds or economic resources made available, including their potential practical use by, and ease of transfer to, the listed entity.

...’

20 Paragraph 55e of those guidelines is worded as follows:

‘It is to be noted that the indirect making available of funds or economic resources to listed persons or entities may also include the making available of these items to persons or entities which are not owned or controlled by listed entities.’

French law

21 Article 1518 of the code de procédure civile (Code of Civil Procedure) provides:

‘An international arbitration award delivered in France may be challenged only by way of an action for annulment.’

22 Article 1520 of that code provides:

‘An action for annulment is available only in the following cases:

...

5° Where the recognition or enforcement of the award is contrary to international public policy.’

23 Under Article 1527 of the Code of Civil Procedure:

‘...

The dismissal of ... the action for annulment confers leave to enforce the arbitration award or those of its provisions which are not declared unlawful by the court.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

- 24 In the course of 2014 and 2015, the Houthi Movement took control of the capital of Yemen, Sana’a, and attempted to replace unilaterally the legitimate Government of the Republic of Yemen with an illegitimate governing authority dominated by that movement, as a result of which an international coalition intervened in support of the legitimate Government, which has since had its temporary seat in Aden (Yemen).
- 25 In view of that situation, the Security Council adopted Resolution 2140 (2014), referred to in paragraph 3 of the present judgment, whereby it decided, *inter alia*, to freeze the assets of persons and entities engaging in or providing support for acts that threaten the peace, security or stability of Yemen. Following that resolution, the Council adopted Decision 2014/932 and Regulation No 1352/2014, referred to in paragraphs 7 and 11 of the present judgment. As can be seen from paragraphs 10 and 16 above, the list set out in Annex I to that regulation concerns, *inter alia*, following the successive amendments made to the regulation, persons belonging to the Houthi Movement or associated therewith.
- 26 Prior to those events, the Ministry of Oil and Minerals and YOGC, a company entirely owned by the State, had entered into oil and natural gas exploitation and production-sharing agreements with DNO, Petrolin, Moe and Dove.
- 27 In January 2015, DNO, Petrolin, Moe and Dove withdrew from those agreements. The Ministry of Oil and Minerals and YOGC initiated arbitration proceedings against those companies under the aegis of the International Chamber of Commerce, contesting the validity of those withdrawals and requesting that they be paid damages as a result.
- 28 By an arbitration award delivered in Paris (France) on 15 July 2019, DNO, Petrolin and Moe were ordered to pay damages to the Ministry of Oil and Minerals and to YOGC.
- 29 DNO, Petrolin and Moe brought an action for annulment before the *cour d’appel de Paris* (Court of Appeal, Paris, France) in respect of that award. They argued, in particular, that the arbitration award was contrary to international public policy, given that the enforcement of that award could cause funds to be made indirectly available to natural or legal persons, entities or bodies listed in Annex I to Regulation No 1352/2014 within the meaning of Article 2(2) of that regulation.
- 30 By judgment of 5 October 2021, the *cour d’appel de Paris* (Court of Appeal, Paris) dismissed that action.
- 31 In that judgment, that court held that, while it was not for it to extend the restrictive measures provided for in Regulation No 1352/2014 to persons not included in the list established by that regulation, it was necessary for it to verify that the recognition or enforcement of the arbitration award at issue was not likely to contravene those restrictive measures by enabling funds to be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies listed in Annex I to the regulation within the meaning of Article 2(2) thereof. In addition, it noted that that verification had to be carried out in light of the situation as assessed on the day of the court’s ruling and that it had to be based on serious, precise and consistent evidence to support a finding of infringement of those restrictive measures.
- 32 In the present case, it held that, in order for there to be a finding of indirect making available, it had to be established that the Ministry of Oil and Minerals and YOGC were indeed acting ‘on behalf, under the control, or on the instructions’ of persons listed in that annex and that they intended to use those funds for the benefit of those persons. It relied, in that regard, on the criteria indicated in Paragraph 55b(d), (e) and (f) of the guidelines on restrictive measures.

- 33 It held that none of the evidence produced enabled it to be established that the Ministry of Oil and Minerals, the representative of the legitimate Government of the Republic of Yemen, recognised by the international community and supported by the World Bank and the IMF, was acting under the control or on the instructions of persons targeted by Regulation No 1352/2014, when the armed conflict in Yemen is primarily between that government and the Houthi Movement.
- 34 The cour d'appel de Paris (Court of Appeal, Paris) also held that, while it could be seen from the evidence submitted that control of YOGC was claimed by both the legitimate government and the Houthi Movement, it was not established that those two parties were acting in concert and that the first was under the control of the second. That court relied, *inter alia*, on a letter of 23 August 2015, by which the Prime Minister of the legitimate Government of the Republic of Yemen had requested foreign oil companies to deal only with persons under the authority of that government, to consider null and void decisions, appointments and directives originating from the Houthi militia within the Ministry of Oil and Minerals in February 2015, as well as authorities and bodies associated therewith, not to apply directives or instructions issued by that militia or by committees affiliated therewith, and, lastly, not to pay any sums due to the State until they had been informed of when and where to make the payment.
- 35 Lastly, it held that the fact that the official website of YOGC, which could have been hacked, mentioned the name of a Houthi minister, was not sufficient to demonstrate that the Houthi Movement had taken control of that company. Nor was the report of the Yemeni news agency Saba recounting a meeting held in the presence of the then Houthi Prime Minister, during which Mr Mahmoud El Nom, introduced as the Executive Director of YOGC, had set out the programme for the rationing of oil, diesel and domestic gas in the capital and governorates under Houthi control, sufficient to demonstrate such a state of affairs.
- 36 As is apparent from the documents before the Court, following the judgment of the cour d'appel de Paris (Court of Appeal, Paris) referred to in paragraphs 30 to 35 of the present judgment, on 30 March 2022 the Ministry of Oil and Minerals applied to the Oslo tingrett (District Court, Oslo, Norway) for enforcement of the award referred to in paragraph 28 of the present judgment. The Norwegian court declared the award enforceable and ordered DNO to pay the damages owed. The appeal brought before the Borgarting lagmannsrett (Court of Appeal, Borgarting, Norway) by DNO was dismissed, as was its appeal before the Norges Høyesterett (Supreme Court of Norway). On 4 December 2023, DNO paid the net amount due under that award solely to the Ministry of Oil and Minerals, relying on the letter of 13 October 2022 whereby YOGC had indicated to DNO that it had transferred to that ministry all of its rights under that award and declared that it would not claim the sums already paid to that ministry.
- 37 In parallel with that enforcement procedure, DNO and Petrolin have respectively brought an appeal and a cross-appeal against the judgment of the cour d'appel de Paris (Court of Appeal, Paris) before the Cour de cassation (Court of Cassation, France), which is the referring court.
- 38 In support of their ground of appeal on a point of law, they submit, first, that an arbitration award may be annulled if the recognition or enforcement thereof is clearly in breach of international public policy and, second, that the expression 'made available, directly or indirectly' used in Article 2(2) of Regulation No 1352/2014 has, as can be seen from Paragraph 55e of the guidelines on restrictive measures, a broad meaning. They argue that the cour d'appel de Paris (Court of Appeal, Paris) acted in breach of the latter provision by adding a condition thereto. That court confined itself to ascertaining whether the Ministry of Oil and Minerals and YOGC were indeed acting on behalf, under the control, or on the instructions of persons subject to restrictive measures and whether they intended to use the funds at issue for the benefit of those persons, instead of ascertaining whether the enforcement of the award, inasmuch as it led to funds being made available for the benefit of YOGC, ran the risk of benefiting persons, entities or bodies listed in Annex I to that regulation, even those with no power to control or instruct that company.
- 39 In that regard, in the first place, the referring court notes that, according to the case-law of the Court of Justice, the expression 'made available' has a wide meaning: rather than denoting a specific legal category of act, it encompasses all the acts necessary under the applicable national law if a person is effectively to

obtain full power of disposal in relation to the property concerned (judgment of 11 October 2007, *Möllendorf and Möllendorf-Niehuus*, C-117/06, EU:C:2007:596, paragraph 51).

- 40 In addition, it notes that the Court has held that it was for the national court to ascertain, for the purpose of a finding of an economic resource being made indirectly available, whether the director of the company to which that resource was to be supplied had acted on behalf, under the control, or on the instructions of the company included in the list and whether he had had the intention to use the asset concerned for the benefit of that listed company (see, to that effect, judgment of 21 December 2011, *Afrasiabi and Others*, C-72/11, EU:C:2011:874, paragraphs 52 and 53).
- 41 Lastly, the referring court indicates that, in the context of restrictive measures adopted in view of the situation in Libya, the Court of Justice has specified that payments could not constitute making funds indirectly available to a person subject to such measures unless they could be passed on to that person or that person had the ability to dispose of those funds, inter alia because of financial or legal links between the beneficiary of the funds and such a person (see, to that effect, judgment of 17 January 2019, *SH*, C-168/17, EU:C:2019:36, paragraphs 60 to 62). It adds that, in the context of restrictive measures against Iran, the Court has held that those measures were intended to be preventive, seeking to prevent a risk of nuclear proliferation (see, to that effect, judgment of 11 November 2021, *Bank Sepah*, C-340/20, EU:C:2021:903, paragraphs 53 and 54).
- 42 In the second place, the referring court emphasises that, in the present case, the main question that arises relates to the criteria permitting a finding of funds or economic resources being made indirectly available for the benefit of persons, entities or bodies listed in Annex I to Regulation No 1352/2014, because of the payment, in order to enforce an arbitration award, of sums owed to the Ministry of Oil and Minerals and to YOGC, when those bodies are not included in that list. In addition, it remarks that the factual situation described in the judgment under appeal raises questions relating to the burden of proof, having regard to the uncertain political situation in the country concerned.
- 43 In those circumstances, the Cour de cassation (Court of Cassation) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- ‘(1) Must Article 2(2) of [Regulation No 1352/2014] be interpreted, in the light of [the guidelines on restrictive measures], as meaning that the indirect making available [of funds or economic resources] may be understood as making funds available to public entities not targeted by the restrictive measures, if it is established that the persons targeted by those measures exercise, within those entities, an influence which competes with that of the legitimate government, which is not targeted by those measures?
- (2) Where the existence of that competing influence is established, is Article 2(2) of [Regulation No 1352/2014] to be interpreted as meaning that the entities to which the funds are paid are presumed to be controlled by the persons targeted by the restrictive measures? If the answer is in the affirmative, does that presumption allow for contrary evidence to be adduced? In that regard, is the fact that the legitimate government, which is not targeted by the restrictive measures, does not cooperate with the persons targeted by those measures relevant?
- (3) Where the evidence adduced before the national court does not make it possible to assess whether it is the legitimate government or the persons targeted by the sanctions that have decisive influence within the entity to which the funds are made available, does the mere reasonable risk that targeted persons may ultimately benefit from all or part of those funds provide a sufficient basis for applying the sanctions?’

Consideration of the questions referred

The first question

- 44 According to settled case-law, under the procedure laid down by Article 267 TFEU, which provides for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to determine the case before it. To that end, the Court should, where necessary, reformulate the questions referred to it (judgment of 18 December 2025, *Lukoil Bulgaria and Lukoil Neftohim Burgas*, C-245/24, EU:C:2025:987, paragraph 26 and the case-law cited).
- 45 In the present case, as is apparent from the order for reference and from the documents before the Court, the referring court has questions as to the relevance of the concept of the ‘indirect making available’, for the purposes of Article 2(2) of Regulation No 1352/2014, of funds in a context where (i) control of the entity which may receive the funds – YOGC – is claimed both by the legitimate Government of the Republic of Yemen and by the Houthi Movement, (ii) certain members of that movement and persons associated therewith are listed in Annex I to that regulation, and (iii) that legitimate government, opposing that movement in the context of the armed conflict in Yemen, is not acting on behalf, under the control, or on the instructions of that movement and is not cooperating with it.
- 46 It is also apparent from that order and those documents that, before the referring court, DNO does not dispute the findings of the cour d’appel de Paris (Court of Appeal, Paris) that the evidence it relied on before that court, referred to in paragraph 35 of the present judgment, was not sufficient for a finding that the Houthi Movement had taken control of YOGC. Instead, it complains that that court did not ascertain whether the enforcement of the arbitration award, inasmuch as it led to funds being made available for the benefit of YOGC, ran the risk of benefiting a person, entity or body listed in Annex I to Regulation No 1352/2014, albeit one with no power to control or instruct that company.
- 47 It must therefore be held that, by its first question, the referring court asks, in essence, whether Article 2(2) of Regulation No 1352/2014 is to be interpreted as meaning that making funds available to a public entity not listed in Annex I to that regulation, in order to enforce an arbitration award, may constitute making funds indirectly available to persons, entities or bodies listed in that annex where those persons, entities or bodies, without exercising the power to control or instruct that entity, claim to have such control, as does the legitimate Government of the Republic of Yemen, which is not targeted by that regulation and which is not cooperating with those persons, entities or bodies.
- 48 Under Article 2(1) of Regulation No 1352/2014, all funds and economic resources belonging to, owned, held or controlled by any natural or legal person, entity or body as listed in Annex I to that regulation are to be frozen. According to the wording of Article 2(2) of that regulation, no funds or economic resources are to be made available, directly or indirectly, to or for the benefit of those persons, entities or bodies.
- 49 Article 2(1) of Regulation No 1352/2014, read in conjunction with Article 1(e) and (f) thereof, seeks to limit as much as possible the transactions which may be carried out with frozen funds or economic resources belonging to, owned, held or controlled by natural or legal persons, entities or bodies listed in Annex I to that regulation, without altering the ownership of those assets (see, by analogy, judgments of 11 November 2021, *Bank Sepah*, C-340/20, EU:C:2021:903, paragraphs 43 and 44, and of 15 December 2022, *Instrubel and Others*, C-753/21 and C-754/21, EU:C:2022:987, paragraph 50 and the case-law cited).
- 50 Regarding Article 2(2) of Regulation No 1352/2014, the use, in that provision, of the wording ‘directly or indirectly’ shows that the prohibition laid down therein must be given a broad meaning. The same is true of the expression ‘made available’ which appears therein, which refers to any act the completion of which is necessary in order to enable the persons, entities or bodies concerned effectively to obtain the power to dispose of funds or economic resources, without denoting a specific legal category of act (see, by analogy, judgment of 21 December 2011, *Afrasiabi and Others*, C-72/11, EU:C:2011:874, paragraphs 39 and 40 and the case-law cited). It is necessary to avoid the circumvention of the freezing of funds provided for in Article 2(1) of that regulation (see, by analogy, judgments of 11 November 2021, *Bank Sepah*, C-340/20, EU:C:2021:903, paragraph 56, and of 12 March 2026, *EM System*, C-84/24, EU:C:2026:181, paragraph 79).

- 51 In that regard, it should be noted that the definition of the expression ‘made available’ referred to in the preceding paragraph of the present judgment includes the recognition and enforcement of an arbitration award ordering the payment of damages where such recognition and enforcement would enable persons, entities or bodies targeted by restrictive measures effectively to obtain the power to dispose of sums allocated on that basis.
- 52 In addition, as regards the interpretation of the words ‘directly or indirectly’, it is true that, in principle, there is no ‘direct’ making available of funds or economic resources for the purposes of that provision where the beneficiary of those funds or those resources is not listed in Annex I to Regulation No 1352/2014 (see, to that effect, judgment of 17 January 2019, *SH*, C-168/17, EU:C:2019:36, paragraph 60).
- 53 However, such a situation may correspond to an ‘indirect’ making available of funds or economic resources to a person, entity or body included in that list, inter alia where the beneficiary has acted on behalf, under the control, or on the instructions of that person, entity or body and intended to use the assets concerned for the benefit of that person, entity or body (see, to that effect, judgment of 21 December 2011, *Afrasiabi and Others*, C-72/11, EU:C:2011:874, paragraphs 51 to 53).
- 54 This may also be the case where those funds or economic resources are capable of being passed on to such a person, entity or body or where that person, entity, or body has the ability to dispose of those funds or economic resources, inter alia because of legal or financial links with the beneficiary of the funds (see, to that effect, judgment of 17 January 2019, *SH*, C-168/17, EU:C:2019:36, paragraph 62).
- 55 However, as was noted, in essence, by the Advocate General in point 40 of his Opinion, the circumstances referred to in paragraphs 53 and 54 of the present judgment merely constitute relevant circumstances which permit, as the case may be, the conclusion that there is an ‘indirect making available of funds’ for the purposes of Article 2(2) of Regulation No 1352/2014. Consequently, in view of the broad meaning which must be given to that expression in order – in accordance with the case-law referred to in paragraph 51 of the present judgment – to avoid any circumvention, the fact that those circumstances are not present in a specific case cannot be sufficient to rule out the existence of such an ‘indirect making available’.
- 56 Moreover, that interpretation is borne out by Paragraph 55e of the guidelines on restrictive measures, under which the indirect making available of funds or economic resources to listed persons or entities may also include the making available of those funds or resources to persons or entities which are not owned or controlled by listed entities.
- 57 Furthermore, as was emphasised, in essence, by the Advocate General in point 42 of his Opinion, it follows from the preamble to Resolution 2140 (2014) and paragraph 17 thereof, as well as Article 3 of Regulation No 1352/2014, read in the light of recital 5 thereof, that the restrictive measures laid down by the Council in that regulation, in accordance with that resolution, are intended to be preventive, inasmuch as, by applying to the assets of persons, entities or bodies engaging in or providing support for acts that threaten the peace, security or stability of the Republic of Yemen, they seek to prevent such acts and, in so doing, to counter the threat to international peace and security in the region posed by the situation in Yemen.
- 58 In the present case, it does not appear that it can be excluded that, although not having powers to control or instruct the Ministry of Oil and Minerals of the legitimate government or YOGC, in whose favour the arbitration award referred to in paragraph 28 of the present judgment was delivered, certain persons, entities or bodies listed in Annex I to Regulation No 1352/2014, such as persons belonging to the Houthi Movement or associated therewith, may actually obtain the power to dispose of funds intended for that company.
- 59 However, in accordance with the case-law referred to in paragraph 50 of the present judgment, such a making available presupposes that the recognition or enforcement of the arbitration award in favour of that company enables that entity or those persons actually to obtain the power to dispose of the funds intended

for that company and, accordingly, that that entity or those persons actually have the means of obtaining those funds.

- 60 In that regard, as was emphasised by the Advocate General, in essence, in point 19 of his Opinion, and as can be seen from Resolution 2140 (2014) and Resolution 2216 (2015), as well as from the documents before the Court, the Houthi Movement has established, in the part of the territory of Yemen controlled by that movement, in particular in the country's capital, Sana'a, governance structures parallel to those of the legitimate government, which has its temporary seat in Aden. More specifically, that movement is adopting measures which fall under the exclusive authority of the legitimate government, claims control of the Ministry of Oil and Minerals and of YOGC, a company whose official website it uses, and appears capable of issuing instructions to foreign oil companies and to have sums intended for the State passed on to itself. Moreover, it can also be seen from those documents that, in the context of the procedure for enforcing the arbitration award referred to in paragraph 28 of the present judgment, the Oslo tingrett (District Court, Oslo) found that, following the delivery of that award, DNO had received requests not only from the legitimate Government of the Republic of Yemen, but also from actors supporting the Houthi Movement.
- 61 It follows that, even if the claims made by that movement with regard to YOGC are illegitimate, persons mandated by that movement or by the governance structures established thereby could potentially obtain the funds intended for that company by presenting themselves as being empowered by a legitimate authority to receive those funds. It will, however, be for the competent national court, as the case may be, to verify, having regard to all the relevant circumstances, whether that movement or its main leaders actually have the capacity to obtain those funds by those means or in another way.
- 62 Having regard to all of the foregoing, the answer to the first question is that Article 2(2) of Regulation No 1352/2014 must be interpreted as meaning that making funds available to a public entity not listed in Annex I to that regulation, in order to enforce an arbitration award, may constitute making funds indirectly available to persons, entities or bodies listed in that annex where those persons, entities or bodies, without exercising the power to control or instruct that entity, claim to have such power, as does the legitimate Government of the Republic of Yemen, provided that they are in a position actually to obtain those funds.

The third question

- 63 By its third question, which it is necessary to examine before the second question, the referring court asks, in essence, whether Article 2(2) of Regulation No 1352/2014 is to be interpreted as meaning that the prohibition on making funds indirectly available to natural or legal persons, entities or bodies listed in Annex I to that regulation applies where there is a mere reasonable risk that those persons, entities or bodies will benefit from all or part of the funds intended for an entity not listed in that annex.
- 64 As can be seen from the answer to the first question, in particular paragraphs 50 to 62 of the present judgment, the application of Article 2(2) of that regulation presupposes that the persons, entities or bodies listed in Annex I thereto are actually in a position to dispose of all or part of the funds intended for a given entity, including where that entity is not listed in that annex. Consequently, it is not necessary that those persons, entities or bodies be the direct beneficiaries of those funds, but it is sufficient that there is a risk that they may benefit therefrom.
- 65 However, by its third question, the referring court asks, in essence, how likely that risk needs to be in order to justify the application of the prohibition laid down in that provision.
- 66 In that regard, it must be emphasised, as several interested parties have, that the prohibition laid down in Article 2(2) of Regulation No 1352/2014, which may entail funds of which persons, entities or bodies not listed in Annex I to that regulation are legally the beneficiaries being unavailable to those persons, entities or bodies, cannot be justified by a purely hypothetical risk that funds will be diverted for the benefit of persons, entities or bodies listed in that annex. Thus, the uncertainty of the political situation in Yemen alluded to by the referring court may not, in itself, give rise to an assessment of that risk based on mere

conjecture as to the influence which those listed persons, entities or bodies would be capable of exercising over persons, entities or bodies whose names are not listed in that annex.

- 67 First, that interpretation is borne out by the case-law relating to restrictive measures adopted by the Council which provide for the freezing of the assets of the persons targeted by those measures. According to that case-law, those measures must be taken on a sufficiently solid factual basis, so that the judicial review of those measures must not 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 the measure in question, is substantiated (see, to that effect, judgments of 18 July 2013, *Commission and Others v Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 119, and of 1 August 2025, *Timchenko v Council*, C-703/23 P, EU:C:2025:608, paragraph 36 and the case-law cited).
- 68 Second, even if, as the Court has repeatedly held, restrictive measures, by definition, have consequences which affect rights to property and the freedom to pursue a trade or business, thereby causing harm to persons who are in no way responsible in the situation which led to the adoption of those measures (judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 149 and the case-law cited), the fact remains that the measures adopted by a national authority, including a national court or tribunal, in implementing a system of restrictive measures must not go beyond what is appropriate and necessary in order to achieve the objectives legitimately pursued by those measures and must not be disproportionate to those objectives (see, to that effect, judgment of 10 September 2024, *Neves 77 Solutions*, C-351/22, EU:C:2024:723, paragraph 77 and the case-law cited).
- 69 Third, in the case in the main proceedings, the annulment of the arbitration award delivered in favour of YOGC may affect not only the right to property and the economic interests of that company, but also those of the legitimate Government of the Republic of Yemen, which is the legal owner of that company and which is also a beneficiary, in equal shares therewith, of the damages allocated by that award.
- 70 It can be seen from, inter alia, Resolution 2140 (2014) and Resolution 2216 (2015) that that legitimate government is recognised and supported by the Security Council, that it is, moreover, not targeted by the restrictive measures adopted at UN and EU level, that it is not cooperating with the Houthi Movement, with which it is in conflict, and that the objective of those restrictive measures is, inter alia, preventing actions by that movement which are a threat to peace, security and stability in Yemen. In addition, it is not disputed that – as has been argued by the Ministry of Oil and Minerals and by YOGC in the dispute in the main proceedings and before the Court of Justice – that government has taken measures intended to avoid funds or economic resources being made available, directly or indirectly, to that movement.
- 71 Furthermore, those resolutions pursue the objective of, inter alia, restoring the unity, sovereignty, independence and territorial integrity of the Republic of Yemen. It can be seen from those resolutions that the support provided to the legitimate government and the restrictive measures directed against the Houthi Movement contribute, in equal proportions, to that objective. Similarly, it can be seen from Resolution 2140 (2014) and the documents before the Court that, in view of the economic and social difficulties of that non-EU State, that government is to receive, in accordance with the objectives of that resolution, financial assistance from international institutions, such as the World Bank and the IMF.
- 72 In a situation such as that at issue in the main proceedings, the application of Article 2(2) of Regulation No 1352/2014 solely on the ground that control of YOGC is claimed by the Houthi Movement could prove to be disproportionate having regard to the objectives of that regulation; indeed, it could even prove to be contrary to those objectives. First, such an approach would be likely, in view of the political situation in Yemen as described in paragraph 60 of the present judgment, to apply to a large number of entities, including public entities, even though those entities do not, in fact, have a connection with that movement and the risk that the funds of which they are the beneficiaries will be made available to that movement remains a hypothetical one. Second, that approach could be exploited by that movement or by its main leaders for propaganda purposes or in order to deprive the legitimate government of economic resources.

73 It follows that the risk that persons, entities or bodies designated in Annex I to Regulation No 1352/2014 may benefit from all or part of the funds intended for an entity not listed in that annex must be apparent from objective material evidence concerning the means which those persons, entities or bodies have at their disposal for obtaining those funds, so that the probability of that risk materialising must be sufficiently significant to justify the adoption of a preventive measure, such as the prohibition laid down in Article 2(2) of that regulation. In addition, the assessment of that risk requires that account be taken of all the circumstances of the particular case, including relevant factors capable of impeding actions by those persons, entities or bodies to obtain those funds, such as, inter alia, the measures taken by the legitimate Government of the Republic of Yemen to avoid such a making available.

74 Having regard to all of the foregoing, the answer to the third question is that Article 2(2) of Regulation No 1352/2014 must be interpreted as meaning that the prohibition on making funds indirectly available to natural or legal persons, entities or bodies listed in Annex I to that regulation applies where it can be established, on the basis of objective material evidence, that there is a risk that those persons, entities or bodies will benefit from all or part of the funds intended for an entity not listed in that annex, on the condition that the probability of that risk materialising is sufficiently significant to justify that prohibition, taking into account all the circumstances of the particular case, including relevant factors capable of impeding actions by those persons, entities or bodies.

The second question

75 In order to provide the referring court with an answer which will be of use to it, it must be held that, by its second question, that court asks, in essence, whether Article 2(2) of Regulation No 1352/2014 is to be interpreted as meaning that the persons, entities or bodies listed in Annex I to that regulation must be presumed to control a public entity to which funds have been made available in order to enforce an arbitration award where those persons, entities or bodies, without exercising the power to control or instruct that public entity, claim, as does the legitimate government of the non-EU State concerned, such control over that public entity and, if so, whether that presumption is rebuttable.

76 In that regard, first, as can be seen from the case-law of the Court, a company may be classified as a company ‘owned’ or ‘controlled’ by another entity where the latter is in a position to influence the decisions of the company concerned, even in the absence of legal ties, or links in terms of ownership or equity participation, between those two economic entities (see, to that effect, judgment of 10 September 2019, *HTTS v Council*, C-123/18 P, EU:C:2019:694, paragraph 75).

77 Second, it can be seen from Paragraph 55b of the guidelines on restrictive measures that a person or entity owns or controls another legal person, entity or body where it exercises a dominant influence over that person, entity, or body, inter alia because of its powers of appointment or removal within that person, entity or body, or the size of its shareholding in a legal person (see, to that effect, judgment of 12 March 2026, *EM System*, C-84/24, EU:C:2026:181, paragraphs 87 to 92).

78 Third, it can also be seen from the case-law of the Court, as is confirmed by Paragraph 55d of those guidelines, that, where a person, entity or body not targeted by restrictive measures has acted on behalf, under the control, or on the instructions of a person, entity or body which is the subject of those restrictive measures and intended to use the asset in question for the benefit of the targeted person, entity or body, it may be presumed that funds or economic resources have been made indirectly available to such a person, entity or body (see, by analogy, judgment of 21 December 2011, *Afrasiabi and Others*, C-72/11, EU:C:2011:874, paragraph 53).

79 However, as can be seen from paragraphs 45 to 47 and 75 of the present judgment, the questions raised by the referring court do not relate to a situation involving an entity acting on behalf, under the control, or on the instructions of persons, entities or bodies listed in Annex I to Regulation No 1352/2014.

80 In addition, it follows from the answer to the first question, in particular from paragraph 61 of the present judgment, that it is for the competent national court to verify whether the persons, entities or bodies

targeted by the restrictive measures actually have the capacity to obtain funds intended for a public entity, such as YOGC. It also follows from the answer to the third question, in particular from paragraphs 66 and 73 of the present judgment, that the application of Article 2(2) of Regulation No 1352/2014 may not be based on mere conjecture. It requires that there be objective material evidence relating to the means which the persons, entities or bodies concerned have at their disposal for obtaining those funds.

- 81 In such a situation, it is therefore for the competent national court to carry out, without relying on general presumptions, an assessment of all the evidence submitted to it, taking account of the context thereof. In addition, that evidence must constitute a sufficiently specific, precise and consistent set of indicia to establish the risk that the funds intended for the public entity concerned will benefit persons, entities, or bodies listed in Annex I to that regulation (see, to that effect, judgment of 21 April 2015, *Anbouba v Council*, C-630/13 P, EU:C:2015:247, paragraphs 51 and 53 and the case-law cited).
- 82 In the present case, it is apparent from the order for reference, as well as from the explanations provided by the French Government at the hearing, that, in the context of an action for the annulment of an arbitration award, such as the one at issue in the main proceedings, the burden of proof rests entirely with the person seeking that annulment, inasmuch as it is for that person to establish that the incorporation of that arbitration award into the French legal system is clearly in breach of international public policy.
- 83 However, it should be borne in mind that, according to the case-law of the Court, the national courts are required to ensure the full effectiveness of the provisions of Regulation No 1352/2014, which, in accordance with the second paragraph of Article 288 TFEU, is of general application and is directly applicable in all Member States. It is therefore for those courts to guarantee observance of the prohibition set out in Article 2(2) of that regulation in civil proceedings in which one party argues that the payment, to other parties to the proceedings, of sums due in order to enforce a court decision is in breach of that prohibition (see, to that effect, judgment of 21 December 2021, *Bank Melli Iran*, C-124/20, EU:C:2021:1035, paragraphs 55, 56 and 59 and the case-law cited).
- 84 With this in mind, that obligation may justify an adjustment of the rules relating to the burden of proof meaning that, where all the evidence available to a national court tends to indicate, *prima facie*, that there is a risk that the payment of those sums will be in breach of that provision, it will be for the beneficiaries of those sums to produce evidence permitting such a risk to be excluded to the requisite legal standard (see, by analogy, judgment of 21 December 2021, *Bank Melli Iran*, C-124/20, EU:C:2021:1035, paragraph 67 and the case-law cited).
- 85 First, the evidence capable of showing that persons, entities or bodies listed in Annex I to Regulation No 1352/2014 actually have means at their disposal for obtaining the funds intended for the public entity concerned, in breach of Article 2(2) of that regulation, is not normally available to a private individual unrelated to that entity (see, by analogy, judgment of 21 December 2021, *Bank Melli Iran*, C-124/20, EU:C:2021:1035, paragraph 66).
- 86 Second, account must be taken of the context surrounding the measures provided for by that regulation, and in particular the difficulty of obtaining more specific evidence in a State which is experiencing civil war (see, by analogy, judgment of 21 April 2015, *Anbouba v Council*, C-630/13 P, EU:C:2015:247, paragraph 47).
- 87 However, for the reasons indicated in paragraphs 81 and 82 of the present judgment, that adjustment of the rules relating to the burden of proof cannot lead to a reversal of the burden of proof to the detriment of the beneficiaries of the sums at issue, in particular the public entity concerned.
- 88 It is therefore for the party which is arguing that the obligation to pay those sums is in breach of Article 2(2) of Regulation No 1352/2014 to establish that those allegations are well founded. The beneficiaries of those sums cannot be required to prove a negative, that is to say, to adduce evidence of the absence of any risk of funds being made indirectly available for the purposes of that provision (see, by analogy, judgments of 18 July 2013, *Commission and Others v Kadi*, C-584/10 P, C-593/10 P and

C-595/10 P, EU:C:2013:518, paragraph 121, and of 1 August 2025, *Timchenko v Council*, C-702/23 P, EU:C:2025:605, paragraph 39 and the case-law cited). The evidence produced by the party asserting that breach must therefore constitute a sufficiently specific, precise and consistent set of indicia indicating, *prima facie*, that there is a non-negligible likelihood of that risk materialising. It is only in that situation that it will be for the beneficiaries of those sums to produce evidence permitting that risk to be excluded to the requisite legal standard.

- 89 Furthermore, if the elements of law and fact in the file before the competent court give rise to serious doubts as to the observance of the prohibition set out in Article 2(2) of Regulation No 1352/2014, without it being possible to make a definitive assessment in that regard, then it is for that court, in view of the mandatory nature of that prohibition and within the limits of the rules of national procedure, to take, where appropriate, investigative measures by asking the parties, in observance of the principle *audi alteram partem*, to provide it with the clarifications or documents necessary for that purpose (see, by analogy, judgment of 11 March 2020, *Lintner*, C-511/17, EU:C:2020:188, paragraph 37).
- 90 Similarly, the competent national court must be able, as far as possible, in the context of the rules of procedure to which it is subject and in observance of the principle *audi alteram partem*, to determine whether the facts alleged are made out (see, by analogy, *inter alia*, judgment of 18 July 2013, *Commission and Others v Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 124). It may rely, *inter alia*, on the relevant acts and documents published by the United Nations or the European Union, or request information from the competent national or EU authorities.
- 91 In that context, the fact that the legitimate Government of the Republic of Yemen, which is empowered to control the public entity concerned, is not cooperating with persons, entities or bodies listed in Annex I to Regulation No 1352/2014 constitutes a relevant piece of evidence which that court must take into account in order to assess the risk that the sums paid in order to enforce that award will benefit those persons, entities or bodies.
- 92 However, that lack of cooperation cannot be sufficient, in itself, to exclude such a risk, if it is shown that that legitimate government has not taken specific measures which are actually capable of preventing that risk from materialising. It is therefore for the competent national court to assess whether the measures relied on by that legitimate government and by the public entity concerned are sufficiently effective to impede the actions of those persons, entities or bodies aiming to obtain the funds in question. It must verify, *inter alia*, whether those measures make it possible to avoid a situation where those persons, entities or bodies, or persons mandated by them, may have those funds passed on to them by presenting themselves to the holder of the funds as being empowered to receive them.
- 93 Having regard to all of the foregoing, the answer to the second question is that Article 2(2) of Regulation No 1352/2014 must be interpreted as meaning that the persons, entities or bodies listed in Annex I to that regulation are not to be presumed to control a public entity to which funds have been made available in order to enforce an arbitration award where those persons, entities or bodies, without exercising the power to control or instruct that public entity, claim, as does the legitimate Government of the Republic of Yemen, such control over that public entity. It is for the competent national court to assess, on the basis of a sufficiently specific, precise and consistent set of indicia, the risk that those funds will benefit those persons, entities or bodies. In that context, the lack of cooperation by the legitimate Government of the Republic of Yemen with those persons, entities or bodies cannot be sufficient to exclude such a risk, as that government and the public entity concerned must show that they have taken specific measures which are actually capable of preventing that risk from materialising.

Costs

- 94 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

1. **Article 2(2) of Council Regulation (EU) No 1352/2014 of 18 December 2014 concerning restrictive measures in view of the situation in Yemen, as amended by Council Implementing Regulation (EU) 2021/397 of 5 March 2021,**

must be interpreted as meaning that making funds available to a public entity not listed in Annex I to that regulation, in order to enforce an arbitration award, may constitute making funds indirectly available to persons, entities or bodies listed in that annex where those persons, entities or bodies, without exercising the power to control or instruct that entity, claim to have such power, as does the legitimate Government of the Republic of Yemen, provided that they are in a position actually to obtain those funds.

2. **Article 2(2) of Regulation No 1352/2014, as amended by Implementing Regulation 2021/397,**

must be interpreted as meaning that the prohibition on making funds indirectly available to natural or legal persons, entities or bodies listed in Annex I to that regulation applies where it can be established, on the basis of objective material evidence, that there is a risk that those persons, entities or bodies will benefit from all or part of the funds intended for an entity not listed in that annex, on the condition that the probability of that risk materialising is sufficiently significant to justify that prohibition, taking into account all the circumstances of the particular case, including relevant factors capable of impeding actions by those persons, entities or bodies.

3. **Article 2(2) of Regulation No 1352/2014, as amended by Implementing Regulation 2021/397,**

must be interpreted as meaning that the persons, entities or bodies listed in Annex I to that regulation are not to be presumed to control a public entity to which funds have been made available in order to enforce an arbitration award where those persons, entities or bodies, without exercising the power to control or instruct that public entity, claim, as does the legitimate Government of the Republic of Yemen, such control over that public entity.

It is for the competent national court to assess, on the basis of a sufficiently specific, precise and consistent set of indicia, the risk that those funds will benefit those persons, entities or bodies. In that context, the lack of cooperation by the legitimate Government of the Republic of Yemen with those persons, entities or bodies cannot be sufficient to exclude such a risk, as that government and the public entity concerned must show that they have taken specific measures which are actually capable of preventing that risk from materialising.

[Signatures]

* Language of the case: French.