Reports of Cases

JUDGMENT OF THE GENERAL COURT (Grand Chamber)

11 September 2024*

(Common foreign and security policy – Restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine – Freezing of funds – List of persons, entities and bodies subject to the freezing of funds and economic resources – Inclusion of the applicants' names on the list – Obligation to report funds or economic resources belonging to or owned, held or controlled by the applicants – Obligation to cooperate with the competent national authority – Participation in activities the object or effect of which is to circumvent restrictive measures – Article 9(2) and (3) of Regulation (EU) No 269/2014 – Action for annulment – *Locus standi* – Direct concern – Regulatory act not entailing implementing measures – Interest in bringing proceedings – Admissibility – Misuse of powers – Power of the Council – Proportionality – Legal certainty)

In Case T-644/22,

Gennady Nikolayevich Timchenko, residing in Geneva (Switzerland),

Elena Petrovna Timchenko, residing in Geneva,

represented by S. Bonifassi, E. Fedorova, T. Bontinck, A. Guillerme, L. Burguin and J. Bastien, lawyers,

applicants,

v

Council of the European Union, represented by M. Bishop, acting as Agent, and by B. Maingain and A. Vandevelde, lawyers,

defendant,

supported by

European Commission, represented by H. Krämer, C. Giolito, M. Carpus Carcea and L. Puccio, acting as Agents,

intervener,

THE GENERAL COURT (Grand Chamber),

* Language of the case: French.

composed of M. van der Woude, President, S. Papasavvas, D. Spielmann, M.J. Costeira, K. Kowalik-Bańczyk, S. Gervasoni, L. Madise, N. Półtorak, M. Brkan, I. Gâlea, I. Dimitrakopoulos, D. Kukovec, S. Kingston, T. Tóth (Rapporteur) and S.L. Kalėda, Judges,

Registrar: H. Eriksson, Administrator,

having regard to the written part of the procedure,

further to the hearing on 11 January 2024

gives the following

Judgment

1 By their action under Article 263 TFEU, the applicants, Mr Gennady Nikolayevich Timchenko and Mrs Elena Petrovna Timchenko, seek, in essence, the annulment of Article 1, point 4, of Council Regulation (EU) 2022/1273 of 21 July 2022 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 194, p. 1; 'the contested regulation'), in so far as it amends Article 9 of Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6) by inserting obligations to report funds and to cooperate with the competent authorities in that regard (Article 9(2) of Regulation No 269/2014, as amended) and by treating a failure to comply with those obligations in the same way as a circumvention of fund-freezing measures (Article 9(3) of Regulation No 269/2014, as amended) ('the contested provisions').

Background to the dispute

2 Mr Timchenko is a businessman who is married to Mrs Timchenko. Both applicants have Russian and Finnish nationality.

3 In March 2014, the Russian Federation annexed the Autonomous Republic of Crimea and the city of Sevastopol and has since engaged in continued destabilisation actions in eastern Ukraine. At the same time, pro-Russian separatist movements entered into armed conflict with the Ukrainian Government in the regions of Donetsk and Luhansk.

4 On 17 March 2014, the Council of the European Union adopted, under Article 29 TEU in particular, Council Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 16). That same day, it adopted Regulation No 269/2014 under Article 215 TFEU. In the days that followed, Russian armed forces conducted war operations across Ukraine which are still ongoing.

5 On 21 February 2022, the President of the Russian Federation signed a decree recognising the independence and sovereignty of the self-proclaimed 'Donetsk People's Republic' and the 'Luhansk People's Republic' and ordered that Russian military forces be deployed in those areas.

6 On 22 February 2022, the High Representative of the Union for Foreign Affairs and Security Policy ('the High Representative') published a declaration on behalf of the European Union condemning those actions, since they constituted a serious violation of international law. The High Representative announced that the European Union would respond to those latest violations by the Russian Federation by adopting additional restrictive measures as a matter of urgency.

7 Against that background, the Council adopted several packages of restrictive measures. The applicants' names were added to the lists of persons, entities and bodies subject to restrictive measures set out in the annex to Decision 2014/145 and Annex I to Regulation No 269/2014: Mr Timchenko's name was added on 28 February 2022 by the adoption of Council Decision (CFSP) 2022/337 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 59, p. 1) and of Council Implementing Regulation (EU) 2022/336 implementing Regulation No 269/2014 (OJ 2022 L 58, p. 1), and Mrs Timchenko's name was added on 8 April 2022 by the adoption of Council Decision (CFSP) 2022/582 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 55) and of Council Implementing Regulation (EU) 2022/581 implementing Regulation No 269/2014 (OJ 2022 L 110, p. 3). Their names were thereafter successively maintained on those lists. Those restrictive measures were the subject of actions for annulment before the Court (Case T-252/22, *Timchenko* v *Council*, and Case T-361/22, *Timchenko* v *Council*).

8 On the date of adoption of the acts referred to in paragraph 7 above, Article 2 of Regulation No 269/2014 provided as follows:

'1. All funds and economic resources belonging to, owned, held or controlled by any natural or legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them, as listed in Annex I, 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, or natural or legal persons, entities or bodies associated with them, as listed in Annex I.'

9 Article 8(1) of that regulation stated:

'1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

(a) supply immediately any information which would facilitate compliance with this Regulation, such as information on accounts and amounts frozen in accordance with Article 2, to the competent authority of the Member State where they are resident or located, and shall transmit such information, directly or through the Member State, to the Commission; and

(b) cooperate with the competent authority in any verification of such information.'

10 Article 9 of that regulation provided that '[i]t shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures referred to in Article 2'.

11 Article 15 of that regulation stated:

‘1. Member States shall lay down the rules on penalties applicable to infringements of the provisions of this regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

2. Member States shall notify the rules referred to in paragraph 1 to the Commission without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.’

12 On 3 June 2022, the Council adopted Regulation (EU) 2022/880 amending Regulation No 269/2014 (OJ 2022 L 153, p. 75), taking the view inter alia that it was appropriate to clarify and strengthen the provisions on national penalties for breach of the measures in that regulation (recital 2 of Regulation 2022/880).

13 Article 15(1) of Regulation No 269/2010 was thus amended as follows:

‘Member States shall lay down the rules on penalties, including as appropriate criminal penalties, applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall also provide for appropriate measures of confiscation of the proceeds of such infringements.’

14 On 21 July 2022, the Council adopted, under Article 29 TEU in particular, Decision (CFSP) 2022/1272 amending Decision 2014/145 (OJ 2022 L 193, p. 219). By that decision, it introduced new derogations from the freezing of assets and the prohibition on making funds and economic resources available to designated persons and entities.

15 That same day, the contested regulation was adopted, in particular, under Article 215 TFEU. Recital 5 of that regulation reads as follows:

‘In order to ensure effective and uniform implementation of Regulation (EU) No 269/2014, and in view of the increasing complexity of sanction evasion schemes, which hamper such implementation, it is necessary to oblige designated persons and entities with assets within the jurisdiction of a Member State to report these assets and to cooperate with the competent authority in the verification of this reporting. It is also appropriate to strengthen the provisions on reporting obligations for Union operators, with a view to preventing the breach and circumvention of the asset freezes. Failure to respect this obligation would constitute a circumvention of the freezing of assets and would be subject to penalties if the conditions for such penalties are met under applicable national rules and procedures.’

16 The contested regulation amended Regulation No 269/2014 by laying down, in Article 1, points 1 to 3, the derogations provided for by Decision 2022/1272. Article 1, point 4, of that regulation states that Article 9 of Regulation No 269/2014 is replaced by the following:

‘Article 9

1. It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures referred to in Article 2.

2. Natural or legal persons, entities or bodies listed in Annex I, shall:

(a) report before 1 September 2022 or within 6 weeks from the date of listing in Annex I, whichever is latest, funds or economic resources within the jurisdiction of a Member State belonging to, owned, held or controlled by them, to the competent authority of the Member State where those funds or economic resources are located; and

(b) cooperate with the competent authority in any verification of such information.

3. Failure to comply with paragraph 2 shall be considered as participation, as referred to in paragraph 1, in activities the object or effect of which is to circumvent the measures referred to in Article 2.

…'

Forms of order sought

17 The applicants claim that the Court should:

– annul Article 9(2) and (3) of Regulation No 269/2014, as amended by the contested regulation;

– order the Council to pay the costs.

18 The Council contends that the Court should:

– dismiss the action;

– order the applicants to pay the costs.

19 The European Commission contends that the action should be dismissed as inadmissible or, in the alternative, as unfounded.

Law

Admissibility of the action

20 The Council, supported by the Commission, argues that the action is inadmissible because the applicants have no interest in bringing or standing to bring an action for annulment of the contested provisions, which the applicants dispute.

21 As regards the lack of standing to bring proceedings, which should be examined first, the Council, supported by the Commission, submits that the contested provisions do not satisfy the conditions laid down in the fourth paragraph of Article 263 TFEU.

22 To that end, the Council states, inter alia and in essence, that the applicants have not proven that the contested provisions are not the subject of implementing measures.

23 The applicants dispute those arguments.

24 Under the fourth paragraph of Article 263 TFEU, any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person (first limb) or which is of direct and individual concern to them (second limb), and against a regulatory act which is of direct concern to them and does not entail implementing measures (third limb).

25 The condition of direct concern is common to both the second and third limbs of the fourth paragraph of Article 263 TFEU and, according to the case-law, that condition has the same meaning for each of those limbs (see, to that effect, judgment of 12 July 2022, *Nord Stream 2* v *Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraph 73). According to settled case-law, the condition that the measure forming the subject matter of the proceedings must be of direct concern to a natural or legal person requires the fulfilment of two cumulative criteria, namely that the contested measure should, first, directly affect the legal situation of the individual and, secondly, should leave no discretion to the addressees who are entrusted with the task of implementing it, such implementation being purely automatic and resulting from EU rules alone without the application of other intermediate rules (see judgment of 22 June 2021, *Venezuela* v *Council (Whether a third State is affected)*, C-872/19 P, EU:C:2021:507, paragraph 61 and the case-law cited; judgment of 13 September 2018, *Rosneft and Others* v *Council*, T-715/14, not published, EU:T:2018:544, paragraph 65).

26 Furthermore, according to settled case-law of the Court of Justice, the expression 'does not entail implementing measures' within the meaning of the third limb of the fourth paragraph of Article 263 TFEU must be interpreted in the light of the objective of that provision, which, as is apparent from its drafting history, is to ensure that individuals do not have to break the law in order to have access to a court. Where a regulatory act directly affects the legal situation of a natural or legal person without requiring implementing measures, that person could be denied effective judicial protection if he or she does not have a legal remedy before the EU judicature for the purpose of challenging the lawfulness of the regulatory act. In the absence of implementing measures, a natural or legal person, although directly concerned by the act in question, would be able to obtain judicial review of the act only after having infringed its provisions, by pleading that those provisions are unlawful in proceedings initiated against them before the national court (judgments of 19 December 2013, *Telefónica* v *Commission*, C-274/12 P, EU:C:2013:852, paragraph 27, and of 6 November 2018, *Scuola Elementare Maria Montessori* v *Commission*, *Commission* v *Scuola Elementare Maria Montessori* and *Commission* v *Ferracci*, C-622/16 P to C-624/16 P, EU:C:2018:873, paragraph 58). The Court of Justice has, moreover, repeatedly held that the question whether a regulatory act entails implementing measures should be assessed by reference to the position of the person pleading the right to bring proceedings under the third limb of the fourth paragraph of Article 263 TFEU (see judgment of 6 November 2018, *Scuola Elementare Maria Montessori* v *Commission*, *Commission* v *Scuola Elementare Maria Montessori* and *Commission* v *Ferracci*, C-622/16 P to C-624/16 P, EU:C:2018:873, paragraph 61 and the case-law cited).

27 In the present case, the contested provisions are regulatory in nature within the meaning of the last limb of the fourth paragraph of Article 263 TFEU in that they are of general application and were adopted on the basis of Article 215 TFEU, under the non-legislative procedure laid down in that provision (see, to that effect, judgment of 22 June 2021, *Venezuela* v *Council (Whether a third State is affected)*, C-872/19 P, EU:C:2021:507, paragraph 92).

28 In addition, the contested provisions concern the natural or legal persons, entities or bodies listed in Annex I to Regulation No 269/2014, as amended.

29 When the applicants brought their action, their names had been included in Annex I since the adoption of Implementing Regulation 2022/336, as regards Mr Timchenko, and Implementing Regulation 2022/581, as regards Mrs Timchenko (see paragraph 7 above).

30 Therefore, since 21 July 2022, being the date on which the contested regulation came into force, the applicants have been subject to the obligations at issue, namely the obligation to report their funds or economic resources before 1 September 2022 and the obligation to cooperate with the competent national authorities, pursuant to Article 9(2) of Regulation No 269/2014, as amended. Furthermore, pursuant to Article 9(3) of that regulation, failure to comply with those obligations is to be regarded as participation in activities the object or effect of which is to circumvent restrictive measures involving the freezing of funds.

31 It must therefore be held that the contested provisions are of direct concern to the applicants since they directly affect their legal situation. The reporting and cooperation obligations and the effects of failing to comply with them apply to the applicants as persons included on the list set out in Annex I to Regulation No 269/2014 when those provisions came into force. Moreover, the application of the provisions in question vis-à-vis the applicants does not require any implementing measures to be adopted at EU or Member State level, which the Council acknowledged at the hearing, and leaves no discretion to the addressees who are entrusted with the task of implementing those provisions, with the result that they affect the applicants' legal situation in a purely automatic fashion.

32 It follows that the contested provisions constitute regulatory acts which are of direct concern to the applicants and do not entail implementing measures within the meaning of the applicable case-law.

33 The Council's reference to the judgment of 28 January 2016, *Azarov* v *Council* (T-332/14, not published, EU:T:2016:48, paragraphs 59 and 60) and the Court's ruling of inadmissibility in that judgment for lack of direct concern on the part of the applicant do not invalidate that finding. In that judgment, the action was directed inter alia against acts which amended the designation criteria for the freezing of funds targeting persons responsible for the misappropriation of Ukrainian State funds. The Court held that the action was inadmissible in so far as it was directed against those acts since, in essence, they produced legal effects only in relation to categories of persons and entities envisaged in a general and abstract manner and were of neither individual nor direct concern to the applicant in that case.

34 By contrast, in the present case, the contested provisions directly and immediately affect the applicants' legal situation, without requiring the adoption of implementing measures by the authorities entrusted with the task of implementing the obligations at issue. The applicants could thus be denied effective judicial protection if they did not have a legal remedy before the EU judicature for the purpose of challenging the lawfulness of those provisions.

35 Accordingly, the applicants have standing to bring an action for annulment of the contested provisions.

36 As regards, in the second place, the lack of interest in bringing proceedings, the Council submits that the applicants have not demonstrated such an interest, since they fulfilled their obligation to report to the competent national authorities. Concerning the applicants' argument that they are not shielded from the imposition of penalties by the national authorities, the Council states that they are invoking a future and hypothetical situation.

37 The applicants dispute that argument.

38 In that regard, it should be noted that, according to settled case-law, the admissibility of an action for annulment brought by a natural or legal person is subject to the condition that the person concerned has an interest in having the contested act annulled. Such an interest requires that the annulment of that act must be capable, in itself, of having legal consequences and that the action may therefore, through its outcome, procure an advantage to the party which brought it (see, to that effect, judgment of 27 February 2014, *Stichting Woonlinie and Others* v *Commission*, C-133/12 P, EU:C:2014:105, paragraph 54 and the case-law cited, and order of 18 January 2023, *Seifert* v *Council*, T-166/22, not published, EU:T:2023:13, paragraph 22 and the case-law cited). An applicant's interest in bringing proceedings must be vested and current and may not concern a future and hypothetical situation (see judgment of 17 September 2015, *Mory and Others* v *Commission*, C-33/14 P, EU:C:2015:609, paragraph 56 and the case-law cited).

39 In the present case, irrespective of whether or not the applicants or other persons have reported or frozen the funds or economic resources in question and, as the case may be, cooperated with the competent authorities, the applicants retain an interest in securing the annulment of the contested provisions, which impose on them reporting and cooperation obligations non-compliance with which may have serious consequences for them. An applicant's interest in bringing proceedings does not disappear because he or she has performed the obligations which he or she is challenging (see, to that effect, judgments of 19 September 1985, *Hoogovens Groep* v *Commission*, 172/83 and 226/83, EU:C:1985:355, paragraph 19, and of 15 December 1999, *Kesko* v *Commission*, T-22/97, EU:T:1999:327, paragraphs 55 to 65) or because those obligations were performed by a third party (see, to that effect, judgment of 6 March 1979, *Simmenthal* v *Commission*, 92/78, EU:C:1979:53, paragraph 32). Consequently, the applicants' interest in bringing proceedings persists without them having to demonstrate that they infringed their obligations.

40 Furthermore, it is common ground that compliance with the reporting obligation does not entail the discharge of all the obligations laid down in Article 9(2) of Regulation No 269/2014, as amended. Once funds or economic resources have been reported to the competent national authority, that article requires the persons who have reported the funds or economic resources they own, hold or control to cooperate with that national authority in any verification. It follows that the applicants retain a vested and current interest in bringing proceedings against the provisions of Article 9(2) of Regulation No 269/2014, as amended.

41 As regards the provisions of Article 9(3) of Regulation No 269/2014, as amended, the treatment of participation in circumvention of the restrictive measures provided for therein is an integral part of the obligations laid down in Article 9(2) of that regulation, so that the applicants have a vested and current interest in bringing proceedings against those provisions.

42 In the light of the considerations set out in paragraphs 39 to 41 above, it must be held that the applicants have a vested and current interest in bringing proceedings against the contested provisions and that the present action is therefore admissible.

Substance

43 The applicants raise four pleas in law: (i) lack of legal basis; (ii) misuse of powers; (iii) breach of the principle of proportionality; and (iv) breach of the principle of legal certainty.

First plea in law, alleging lack of legal basis

44 The first plea is divided into two parts alleging, first, infringement of Articles 24, 29 and 40 TEU, and, secondly, infringement of Article 40 TEU and Article 83(1) TFEU.

– *First part of the first plea in law, alleging infringement of Articles 24, 29 and 40 TEU*

45 By the first part of the first plea, the applicants claim that, by adopting Article 9(2) of Regulation No 269/2014, as amended by the contested regulation, the Council exceeded the powers conferred on it by Article 215(2) TFEU and thus infringed Article 24(2) TEU and Articles 29 and 40 TEU.

46 To that end, in the first place, the applicants state that, since Decision 2014/145 does not make provision for the reporting and cooperation obligations laid down in Article 9(2) of Regulation No 269/2014, as amended, those obligations do not constitute measures necessary to give effect to Decision 2014/145. Such obligations cannot therefore be regarded as measures 'implementing' that decision.

47 The applicants add that those reporting and cooperation obligations also cannot be regarded as mere 'procedures' for giving effect to restrictive measures. Those obligations are in addition to the restrictive measures, in order to implement or enforce the latter, and their infringement is considered to amount to participation in circumvention, pursuant to Article 9(3) of that regulation, which is not provided for in other schemes of restrictive measures.

48 In particular, the applicants assert that, on the basis of Article 29 TEU, there is nothing to justify the adoption by the Council of those obligations, whereas, prior to the contested regulation, Article 8 of Regulation No 269/2014, as amended by Council Regulation (EU) No 476/2014 of 12 May 2014 (OJ 2014 L 137, p. 1), already laid down reporting and cooperation obligations, which were less stringent in terms of time limits and penalties.

49 In the second place, the applicants state that they do not deny that, under Article 26 TEU, the Council indeed has power to implement the common foreign and security policy ('CFSP'). They add that, contrary to the Council's assertions, Article 2(2) TFEU does not, however, confer on that institution the power to adopt measures implementing restrictive measures, when Article 24(2) TEU provides that implementation of the CFSP is, in particular, a matter for the Member States. They conclude from this that, by adopting the contested obligations, the Council infringed the division of powers under Article 40 TEU, since it is not the task of that institution to decide how restrictive measures are to be implemented in the territory of the Member States.

50 The Council, supported by the Commission, disputes those arguments.

51 It should be recalled that, under the second subparagraph of Article 24(1) TEU, the CFSP is subject to specific rules and procedures and is to be 'defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise'. Furthermore, that policy is to be put into effect by the High Representative and by Member States, in accordance with the Treaties. Pursuant to Article 29 TEU, the Council 'shall adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature'.

52 Restrictive measures are adopted, within the framework of the CFSP, by a Council decision taken unanimously under Article 29 TEU and they are implemented, within the framework of the FEU Treaty, by means of a regulation adopted, pursuant to Article 215 TFEU, by the Council, acting by a qualified majority, on a joint proposal from the High Representative and the Commission. Article 215(1) TFEU concerns the adoption by the Council of measures necessary for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, as provided for by a decision adopted in accordance with Chapter 2 of Title V of the EU Treaty. In addition, under Article 215(2) TFEU, where a decision adopted in accordance with Chapter 2 of Title V of the EU Treaty so provides, the Council may adopt restrictive measures against natural or legal persons and groups or non-State entities.

53 According to the case-law, it is apparent from Articles 24 and 29 TEU that, as a general rule, the Council is called upon, in decisions taken in relation to the CFSP and acting unanimously, to determine the persons and entities that are to be subject to the restrictive measures that the European Union adopts in the field of the CFSP. Taking account of the wide scope of the aims and objectives of the CFSP, as set out in Article 3(5) TEU and Article 21 TEU and in the specific provisions relating to the CFSP, in particular, in Articles 23 and 24 TEU, the Council has a broad discretion in determining such persons and entities (judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 88).

54 Article 215 TFEU, which serves as a bridge between the objectives of the EU Treaty in matters of the CFSP and the actions of the European Union involving economic measures falling within the scope of the FEU Treaty (see, to that effect, judgment of 19 July 2012, *Parliament* v *Council*, C-130/10, EU:C:2012:472, paragraph 59), permits the adoption of regulations by the Council, acting by a qualified majority on a joint proposal from the High Representative and the Commission, in order to implement or give effect to restrictive measures where such measures fall within the scope of the FEU Treaty, and, in particular, to ensure their uniform application in all Member States (see, to that effect, judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraphs 89 and 90).

55 Thus, decisions adopted under Article 29 TEU declare the position of the European Union with respect to the restrictive measures to be adopted, while regulations adopted on the basis of Article 215 TFEU relate, in the light of their objectives and content, to those decisions and constitute the instrument giving effect to them at EU level (see, to that effect, judgments of 19 July 2012, *Parliament* v *Council*, C-130/10, EU:C:2012:472, paragraphs 72 and 76, and of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 90).

56 In the present case, the contested provisions were adopted under Article 215 TFEU, specifically Article 215(2) TFEU, as acknowledged by the main parties.

57 It should be borne in mind that, according to recital 5 of the contested regulation, the contested provisions were adopted in order to tackle '… the increasing complexity of sanction evasion schemes, which hamper [the] implementation [of restrictive measures]'. Therefore, in order to ensure the effective and uniform implementation of that regulation, the Council underlined the need 'to oblige designated persons and entities with assets within the jurisdiction of a Member State to report these assets and to cooperate with the competent authority in the verification of this reporting'.

58 In that regard, the Council stated, first, that compared with the schemes of restrictive measures implemented in view of the situation in other countries, the number of persons targeted by the restrictive measures adopted under the scheme relating to the situation in Ukraine had never been so large and, secondly, that those restrictive measures had been circumvented, or even breached, in order to prevent their effective application. Moreover, as is apparent from the discussions that took place at the hearing, the adoption of the obligations at issue appeared all the more justified because, previously, very few Member States had adopted national provisions laying down such obligations, in particular the obligation to declare funds or economic resources owned, held or controlled by a relevant person.

59 It follows that the reporting and cooperation obligations were established, in the present case, in order to ensure the uniform application of Regulation No 269/2014 in the territory of the European Union and to thwart strategies to circumvent restrictive measures, strategies made possible, in particular, by recourse to complex legal and financial arrangements.

60 Thus, since the measures provided for in Article 9(2) of Regulation No 269/2014, as amended, relate to Decision 2014/145, in that they are such as to ensure, at EU level, the effective and uniform implementation of the restrictive measures provided for in that decision, the Court must reject the applicants' argument that they infringe Article 215(2) TFEU, on the ground that they are not necessary and cannot be adopted without being included in a Council decision under Article 29 TEU.

61 For the same reasons as those set out in paragraphs 57 to 60 above, since the provisions of Article 9(2) of Regulation No 269/2014, as amended, were such as to ensure, at EU level, the uniform application of the obligations laid down by those provisions and, consequently, the effective and uniform implementation of Decision 2014/145, the Court must reject the applicants' argument that those obligations fall within the implementing powers of the Member States and establish an infringement of Article 24(2) TEU. Furthermore, since Article 40 TEU does not concern the division of powers between the European Union and its Member States, the applicants cannot claim that the adoption of the obligations at issue infringes that provision on the ground that it falls within the implementing powers of the Member States.

62 Similarly, contrary to the applicants' assertions, the mere reference to restrictive measures in Article 215(2) TFEU does not have the effect of limiting the measures provided for in that provision to obligations not to act. As pointed out in paragraph 54 above, the purpose of that provision is to enable the Council to implement a decision adopted in the field of the CFSP, in order to ensure its uniform application in all Member States.

63 In the present case, since the obligations laid down in Article 9(2) of Regulation No 269/2014, as amended, are intended to ensure the effectiveness of the fund-freezing measures provided for in Decision 2014/145 and to implement them, it must be held that the Council was entitled, on the basis of Article 215(2) TFEU and without infringing Article 29 TEU, to adopt such obligations by means of an EU regulation, irrespective of the fact that those obligations were not expressly provided for in the decision relating to it.

64 Finally, it is true that, prior to the adoption of Article 9(2) of Regulation No 269/2014, as amended, Article 8 of Regulation No 269/2014, referred to in paragraph 9 above, already made provision for a reporting obligation. However, that article is concerned with obligations of confidentiality and professional secrecy imposed on natural and legal persons, entities and bodies, thus primarily economic operators entrusted with the task of implementing fund-freezing measures and not

persons included on the list of restrictive measures. That is moreover confirmed by the fact that that article does not reproduce the wording used in that regulation to designate persons subject to restrictive measures, namely persons 'listed in Annex I' to that regulation. Thus, since Article 8 of Regulation No 269/2014 was not intended to apply to persons subject to restrictive measures, who are nevertheless the best placed to inform the competent national authorities about their financial position, in the context referred to in paragraphs 57 to 60 above, the applicants' argument that, in essence, the adoption of Article 9(2) of the regulation was unjustified must be rejected.

65 It thus follows from paragraphs 56 to 64 above that, since the provisions of Article 9(2) of Regulation No 269/2014, as amended, fall within the power to implement a decision adopted in the field of the CFSP, the Council was entitled to adopt them by means of an EU regulation under Article 215(2) TFEU, irrespective of the fact that the obligations at issue are obligations to act imposed on the applicants and were not provided for by a decision adopted under Article 29 TEU.

66 Consequently, the first part of the first plea in law must be rejected.

– Second part of the first plea in law, alleging infringement of Article 40 TEU and Article 83(1) TFEU

67 By the second part of the first plea, the applicants claim, in essence, that by adopting Article 9(3) of Regulation No 269/2014, as amended, the Council infringed Article 40 TEU and Article 83(1) TFEU.

68 To that end, they assert that, by providing, in Article 9(3) of Regulation No 269/2014, as amended by the contested regulation, that failure to comply with the reporting obligation is to be regarded as participation in activities the object or effect of which is to circumvent the restrictive measures and by amending Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, the Council acted in the stead of the Member States in deciding how the restrictive measures should be implemented and what penalties should apply in the territory of the Member States, inter alia by requiring them to provide for measures of confiscation.

69 The applicants state that, pursuant to Article 83 TFEU, the Council is not competent to harmonise, at EU level, the applicable penalties for infringing restrictive measures adopted in the field of the CFSP, since only directives adopted under the ordinary legislative procedure may establish minimum rules with regard to the definition of criminal offences and penalties in the area concerned.

70 According to the applicants, that analysis is, moreover, confirmed by the fact that, at EU level, Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ 2014 L 127, p. 39) already harmonises the confiscation of instrumentalities and proceeds of crime in the European Union.

71 Furthermore, the applicants submit that, following the adoption of the contested provisions, on 28 November 2022 the Council adopted Decision (EU) 2022/2332 on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83(1) [TFEU] (OJ 2022 L 308, p. 18). In that decision, the Council decided that the violation of restrictive measures was an area of crime within the meaning of the second subparagraph of Article 83(1) TFEU. It was on the basis of that decision that, on 2 December 2022, the

Commission adopted a proposal for a directive on the definition of criminal offences and penalties for the violation of Union restrictive measures (COM (2022) 684 final), according to which Article 215 TFEU cannot serve as a legal basis for the approximation of criminal definitions and penalties.

72 As regards the Council's argument that it is not possible to challenge the rules on the applicable penalties because Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, is not the subject of the present action and the applicants are thus too late to challenge those provisions, the applicants submit that they were not in a position to challenge that article until the contested provisions had been adopted. They state that, in any event, they are challenging Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, by raising a plea of illegality.

73 The Council, supported by the Commission, disputes those arguments.

74 As regards, in the first place, the plea of illegality put forward by the applicants in respect of Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, if such a plea is to be admissible, it must concern provisions that constitute the legal basis for the contested act or that have a direct legal connection with that act (see, to that effect, judgments of 8 September 2020, *Commission and Council* v *Carreras Sequeros and Others*, C-119/19 P and C-126/19 P, EU:C:2020:676, paragraph 69 and the case-law cited, and of 15 November 2023, *OT* v *Council*, T-193/22, EU:T:2023:716, paragraph 33 and the case-law cited).

75 In the present case, apart from the fact that the plea of illegality was raised only at the stage of the reply, it must be stated that the provisions of Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, do not constitute the legal basis for Article 9(3) of Regulation No 269/2014. Nor do those provisions have a direct legal connection with Article 9(3) of Regulation No 269/2014, since they are intended to apply generally to the applicable penalties for infringing that regulation and not specifically to that article. It follows that the plea of illegality must be rejected as inadmissible.

76 As regards, in the second place, whether the provisions of Article 9(3) of Regulation No 269/2014, as amended by the contested regulation, read in conjunction with Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, are such as to establish an offence of a criminal nature and, thus, infringe Article 83(1) TFEU, it should be noted at the outset that Article 9(3) of Regulation No 269/2014, as amended, merely treats failure to comply with the reporting and cooperation obligations, laid down in Article 9(2) of that regulation, as participation in circumvention, within the meaning of Article 9(1) thereof.

77 It must be stated that, as characterised in Article 9(3) of Regulation No 269/2014, as amended, participation in circumvention activities cannot, as such, be considered to constitute an offence of a criminal nature.

78 As regards the applicants' argument that the provisions of Article 9(3) of Regulation No 269/2014, as amended by the contested regulation, interpreted in the light of the provisions of Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, constitute an offence of a criminal nature on account of the criminal penalties provided for by the latter provisions, it should be noted that Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, leaves it to the Member States to lay down the rules on penalties, 'including as appropriate criminal penalties'.

79 The consequence of using such wording is that the determination of the nature of the applicable penalties for infringing Regulation No 269/2014 falls within the power of the national authorities and is therefore a matter of national law, including where the penalty of confiscation of the proceeds of an infringement is imposed (see, to that effect, judgment of 19 March 2020, '*Agro In 2001*', C-234/18, EU:C:2020:221, paragraphs 60 and 61).

80 In that regard, it should be noted that, specifically as regards Article 9(3) of Regulation No 269/2014, as amended, the power conferred on Member States to decide whether penalties are to be of a civil, administrative or criminal nature is confirmed by the last sentence of recital 5 of the contested regulation, according to which, in essence, the circumvention of restrictive measures, provided for in Article 9(3) of that regulation, will be subject to penalties 'if the conditions for such penalties are met under applicable national rules and procedures'.

81 It thus follows from paragraphs 79 and 80 above that the provisions of Article 9(3) of Regulation No 269/2014, as amended, cannot be regarded as constituting an offence of a criminal nature and, therefore, as having been adopted in breach of Article 83 TFEU.

82 That conclusion cannot be called into question by the applicants' argument that the adoption by the Commission of the proposal for a directive, referred to in paragraph 71 above, confirms that the provisions of Article 9(3) of Regulation No 269/2014, as amended, are of a criminal nature.

83 It should be noted that the provisions of that proposal for a directive, which, in accordance with the third subparagraph of Article 83(1) TFEU, required, prior to its adoption, a Council decision identifying a new area of crime, provided for an obligation on national authorities to introduce minimum rules concerning the definition of criminal offences and penalties for failing to comply with the reporting and cooperation obligations laid down in restrictive measures. For the reasons previously set out in paragraphs 76 to 80 above, that is not the case as regards the provisions of Article 9(3) of Regulation No 269/2014, as amended.

84 Lastly, it should be noted that both Article 9(3) of Regulation No 269/2014, as amended, and Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, leave it to the national authorities to decide whether the offence of participation in circumvention activities and the penalties attached thereto are to be of a criminal, civil or administrative nature. It follows that, for the same reasons as those set out in paragraphs 51 to 55 above, those provisions could be adopted by the Council under Article 215(2) TFEU and the Council cannot be accused of having improperly acted in the stead of the Member States in the exercise of their legislative powers.

85 Furthermore, since the legal rules governing the obligations at issue and the applicable penalties in the event of infringement do not fall within the scope of criminal law, the Council cannot be accused of having infringed Article 83 TFEU, with the result that, contrary to what the applicants claim, the Council has also not infringed Article 40 TEU. Accordingly, the second part of the first plea in law and the first plea in law in its entirety must be rejected.

Second plea in law, alleging misuse of powers

86 By their second plea, the applicants claim, in essence, that by encouraging the Member States to penalise, by confiscation, a failure to comply with the obligations laid down in Article 9(2) of Regulation No 269/2014, as amended, the Council misused its powers.

87 According to the applicants, it is now no longer simply a question of freezing funds, but of confiscating them, as confirmed by the statements of the President of the European Council, the High Representative and the President of the Commission, and by the conclusions of the European Council of 20 and 21 October 2022. By taking that approach, when restrictive measures produce, in practice, effects similar to those of other sanctions regimes, the Council seeks to distort the nature of the fund-freezing measures by providing for the confiscation of those funds, which is delegated to the Member States.

88 The applicants also submit that the subsequent adoption of Decision 2022/2332, which added the violation of restrictive measures to the list of offences provided for in Article 83(1) TFEU, and the adoption by the Commission of the proposal for a directive on the definition of criminal offences and penalties for the violation of EU restrictive measures, confirm that there was a misuse of powers.

89 The Council, supported by the Commission, disputes those arguments.

90 It is settled case-law that an act is vitiated by misuse of powers only if it appears on the basis of objective, relevant and consistent evidence to have been taken with the exclusive or main purpose of achieving an end other than that stated or evading a procedure specifically prescribed by the Treaty for dealing with the circumstances of the case (see judgment of 23 October 2008, *People's Mojahedin Organization of Iran* v *Council*, T-256/07, EU:T:2008:461, paragraph 151 and the case-law cited).

91 In the present case, in the first place, it should be observed that, as is clear from paragraphs 76 to 83 above, the contested provisions are not of a criminal nature and implement the fund-freezing measures uniformly across the territory of the European Union. That means that the applicants cannot validly plead misuse of powers as regards the adoption of those provisions by means of a Council regulation, lawfully adopted on the basis of Article 215(2) TFEU.

92 In the second place, it must be stated that the considerations set out in paragraphs 56 to 64 above show that the statements on which the applicants rely are not the exclusive or main reason for the adoption of the contested measures. It follows that the conditions referred to in paragraph 90 above are not satisfied.

93 Accordingly, and since the contested provisions were adopted in accordance with the procedure laid down for that purpose and not, as the applicants claim, with the sole aim of confiscating assets frozen pursuant to the restrictive measures, the Council cannot be accused of having misused its powers.

94 Consequently, the second plea in law must be rejected.

Third plea in law, alleging breach of the principle of proportionality

95 By their third plea, the applicants submit that the reporting obligation imposed by Article 9(2) of Regulation No 269/2014, as amended, is not appropriate for attaining the objectives pursued by the legislation at issue and goes beyond what is necessary to achieve them, in circumstances where the Council has not demonstrated that the scheme of restrictive measures established by Decision 2014/145 requires the adoption of a reporting obligation incumbent on the persons subject to that scheme.

96 In that regard, the applicants state that the Council has not adduced evidence of the difficulties encountered in the implementation of Regulation No 269/2014 to which recital 5 of the contested regulation refers.

97 They add that the introduction of those provisions is all the more disproportionate in the light of the objectives pursued by the legislation, since failure to comply with the reporting and cooperation obligations is, under Article 9(3) of Regulation No 269/2014, as amended, considered to constitute circumvention of the restrictive measures. Thus, as a result of that provision, there is a risk that any omission to report an asset may be considered to constitute circumvention, regardless of whether that omission was unintentional, which is such as to establish an irrebuttable presumption of circumvention contrary to the principle of the right to an effective remedy.

98 According to the applicants, that is particularly problematic because it is highly likely that the national legislature, spurred on by the Council, will attach criminal penalties to the offence of circumventing restrictive measures, potentially in addition to a confiscation penalty, which would not only be 'manifestly disproportionate' but also have the effect of depriving the restrictive measures of their precautionary and preventive nature.

99 Lastly, the applicants claim that the deadline set for reporting their assets, which was 1 September 2022 in the present case, gave them barely 41 days to carry out such reporting. In the light of the complexities arising from the opacity of the concepts used to define the reporting obligation and from the differing reporting procedures depending on the authority concerned by the reporting, such a period was insufficient and overstepped the boundaries of the principle of proportionality.

100 The Council, supported by the Commission, disputes those arguments.

101 It should be recalled that the principle of proportionality, which is one of the general principles of EU law, requires that measures implemented through provisions of EU law be appropriate for attaining the legitimate objectives pursued by the legislation at issue and must not go beyond what is necessary to achieve them (judgments of 13 March 2012, *Melli Bank* v *Council*, C-380/09 P, EU:C:2012:137, paragraph 52, and of 15 November 2023, *OT* v *Council*, T-193/22, EU:T:2023:716, paragraph 56).

102 As regards, first, the argument that the Council has not demonstrated that sanction evasion schemes have become increasingly complex, it must be borne in mind that the Council adopted the contested provisions in the exercise of the discretion it enjoys and gave reasons for them, as is apparent from recital 5 of the contested regulation, with a view to preventing use being made of complex legal and financial arrangements capable of making it, if not easier to circumvent measures, then at least more difficult for the competent national authorities to identify the funds or economic resources subject to restrictive measures under Decision 2014/145. The pursuit of such an objective, which the Council cannot be required to substantiate by producing evidence, justifies the need to impose on the persons subject to restrictive measures under that decision the reporting and cooperation obligations laid down in Article 9(2) of Regulation No 269/2014, as amended. It follows that the first argument must be rejected.

103 As regards, next, the applicants' argument that Article 9(3) of Regulation No 269/2014, as amended, established an irrebuttable presumption of participation in circumvention activities, it should be noted that the provisions of that article refer to Article 9(1) of that regulation in order

to define the nature of participation in a circumvention activity. Since that latter article stipulates that, in order for participation in circumvention activities to be made out, the person concerned must participate 'knowingly and intentionally', Article 9(3) of Regulation No 269/2014, as amended, must be construed as being intended to apply only in so far as the failure to comply with the obligations laid down in Article 9(2) of that regulation occurred 'knowingly and intentionally'. Accordingly, any unintentional omission to report certain funds or economic resources does not constitute an infringement punishable by a penalty. That therefore prevents those provisions from establishing an irrebuttable presumption that measures have been circumvented. The applicants' argument must therefore be rejected.

104 Concerning the claim that, in essence, the contested provisions would prompt national authorities to penalise automatically, by means of confiscation, any infringement of the reporting and cooperation obligations laid down in Article 9(2) of Regulation No 269/2014, as amended by the contested regulation, and, thus, alter the nature of the restrictive measures, it must be held that, by referring in Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, to 'appropriate measures' of confiscation of the proceeds of infringements of Regulation No 269/2014, the Council left a measure of discretion to the national authorities as regards the definition, nature and scope of that confiscation. Moreover, the penalty of confiscation of the proceeds of infringements, in so far as it applies only in the event of failure to comply with the obligations laid down in Article 9(2) of Regulation No 269/2014, as amended by the contested regulation, is not to be confused with the restrictive measures themselves, which retain their precautionary and temporary nature. In any event, it must be stated that the subject matter of the confiscation, as provided for in Article 15(1) of Regulation No 269/2014, as amended by Regulation 2022/880, in so far as it applies only to 'the proceeds of … infringements', differs from the subject matter of the restrictive measures, which is concerned with funds and economic resources as determined by Article 2(1) of Regulation No 269/2014. It follows that the Court must reject the applicants' arguments seeking a declaration that the penalties attached to the circumvention referred to in Article 9(3) of Regulation No 269/2014, as amended by the contested regulation, alter the nature of the restrictive measures and are manifestly disproportionate.

105 As regards the period of 41 days given to the applicants to report their funds or economic resources, which they claim is too short, that period does not appear to be so short as to have made it impossible for the persons concerned by the fund-freezing measures effectively to report their funds or economic resources to the competent national authorities. It is common ground that it is the persons concerned by the restrictive measures who are best placed to know the composition of their assets. Moreover, the fact that, in the present case, the applicants had to report the funds and economic resources which they hold, own or control to four different competent national authorities within 41 days does not appear to constitute an unreasonably short period. Indeed, the applicants themselves acknowledge that they complied with that obligation in good time and they also do not claim that the competent national authorities found them to have fallen short in the performance of that obligation.

106 Lastly, the Court observes that the arguments put forward by the applicants in their reply alleging a disproportionate interference with their right to property and their right to privacy are not substantiated. Those arguments must therefore be rejected, without there being any need to rule on their admissibility.

107 In the light of the foregoing, the third plea in law must be rejected.

Fourth plea in law, alleging breach of the principle of legal certainty

108 By their fourth plea, the applicants submit that the reporting obligation laid down in Article 9(2) of Regulation No 269/2014, as amended, is based on the concepts of ownership and control and breaches the principle of legal certainty.

109 The applicants claim, in the first place, that those two concepts are highly complex. That exposes the applicants to the risk of receiving a penalty for a failure to report if their interpretation of those concepts differs from the interpretation of each of the competent national authorities. Indeed, the lack of precision surrounding those two concepts explains why the Council felt it necessary to have recourse to a practical guide and a conference in order to clarify their meaning. According to the applicants, such an approach is unprecedented when provisions which may be punished under criminal law are concerned.

110 In that regard and in response to the Commission's arguments that it is open to the applicants to notify the competent authorities of any difficulties they may encounter in applying the provisions to which they are subject, the applicants submit that their role is not to prevent errors committed by the authorities or to bring legal proceedings to remedy interferences with their right to property.

111 In the second place, the applicants claim that Article 9 of Regulation No 269/2014, as amended, breaches the principle of legal certainty because its provisions do not lay down detailed rules on how the reporting in question is to be carried out before the competent authorities of each Member State. According to the applicants, the lack of such rules results in a great diversity of administrative practices within the European Union and, consequently, in the persons subject to fund-freezing measures being subject to the arbitrary choice of each of the authorities concerned.

112 In the third place, the applicants state that they had no reason to believe that the Council could, in the short or medium term, impose such a reporting obligation on them and that the period set for them to fulfil that obligation, namely 41 days, was patently insufficient.

113 The Council, supported by the Commission, disputes those arguments.

114 It should be recalled that the principle of legal certainty requires that EU legislation be clear and precise and that its application be foreseeable for all interested parties (judgment of 5 March 2015, *Europäisch-Iranische Handelsbank* v *Council*, C-585/13 P, EU:C:2015:145, paragraph 93; see, to that effect, judgment of 15 November 2023, *OT* v *Council*, T-193/22, EU:T:2023:716, paragraph 42).

115 As regards, in the first place, the claim that the concepts of ownership and control are not sufficiently clear, to such an extent that the Council was required to define their scope by means of a practical guide and a conference, it should be noted at the outset that the wording used in Article 9(2) of Regulation No 269/2014, as amended, refers to the concepts of 'belonging to, owned, held or controlled'.

116 In that regard, since Regulation No 269/2014 refers to those concepts without making any reference to national laws in order to define them, they must be regarded as autonomous concepts of EU law which must be interpreted in a uniform manner throughout the territory of the European Union (see, to that effect, judgment of 22 June 2021, *Venezuela* v *Council (Whether a third State is affected)*, C-872/19 P, EU:C:2021:507, paragraph 42 and the case-law cited).

Moreover, according to settled case-law, account must be taken of the wording of that provision and the context in which it occurs and also the objectives pursued by the rules of which it is part (see, to that effect, judgment of 13 March 2012, *Melli Bank* v *Council*, C-380/09 P, EU:C:2012:137, paragraph 38 and the case-law cited).

117 It does not appear that using the concepts of 'belonging to, owned, held or controlled' in the provisions of Article 9(2) of Regulation No 269/2014, as amended, displays such ambiguity as to prevent persons subject to fund-freezing measures from resolving with sufficient certainty any doubts as to the scope or meaning of those concepts.

118 It must be held that, by employing such concepts, the Council was referring, in particular, to the right to dispose of or to use funds or economic resources, as defined in Article 1(d) and (g) of Regulation No 269/2014.

119 In particular, as regards the concept of control and ownership, it should be noted that, as regards companies and in the specific context of restrictive measures, it has been held that a company may be classified as a 'company owned or controlled by another entity' where it is in a situation in which that other entity is able to influence its decisions, even in the absence of any legal tie between the two economic entities, or any link in terms of ownership or equity participation (see, to that effect, judgment of 10 September 2019, *HTTS* v *Council*, C-123/18 P, EU:C:2019:694, paragraph 75).

120 The interpretations referred to in paragraphs 118 and 119 above reflect the context in which the provisions of Article 9(2) of Regulation No 269/2014, as amended, were adopted. The Council's objective is to exert pressure on the persons and entities subject to restrictive measures, pressure that has a knock-on effect on the Russian authorities and is intended, in particular, to increase the costs of the Russian Federation's actions to undermine Ukraine's territorial integrity, sovereignty and independence.

121 Lastly, it should be observed that the fact that the Council organised a conference or had recourse to a best practice guide aimed at national authorities, with a view to clarifying the concepts used in the field of restrictive measures, is not in itself capable of establishing the existence of legal uncertainty as to the use of such concepts.

122 It thus follows from paragraphs 115 to 121 above that the reference in Article 9(2) of Regulation No 269/2014, as amended, to the concepts of 'belonging to, owned, held or controlled' in relation to funds or economic resources makes it possible to understand in a sufficiently clear and comprehensible manner what those concepts cover.

123 As regards, in the second place, the uncertainties associated with the divergent practices of national authorities as regards the detailed rules on reporting, it should be noted that the information enabling each of the competent national authorities to be identified is set out in Annex II to Regulation No 269/2014. Moreover, the fact that the applicants were obliged to contact those national authorities in order to ascertain how the reporting had to be carried out before each of them does not constitute a breach of the principle of legal certainty, particularly since the applicants have not adduced any evidence to establish that such difficulties existed.

124 As regards, in the third place, the alleged existence of differing interpretations of the concepts referred to in paragraph 115 above by the various competent national authorities and the alleged lack of protection for individuals against arbitrary action by those authorities, against the

backdrop of the very tight deadlines for the applicants to report their funds and economic resources, the Court must reject, first, the argument that the deadlines were too short, for the reasons set out in paragraph 105 above, and, secondly, the claims – which, moreover, are wholly unsubstantiated – relating to the differing interpretations by the various national authorities, for the reasons set out in paragraphs 116 to 122 above.

125 Thus, since none of the arguments relied on by the applicants is such as to establish a breach of the principle of legal certainty, the fourth plea in law must be rejected and, consequently, the action must be dismissed in its entirety.

Costs

126 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. Since the applicants have been unsuccessful, they must be ordered to bear their own costs and to pay those incurred by the Council, in accordance with the form of order sought by the Council.

127 In accordance with Article 138(1) of the Rules of Procedure, institutions which have intervened in the proceedings are to bear their own costs. Consequently, the Commission must bear its own costs.

On those grounds,

THE GENERAL COURT (Grand Chamber)

hereby:

1. **Dismisses the action;**

2. **Orders Mr Gennady Nikolayevich Timchenko and Mrs Elena Petrovna Timchenko to bear their own costs and to pay those incurred by the Council of the European Union;**

3. **Orders the European Commission to bear its own costs.**

van der Woude	Papasavvas	Spielmann
Costeira	Kowalik-Bańczyk	Gervasoni
Madise	Półtorak	Brkan
Gâlea	Dimitrakopoulos	Kukovec
Kingston	Tóth	Kalėda

Delivered in open court in Luxembourg on 11 September 2024.

[Signatures]