Federal Court  Cour fédérale

Date: 20250318

Dockets: T-2724-23
T-2726-23

Citation: 2025 FC 493

Ottawa, Ontario, March 18, 2025

PRESENT: The Hon Mr. Justice Henry S. Brown

Docket: T-2724-23

BETWEEN:

KATIA FRIDMAN

Applicant

and

CANADA (MINISTER OF FOREIGN AFFAIRS) AND THE ATTORNEY GENERAL OF CANADA

Respondents

Docket: T-2726-23

AND BETWEEN:

LAURA FRIDMAN

Applicant

and

CANADA (MINISTER OF FOREIGN AFFAIRS) AND THE ATTORNEY GENERAL OF CANADA

Respondents

JUDGMENT AND REASONS

I. Nature of the matter

[1] These are consolidated applications (T-2726-23 and T-2724-23) for judicial review pursuant to ss 18 and 18.1 of the *Federal Courts Act*, RSC 1985, c F-7 [*Federal Courts Act*] of two decisions dated November 24, 2023 [Decisions] by the Minister of Foreign Affairs (Global Affairs Canada) [Minister]. The Minister decided there were not reasonable grounds to recommend that the Governor in Council remove either Applicant from the Sanctions List under Schedule I [Sanctions List] of the *Special Economic Measures (Russia) Regulations*, SOR/2014-58 [*Russia Regulations*]. The *Russia Regulations* were enacted under the *Special Economic Measures Act*, SC 1992, c 17 [*SEMA*] in response to the Russian Federation's [Russia's] unlawful 2014 invasion of Crimea and amended after Russia's unlawful 2022 invasion of and war in Ukraine by the *Regulations Amending the Special Economic Measures (Russia) Regulations*, SOR/2022-27.

[2] The Applicants do not challenge either *SEMA* or the *Russia Regulations* on constitutional or *Charter* grounds.

[3] The Applicants were added to the Sanctions List under new s 2(d) of the *Russia Regulations* because they are the daughters ("family members") of Russian multi-billionaire Mikhail Maratovich Fridman [Mr. Fridman]. The Applicants' mother was added at the same time; she had been married to Mr. Fridman. Mr. Fridman was earlier added to the Sanctions List per new s 2(c) as an "associate" of President Vladimir Putin; he was the head of Russia's largest

private bank, an enabler and member of President Putin's inner circle. The Applicants indicate their father's wealth is $12.8B. His bank is also listed on the Sanctions List.

[4] Both Applicants applied to the Minister to be delisted on the basis they are "financially independent" from their father. They also say they do not support Russia's war in Ukraine (although it seems they did not say so until they began these matters). However, they both admit they received financial support from their father in recent years up to their listing, by way of monetary gifts, support for rent, education and the like, as discussed below. They are not estranged from their father. In fact, we know virtually nothing about the closeness or nature of the father-daughter relationships. Mr. Fridman filed no direct evidence to assist or otherwise.

[5] The Applicants' mother was placed on the Sanctions List at the same time as they were. Their mother applied to be delisted contemporaneously with the Applicants. She was delisted in February 2024, likely because she and Mr. Fridman separated in 1999 and divorced in 2005 such that she was not still a "family member."

[6] Mr. Fridman has not challenged his listing on the Sanctions List, nor has he applied to be delisted.

[7] The Applicants engaged their right to ask the Minister to find "reasonable grounds to recommend" to the Governor in Council that they be delisted. Notably, the Governor in Council placed the Applicants on the Sanctions List and only the Governor in Council may remove them. The Minister dismissed their applications by the two Decisions that are the subject of this judicial review.

[8] In my respectful view, the Minister reasonably concluded in the circumstances that the Applicants had not established “reasonable grounds to recommend” their delisting. Therefore, the applications will be dismissed.

[9] The Court heard these two applications in Ottawa together. The arguments are identical and the facts very similar. Differences in the Applicants’ submissions between files T-2724-23 and T-2726-23 are noted in Annex “A.” The same counsel appeared on both. Therefore, there will be one Judgment and Reasons; a copy is to be placed on both Court files.

II. Background

A. *Context: Russia’s invasion of the Ukraine and the Russia Regulations*

[10] In summary, Russia’s unlawful invasion of Ukraine in 2022 was opposed by Canada (and a broad section of the international community including Canada’s allies) through many means, one of which was (as was the case with Russian’s unlawful occupation of the Crimea in 2014) the implementation of sanctions against Russian officials and enablers supporting or facilitating Russia’s war against Ukraine. Concerned with sanction evasion under the 2014 sanctions, Canada sought to prevent sanctions evasion in 2022 by eliminating options for sanctioned individuals and entities through use of their family members. The objective of the *Russia Regulations* which lie at the core of this proceeding are to (a) impose further economic costs on Russia; (b) emphasize Canada’s condemnation of Russia’s latest violations of Ukraine’s territorial integrity and sovereignty; and (c) align Canada’s actions with those taken by

international partners to underscore continued unity with Canada's allies and partners in responding to Russia's actions in Ukraine.

[11] The Respondents provide the following summary of the geopolitical context and statutory scheme in relation to the *Russia Regulations*, which I accept:

> 7. Economic sanctions against foreign states are an important mechanism for Canada and the international community at large to support peace and security and enforce international norms and laws. The *Special Economic Measures Act* ("SEMA") provides the GIC with authority to make regulations prohibiting certain activities in respect of foreign nationals that the GIC "considers necessary" where it "is of the opinion" that certain prescribed circumstances have occurred, including a breach of international peace and security, or gross and systemic human rights violations.
>
> 8. In March 2014, the GIC adopted the Regulations in response to Russia's illegal occupation and attempted annexation of Crimea. The GIC was, and continues to be, of the opinion that the actions of Russia constitute a grave breach of international peace and security that has resulted or is likely to result in a serious international crisis.
>
> 9. The Regulations impose comprehensive economic sanctions on Russia and persons listed on the Sanctions List. They achieve this by regulating the actions of Canadians and individuals within Canada by prohibiting them from dealing with the listed persons and their property. The activities prohibited by the Regulations include entering into transactions with or providing services to persons on the Sanctions List.
>
> 10. The primary objective of the Regulations is to undermine Russia's ability to conduct its military aggression in Ukraine by imposing substantial economic consequences on Russia, including through the listing of influential individuals and their family members. The Regulations also seek to signal Canada's condemnation of Russia's unlawful conduct, and to align Canada's measures with those taken by its international partners.
>
> 11. For the past decade, Russia has continued to play a destabilizing role in Ukraine and has continued to violate human rights in a systematic fashion. The Regulations have been amended on numerous occasions since 2014 to respond to the challenges of

> isolating Russia's economy, in a context where capital flows with significant ease and influential persons help the Russian regime evade or circumvent sanctions measures.
>
> [Footnotes omitted]

(1) Amendments to *Russia Regulations* to include associates and family members of associates to broaden existing sanctions and curtail sanction evasion

[12] It is not disputed Russia unlawfully and by military force launched a full-scale invasion of Ukraine on February 24, 2022. On the same day, the Governor in Council amended the *Russia Regulations* to broaden Canada's authority to add individuals to the Sanctions List to deter sanction evasion and capture a broader range of enablers. S 2(c) was added as authority to list "associates," i.e. persons associated with persons listed under ss 2(a) - (b) of the already existing *Russia Regulations* including "former or current senior officials of the Government of Russia," in this case President Putin: *Regulations Amending the Special Economic Measures (Russia) Regulations*. The 2022 amendments also added authority to list "family members" of "associates," that is, family members of persons listed under ss 2(c). The Applicants' father was added under new s 2(c) as an "associate" of President Putin and an enabler of President Putin's inner circle. Thereafter, the Applicants (and their mother) were added under new s 2(d) as "family members" of Mr. Fridman.

[13] The Respondents summarize the purpose and context of these amendments, which I accept:

> 13. When the Regulations first came into force in 2014, they only allowed a family member of a person described in paragraph 2(a) or 2(b) to be added to the Sanctions List. In February 2022, the Regulations were amended to also allow the listing of family members of persons referred to in paragraphs 2(c) (associates) and

2(g) (senior officials of listed entities) ("February 2022 Amendments").

14. The February 2022 Amendments were made in direct response to Russia's full-scale invasion of Ukraine and its recognition of the independence and territorial integrity of the so-called Donetsk and Luhansk "People's Republics".

15. The uncontested evidence on the record is that the February 2022 Amendments serve three main objectives:

> (a) to impose further economic costs on Russia;
>
> (b) to emphasize Canada's condemnation of Russia's latest violations of Ukraine's territorial integrity and sovereignty; and
>
> (c) to align Canada's actions with those taken by international partners to underscore continued unity with Canada's allies and partners in responding to Russia's actions in Ukraine.

16. First, allowing the listing of family members of associates furthers the objective of imposing additional economic costs on Russia by preventing key individuals and entities, including business leaders and financial contributors, from circumventing sanctions through the transfer of assets to their family members. This has been identified by the international community as a top tactic used by Russian elites and oligarchs to evade sanctions and maintain access to funds. On cross-examination, Andreas Weichert, the Director of Eastern Europe and Eurasia Division at Global Affairs Canada (the "Department"), explained that to impose further economic costs on Russia, the Department looks at the prospective risk of sanctions evasion to determine whether to list a family member.

17. Shortly after Russia's 2022 invasion of Ukraine, Canada and its partners (including the United Kingdom, Australia and United States) launched the Russian Elites, Proxies, and Oligarchs Task Force ("REPO Task Force") to, among other things, identify typologies of Russian sanctions evasion and facilitate more effective sanctions implementation. The top evasion tactic identified by the REPO Task Force was the use of family members and close associates to maintain continued access and control of assets. The REPO Task Force identified various instances where Russian elites have transferred assets to their children or spouses, either in the period immediately leading up to a sanctions listing or

> closely after. In addition, Canada's international partners, including the UK and the US, have issued alerts and analysis on the common techniques used by Russian elites and enablers to evade sanctions through transferring assets, trusts or accounts to their children or other family members.
>
> 18. Second, the February 2022 Amendments seek to emphasize Canada's strong condemnation of Russia's latest violations of Ukraine's territorial integrity and sovereignty. Since February 2022, Canada has sanctioned over 2,000 additional individuals and entities that have been complicit in and/or benefited from Russia's ongoing war against Ukraine. This has included family members of key officials and well-known associates of the Russian regime. These measures signal Canada's condemnation of key individuals in both the private and public sectors who amassed wealth, power and influence as a result of their close association with the regime.
>
> 19. A third objective of the February 2022 Amendments is to align Canada's sanctions regime with its international partners. Canada has worked in close coordination with its allies to update the Russia Regulations so that they are more effective and robust. While each country has its own distinct statutory regime, the overall goal is to have a coordinated approach to the listing of persons. The expanded criteria under which individuals can be listed under paragraph 2(d) brought Canada into lockstep with the sanctions measures implemented by its partners, including the United Kingdom, the United States and Australia.
>
> [Emphasis added, footnotes omitted]

[14] Mr. Andreas Weichert, Director of Eastern Europe and Eurasia Division, Global Affairs Canada, whose Affidavit was submitted by the Respondents, affirmed the above, providing more detail about the political and policy context to the listing of family members. His Affidavit affirms and I accept that:

> 10. The February 2022 Amendments were made in direct response to the Russian Security Council vote and presidential signature of a decree on February 21, 2022, where Russia recognized the independence and territorial integrity of the so-called Donetsk and Luhansk "People's Republics". On February 24, 2022, Russian forces launched a full-scale invasion of Ukraine. The Russian

military has committed horrific atrocities against civilians, and widespread devastation of Ukrainian infrastructure and property.

11. On February 26, 2022, a joint coalition of leaders of the European Commission, France, Germany, Italy, the United Kingdom, the United States and Canada committed to impose additional financial sanctions on the people and entities who facilitate the war in Ukraine and the harmful activities of the Russian government. Among other measures, the coalition committed to launch a transatlantic task force to ensure the effective implementation of sanctions by identifying and freezing the assets of sanctioned individuals and companies, as well as employing sanctions on additional Russian officials and elites close to the Russian government, their families and their enablers.

…

13. As indicated in the February 2022 RIAS, the main objectives of the amendments are to:

> a) Impose further economic costs on Russia;
>
> b) Emphasize Canada's condemnation of Russia's latest violations of Ukraine's territorial integrity and sovereignty; and
>
> c) Align Canada's actions with those taken by international partners to underscore continued unity with Canada's allies and partners in responding to Russia's actions in Ukraine.

14. In the sections below, I describe the relevant political and policy context for each of these objectives as they relate to the imposition of sanctions on family members of Russian oligarchs and other associates of the Russian regime.

(A) Imposing Further Economic Costs on Russia

15. As stated in the RIAS, the main objective of the February 2022 Amendments is to impose additional economic costs on Russia, including on key individuals and entities, for the ongoing war of aggression in Ukraine.

16. Despite the comprehensive sanctions imposed by Canada and the international partners on Russia since 2014, several sanctioned Russian elites have managed to evade sanctions and maintain access to funds through various evasion tactics, most notably the transfer of assets to family members and close associates.

17. In February 2022, Australia, Canada, France, Germany, Italy, Japan, the United Kingdom, the United States, and the European Commission launched the Russian Elites, Proxies, and Oligarchs Task Force ("REPO Task Force") to, among other things, identify typologies of Russian sanctions evasion and facilitate more effective sanctions implementation. The top evasion tactic identified by the REPO Task Force was the use of family members and close associates to maintain continued access and control of assets. The Task Force identified various instances in which Russian elites transferred their assets to their children or spouses, either in the period immediately leading up to a sanctions listing or closely thereafter. The work and findings of the REPO Task Force are described in the public report entitled Global Advisory on Russian Sanctions Evasion Issued Jointly by the Multilateral REPO Task Force dated March 9, 2023. …

18. In July 2022, the United Kingdom issued a "Red Alert" to promote public awareness on common techniques used by Russian elites and enablers to evade financial sanctions. The report describes how designated persons evade sanctions through transferring assets, such as shareholdings in holding companies, to relatives. …

19. In December 2022, the US Financial Crimes Enforcement Network (FinCEN) issued a Financial Trend Analysis on financial activity by Russian oligarchs in 2022. In its analysis, FinCEN examined the US Bank Secrecy Act reports from March 2022 to October 2022 involving Russian oligarchs' transactions. The report describes how Russian oligarchs transferred beneficial ownership of their companies, trusts or accounts to their children, other family members, or close business associates around the time of Russia's invasion of Ukraine in February 2022. According to the report, this was indicative of an attempt to hide assets in order to evade economic sanctions. …

20. On April 13, 2023, Forbes reported that 39 billionaires sanctioned by Western countries have regained $104 billion since March 2022, and are down merely 13% since the day before Vladimir Putin's invasion. The article describes how Russian oligarchs have managed to evade sanctions by transferring their assets to children and spouses. …

(B) Emphasizing Canada's Strong Condemnation of Russia's Actions

21. As is reflected in the RIAS, a further objective of the February 2022 Amendments is to demonstrate Canada's strong

condemnation of Russia's latest violations of Ukraine's territorial integrity and sovereignty, and to stand in solidarity with the people of Ukraine.

22. Since February 2022, Canada has sanctioned over 2000 additional individuals and entities that have been complicit in, and/or benefited from, Russia's ongoing war against Ukraine. This has included well-known family members of key associates of the Russian regime, such as spouses and adult children that are prominent public figures, and relatives of senior members of the Russian government and Russian-owned enterprises.

23. These measures signal Canada's condemnation of Russian individuals in the private and public sectors who have been successful in amassing wealth, power and influence from their close association with and access to the Putin regime.

24. By imposing dealings prohibitions on designated individuals and entities, Canada and Canadians outside Canada are prohibited from dealing in the property of, entering into transactions with, providing services to, or otherwise making goods available to listed persons. This ensures that those who continue to profit from the Russian Federation's illegal actions in Ukraine cannot simultaneously benefit from Canada or Canadians.

(C) Aligning Canada's Actions with International Partners

25. Another objective of the February 2022 Amendments, identified in the RIAS, is to align Canada's sanctions measures with those taken by its allies and international partners.

26. Canada has worked in close coordination with its allies and partners to update its sanctions regime against Russia so that it is more effective and robust. The expanded criteria under which individuals can be listed (i.e., family members of associates) brought Canada into lockstep with the sanctions measures implemented by its partners, including the United Kingdom, the United States and Australia.

27. The United Kingdom's Russia (Sanctions) (EU Exit) Regulations have, since their inception in 2019, allowed for the listing of a person that has obtained a financial benefit or other material benefit from a person involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine.

28. Since April 2021, the United States' sanctions regime has authorized sanctions against spouses or adult children of any

> person whose property or interests are blocked pursuant to Executive Order 14024 - Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation.
>
> 29. On 24 February 2022, the same day that Canada's amendments were made, Australia similarly amended its sanctions regulations to broaden the scope of individuals and entities on which sanctions can be imposed. The Australian regulations allow for the listing of an immediate family member of a current or former Minister or senior official of the Russian Government, or of a person or entity that is or has been "engaging in an activity or performing a function that is of economic or strategic significance to Russia".
>
> [Emphasis added]

[15] Notably, Mr. Weichert affirms the use of family members by *close associates* was the "top evasions tactic" found by the international Russian Elites, Proxies, and Oligarchs Task Force [REPO] report mentioned above. The REPO report, released March 9, 2023, was before the Minister and addressed by the Applicants. The REPO report states:

> **Typologies of Russian Sanctions Evasion**
>
> **Use of Family Members and Close Associates to Ensure Continued Access and Control**
>
> REPO Task Force members identified various instances in which Russian elites transferred the beneficial ownership of legal entities and arrangements and other property to their children, in an attempt to ensure continued control as well as access to wealth after the imposition of sanctions. In another instance, REPO members determined that designated oligarchs directly transferred the funds to family members in an attempt to hide assets. Family members and close associates of designated persons are well placed to act as proxies and facilitate this kind of sanctions evasion and illicit financial activity. Asset transfers to family members or close associates sometimes occur in the period immediately leading up to a designation or closely thereafter, which may indicate an attempt to evade sanctions on the part of the sanctioned individual and the party that facilitated the transfer. In addition to being able to exercise control through their proxies in these types of arrangements, ostensibly moving control or funds to a family

> member or close associate also conveniently allows the designated person to avoid scrutiny from both regulated industries and the competent authorities. Finally, depending on the facts and circumstances, there could be sanctions risk related to arrangements that attempt to hide assets, obscure sanctioned interests, or otherwise evade scrutiny, and REPO members may seek to impose sanctions on the family members and close associates seeking to facilitate these types of arrangements.
>
> [Emphasis added]

(2) Relevant legislative provisions

[16] In more detail, a person may be placed on the Sanctions List if the Governor in Council, on the recommendation of the Minister, is satisfied there are reasonable grounds to believe they fall into one of the categories outlined in s 2 of the *Russia Regulations*:

List	**Liste**
Schedule 1	**Annexe 1**
2 A person whose name is listed in Schedule 1 is a person in respect of whom the Governor in Council, on the recommendation of the Minister, is satisfied that there are reasonable grounds to believe is	**2** Figure sur la liste établie à l'annexe 1 le nom de personnes à l'égard desquelles le gouverneur en conseil est convaincu, sur recommandation du ministre, qu'il existe des motifs raisonnables de croire qu'elles sont l'une des personnes suivantes :
(a) a person engaged in activities that directly or indirectly facilitate, support, provide funding for or contribute to a violation or attempted violation of the sovereignty or territorial integrity of Ukraine or that obstruct the work of international organizations	**a)** une personne s'adonnant à des activités qui, directement ou indirectement, facilitent une violation ou une tentative de violation de la souveraineté ou de l'intégrité territoriale de l'Ukraine ou procurent un soutien ou du financement ou contribuent

in Ukraine;	à une telle violation ou tentative ou qui entravent le travail d'organisations internationales en Ukraine;
(a.1) a person who has participated in gross and systematic human rights violations in Russia;	**a.1)** une personne ayant participé à des violations graves et systématiques des droits de la personne en Russie;
(b) a former or current senior official of the Government of Russia;	**b)** un cadre supérieur ou un ancien cadre supérieur du gouvernement de la Russie;
(c) an associate of a person referred to in any of paragraphs (a) to (b);	**c)** un associé d'une personne visée à l'un des alinéas a) à b);
(d) a family member of a person referred to in any of paragraphs (a) to (c) and (g);	**d)** un membre de la famille d'une personne visée à l'un des alinéas a) à c) et g);
…	…
[Emphasis added]	[Je souligne]

[17] Section 3 of the *Russia Regulations* sets a range of restrictions and prohibitions on transactions and activities of those on the Sanctions List:

Prohibited transactions and activities	**Opérations et activités interdites**
3 It is prohibited for any person in Canada and any Canadian outside Canada to	**3** Il est interdit à toute personne au Canada et à tout Canadien à l'étranger :
(a) deal in any property, wherever situated, that is owned, held or controlled by or on behalf of a person whose name is listed in Schedule 1;	**a)** d'effectuer une opération portant sur un bien, où qu'il se trouve, appartenant à une personne dont le nom figure sur la liste établie à l'annexe 1 ou détenu ou contrôlé par

	elle ou pour son compte;
(b) enter into or facilitate, directly or indirectly, any transaction related to a dealing referred to in paragraph (a);	**b)** de conclure, directement ou indirectement, une transaction relativement à une opération visée à l'alinéa a) ou d'en faciliter, directement ou indirectement, la conclusion;
(c) provide any financial or other related service in respect of a dealing referred to in paragraph (a);	**c)** de fournir des services financiers ou des services connexes à l'égard de toute opération visée à l'alinéa a);
(d) make available any goods, wherever situated, to a person listed in Schedule 1 or to a person acting on their behalf; or	**d)** de rendre disponibles des marchandises, où qu'elles se trouvent, à une personne dont le nom figure sur la liste établie à l'annexe 1 ou à une personne agissant pour son compte;
(e) provide any financial or related service to or for the benefit of a person listed in Schedule 1.	**e)** de fournir des services financiers ou des services connexes à toute personne, dont le nom figure sur la liste établie à l'annexe 1, ou pour son bénéfice.
[Emphasis added]	[Je souligne]

[18] Section 8 of the *Russia Regulations* outlines the process for persons wishing to have their named removed from the Sanctions List. Both Applicants followed this process. They asked the Minister to find there are reasonable grounds to recommend to the Governor in Council that they be delisted:

Applications	**Demandes**
Application to no longer be listed	**Demande de radiation**

8 (1) A person may apply in writing to the Minister to have their name removed from Schedule 1, 2 or 3.

Recommendation

(2) On receipt of the application, the Minister must decide whether there are reasonable grounds to recommend that the applicant's name be removed from Schedule 1, 2 or 3.

Decision

(3) The Minister must make a decision on the application within 90 days after the day on which the application is received.

Notice

(4) The Minister must give notice without delay to the applicant of the decision taken.

New application

(5) If there has been a material change in circumstances since the last application was submitted, a person may submit another application under subsection (1).

[Emphasis added]

8 (1) Toute personne dont le nom figure sur la liste établie aux annexes 1, 2 ou 3 peut demander par écrit au ministre d'en radier son nom.

Recommandation

(2) Sur réception de la demande, le ministre décide s'il a des motifs raisonnables de recommander la radiation au gouverneur en conseil.

Décision

(3) Il rend sa décision dans les quatre-vingt-dix jours suivant la réception de la demande.

Avis

(4) Il donne sans délai au demandeur un avis de sa décision.

Nouvelle demande

(5) Si la situation du demandeur a évolué de manière importante depuis la présentation de sa dernière demande, il peut en présenter une nouvelle.

[Je souligne]

B. *The family – the father, the Applicants and their mother*

[19] Mikhail Fridman is a Russian multi-billionaire banker who is listed as an "associate" per s 2(c) of the *Russia Regulations*. He is listed as an associate of President Putin and enabler of President Putin's inner circle. He is the father of the Applicants. He and their mother, Olga Ayziman, are dual citizens of Russia and Israel. The Applicants' parents separated in 1999 and divorced in 2005.

[20] The Applicants are two sisters, Katia, born in 1996, and Laura Fridman, born in 1993. Both daughters were born in France. There is no evidence either Applicant has any connection with Canada — they are not present in Canada, they are not citizens and have no status under Canadian immigration laws, nor do either have assets or business interests in Canada. They are citizens of Russia and France. Laura is also a citizen of Israel.

[21] The mother was listed at the same time as the Applicants. She applied to be delisted along with the Applicants. Her delisting application was held back by officials in the Minister's department, while those of the Applicants went forward and were dismissed. Her application was later granted likely because she was not still a "family member" given her divorce from Mr. Fridman. She was transferred a property in France as part of the divorce. The ownership of this property allowed the mother to receive rental revenue, while the Applicants could dispose of it. The Respondents take the position this property is immaterial to the applications, and as will be seen I agree.

C. *Procedural history*

(1) Mr. Fridman's addition to the Sanctions List

[22] On April 19, 2022, the Governor in Council added the Applicants' father, Mr. Fridman, to the Sanctions List under s 2(c) of the *Russia Regulations* as an "associate" on the basis he is known to be a top Russian financier and associate of President Putin. Mr. Fridman is a Russian multi-billionaire. He is also the founder and main shareholder of the Alfa Group, a multinational Russian conglomerate which includes the Alfa Bank. He is an enabler of President Putin's inner circle. His bank is also a listed entity on the Sanctions List.

[23] The Governor in Council's rationale for listing Mr. Fridman per the Regulatory Impact Analysis Statement [RIAS] accompanying the regulation listing him (and others) is contained in the *Regulations Amending the Special Economic Measures (Russia) Regulations*, (April 19, 2022) C Gaz II, vol 156, no 10. Notably the listing of Mr. Fridman is unchallenged:

> Description
>
> The *Regulations Amending the Special Economic Measures (Russia) Regulations* (the amendments) add fourteen 14 individuals, to Schedule 1 of the Regulations, who are subject to a broad dealings ban. These individuals are oligarchs, close associates of the regime, and members of their families to prevent sanctions evasion and ensure a comprehensive dealings prohibition against key orchestrators of the invasion of Ukraine.
>
> …
>
> *Rationale*
>
> The amendments are in direct response to the Russian invasion of Ukraine that began on February 24, 2022, which continues Russia's blatant violation of Ukraine's territorial integrity and sovereignty under international law. In coordination with actions

> being taken by Canada's allies, the amendments seek to impose a direct economic cost on Russia, and signal Canada's strong condemnation of Russia's latest violations of Ukraine's territorial integrity and sovereignty.
>
> …
>
> These sanctions show solidarity with like-minded countries, which have already imposed similar restrictions on key individuals.
>
> [Emphasis added]

[24] Mr. Fridman continues to be on the Sanctions List. He has made no effort to be delisted.

[25] Notably, Mr. Fridman is silent on these Applications. While a central issue in this case is the prospective risk Mr. Fridman will evade sanction using the Applicants, there is no direct evidence from him regarding the closeness or otherwise of his relationship with his daughters. He is not estranged. There is also some evidence he and his daughters have a normal relationship. He says nothing about respecting or evading Canadian sanctions on him. Indeed, the father gave no direct evidence at all, saying nothing about the prospect of his evading sanctions, and nothing with respect to his support of Russia's war in Ukraine.

[26] I will deal with the father's non-participation and the Applicants' argument their cases are "not about him, it is about them" (with which I disagree) later in these Reasons.

(a) *The Applicants' listing*

[27] As noted, the Governor in Council added Mr. Fridman to the Sanctions List on April 19, 2022 as an "associate" of President Putin per s 2(c) of the *Russia Regulations*.

[28] One month later, on May 27, 2022, the Applicants and their mother were added to the Sanctions List, under s 2(d) of the *Russia Regulations* as a "family member" of an "associate" referred to in s 2(c) (namely their father Mr. Fridman, who was also the ex-husband of the mother).

[29] The RIAS accompanying the listing of the Applicants and their mother (*Regulations Amending the Special Economic Measures (Russia) Regulations*, (May 27 2022), C Gaz II, vol 156, no 12 at 2081) refers to Russia's blatant violation of Ukraine's territorial integrity and sovereignty under international law and notes Canada sought to impose a direct economic cost on Russia and signal Canada's strong condemnation of Russia's latest violations of Ukraine's territorial integrity and sovereignty, in addition to being in solidarity with like-minded countries:

> *Rationale*
>
> The amendments are in direct response to the Russian invasion of Ukraine that began on February 24, 2022, which continues Russia's blatant violation of Ukraine's territorial integrity and sovereignty under international law. In coordination with actions being taken by Canada's allies, the amendments seek to impose a direct economic cost on Russia and signal Canada's strong condemnation of Russia's latest violations of Ukraine's territorial integrity and sovereignty.
>
> The 22 individuals and 4 entities being added to the Schedule to the Regulations are senior officials of financial institutions, their family members, and key financial institutions and banks.
>
> These sanctions show solidarity with like-minded countries, which have already imposed similar restrictions on key individuals.
>
> [Emphasis added]

[30] Notably, as affirmed by Mr. Weichert whose evidence I accept, the Applicants and their mother were added as "family members" of Mr. Fridman, given the objects and purposes of the

Russia Regulations (as amended February 2022), including the prospective risk of sanction evasion by Mr. Fridman possibly by transfer of his (enormous) assets to or through use of his daughters:

> 15. As stated in the RIAS, the main objective of the February 2022 Amendments is to impose additional economic costs on Russia, including on key individuals and entities, for the ongoing war of aggression in Ukraine.
>
> 16. Despite the comprehensive sanctions imposed by Canada and the international partners on Russia since 2014, several sanctioned Russian elites have managed to evade sanctions and maintain access to funds through various evasion tactics, most notably the transfer of assets to family members and close associates.

(b) *Applicants' and mother's delisting applications*

[31] The Applicants and their mother submitted Delisting Applications on December 23, 2022. Each application was supported by affirmation and documentary evidence. The Applicants sought delisting on the following grounds:

a) there is no nexus between the Applicants' listings and the objectives of Canada's sanctions regime against Russia;

b) the Applicants are financially independent from their father;

c) they have never been involved in their father's business and have not resided in Russia since 1999;

d) their father vowed to donate his fortune to charity, and not to his children; and

e) they are opposed to the war in Ukraine.

[32] Both Applicants disclosed in their respective Delisting Applications they received different but substantial financial support from their father over the years.

[33] Katia's (T-2724-23) Delisting Application disclosed she received financial support from her father up to and including May 2022, the month she was added, and a month after her father was added to the Sanctions List. This included *ad hoc* transfers for her living expenses (between USD $10,000-$50,000). She also disclosed she still receives monetary gifts of USD $10,000 from her father on special events. As the Respondents correctly note, Katia did not disclose the total amount of funds she has received from her father in recent years. However, she stated she is currently "financially independent" from him.

[34] Laura's (T-2726-23) Delisting Application disclosed she received financial support from her father totalling $100,000 in 2020 and 2021, less than a year before she was added to the Sanctions List. She also stated she has been "financially independent" from him since 2021.

[35] The Applicants provided very little information concerning the closeness or otherwise of their relationship with their father — the listed "associate" of President Putin and the reason for their listing in the first place — except they were financially independent, did not share assets, the father kept his business and family separate, and that they each had received gifts from him, as they reported up to the time of their delisting applications.

[36] The Applicants do not allege they and their father are estranged. Nor do they say if they were in a close or loving or caring relationship, whether they are or were in contact or had no contact, did they communicate and if so how frequently and about what, did they have mutual friends through whom they kept in touch or up to date, did they text, email or phone one another

or share information on social media and about what and with what frequency, did they perhaps see each other and or spend time together alone or with others.

[37] It is however noteworthy that the Applicants compare their father's financial support between 2020 and 2021 (Laura) and until May 2022 (Katia) as being "like many parents" and "like any parent would" in their memoranda. This may suggest a relatively normal or close relationship.

[38] As will be discussed later, the Respondent sent the Applicants a procedural fairness letter specifically inviting them to provide additional information about their father, Mr. Fridman, in respect of which they provided additional submissions on July 24, 2023.

[39] The Minister dismissed the Applicants' delisting requests by Decisions dated November 24, 2023, which Decisions are the subject of this application for judicial review.

(c) *Mother delisted February 2, 2024*

[40] The Applicant's mother, who applied to be delisted, and whose application was moving through the system in parallel with her daughters, was removed from the Sanctions List on February 2, 2024. Hers was a separate application on a different record. The reasons for her delisting are not before this Court although it is public that she no longer met the "criteria" for listing. The RIAS accompanying her delisting in the *Regulations Amending the Special Economic Measures (Russia) Regulations*, (February 2, 2024), C Gaz II, vol 158, no 4 at 236 says:

> Rationale
>
> Section 8 of the Regulations provides for designated persons to apply to the Minister to have their name removed from the Regulations. Canada considers the delisting recourse process to be an important part of a robust sanctions framework and crucial to the fair application of sanctions.
>
> On May 27, 2022, Olga Ayziman was listed under the Regulations as a family member of a designated person listed under Schedule 1, Part 1 of the Regulations. Based on the information the individual submitted as part of their delisting application, the Minister determined that the individual does not meet the criteria to be listed under Schedule 1 of the Regulations and that their name should be removed.
>
> [Emphasis added]

[41] From the above, the reason the mother was delisted was that she did not meet the "criteria" to be listed, likely because she was no longer a "family member" as Mr. Fridman's ex-spouse.

[42] In summary, the Order in Council listing the Mr. Fridman as an "associate" of President Putin per s 2(c) of the *Russia Regulations* remains in full force and effect. No effort has been made to delist him.

[43] Likewise, the Order in Council listing the Applicants as "family members" per s 2(d) in relation to the listing of their father as an "associate" per s 2(c), remain in full force and effect.

[44] These applications for judicial review ask the Court to review and set aside as unreasonable, the Minister's Decisions finding the Applicants had not established "reasonable grounds to recommend" the Governor in Council delist the Applicants.

(d) *Confidentiality motions*

[45] After commencing these applications for judicial review on December 21, 2023, the Applicants moved for a confidentiality order asking to redact statements they provided outlining their heritage and supporting Ukraine's right to self-determination because of personal risk to them and their family members. Katia (T-2724-23) also requested her bank account number be redacted. By Orders dated July 12, 2024, the Court dismissed both applications (though allowing the redaction of Katia's bank account number), finding among other things the statements were already public.

III. Decision under review

[46] I turn now to the Minister's Decisions refusing the delisting applications.

[47] The two Decisions dated November 24, 2023, are identical in the following respects:

> I am writing with regard to the delisting application you submitted under subsection 8(1) of the *Special Economic Measures (Russia) Regulations (the Russia Regulations)* on December 23, 2022.
>
> You were designated on May 27, 2022, under Schedule 1, Item 802 of the Russia Regulations under paragraph 2(d) as a family member of a person referred to in paragraph 2(c) of the Russia Regulations on my recommendation to the Governor in Council.
>
> I have considered the information and arguments you put forth in your delisting application, and decided there are not reasonable grounds to recommend to the Governor in Council that your name be removed from Schedule 1 of the Russia Regulations. Based on widely available and recent open-source information, and as indicated in your application, you are the daughter of Mr. Mikhail Maratovich Fridman, a listed person under paragraph 2(c) of the Russia Regulations. Mr. Mikhail Fridman is the founder and one of the main shareholders of the Alfa Group, which includes the major

> Russian bank Alfa Bank, entity listed under Schedule 1, Part 2, Item 81 of the Russia Regulations. He is also considered an associate of President Vladimir Putin.
>
> Canada's sanctions regime includes listings that target specific individuals and entities whom the Government of Canada considers to have close ties to the Russian regime, including their family members. The listing of family members specifically aims to, among other things, prevent the circumvention and evasion of sanctions and other restrictive measures by designated persons, which ensures the effectiveness of sanctions, and encourage behaviour change that could foster resolution of the conflict. Following Russia's illegal incursion into Ukraine in February 2022, Canada and its allies launched the Russian Elites, Proxies, and Oligarchs (REPO) Task Force, to, among other things, identify typologies of Russian sanctions evasion and facilitate more effective sanctions implementation.
>
> The top evasion tactic identified by the REPO Task Force was the use of family members to ensure continued access to and control of assets. Other typologies of sanctions evasion include the use of real estate to hold value, benefit from wealth; and the use of complex ownership structures to avoid identification.

[48] Katia's letter speaks to information in her application:

> In your December 2022 delisting application, you acknowledge that you received financial support from your father, Mr. Mikhail Maratovich Fridman, until May 2022, and that you continue to receive occasional monetary gifts from him.

[49] Laura's letter speaks to her information:

> In your December 2022 delisting application, you acknowledge that you received financial support from your father, Mr. Mikhail Maratovich Fridman, in 2020 and 2021.

[50] Both Decisions conclude:

> Maintaining limited financial ties or dependence on your father does not preclude him from attempting to use you to maintain

> access to his funds or circumvent sanctions prohibitions. Maintaining your listing helps Canada achieve its goal of preventing sanctions evasion by eliminating options for those supporting or facilitating the Russian regime. This decision is also consistent with the objectives of the Russia Regulations, namely, to denounce Russia's breach of international security, apply pressure on the Russian regime by imposing economic costs on Russia for its unlawful actions.

IV. Issues

[51] The Applicant asks:

1. Are the Minister's Decision not to recommend that the Applicants' names be removed from the Sanctions List unreasonable?

2. Are the *Russia Regulations*, insofar as they concern the Applicants, *ultra vires*?

3. In the affirmative, what is the appropriate remedy?

[52] The Respondents submit the only issues are whether the Decisions are reasonable and, if not, the appropriate remedy.

[53] Respectfully, the issue is whether the Decision is reasonable. By way of remedy the Applications will be dismissed with costs as seen below.

V. Standard of review

A. *Reasonableness generally*

[54] The parties agree, and I concur, the standard of review is reasonableness. With regard to reasonableness, in *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, issued contemporaneously with the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [*Vavilov*], the majority per Justice Rowe explains what is required for a reasonable decision, and what is required of a court reviewing on the reasonableness standard:

> [31] A reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov*, at para. 85). Accordingly, when conducting reasonableness review "[a] reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with 'respectful attention' and seeking to understand the reasoning process followed by the decision maker to arrive at [the] conclusion" (*Vavilov*, at para. 84, quoting *Dunsmuir*, at para. 48). The reasons should be read holistically and contextually in order to understand "the basis on which a decision was made" (*Vavilov*, at para. 97, citing *Newfoundland Nurses*).
>
> [32] A reviewing court should consider whether the decision as a whole is reasonable: "what is reasonable in a given situation will always depend on the constraints imposed by the legal and factual context of the particular decision under review" (*Vavilov*, at para. 90). The reviewing court must ask "whether the decision bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov*, at para. 99, citing *Dunsmuir*, at paras. 47 and 74, and *Catalyst Paper Corp. v. North Cowichan (District)*, 2012 SCC 2, [2012] 1 S.C.R. 5, at para. 13).
>
> [33] Under reasonableness review, "[t]he burden is on the party challenging the decision to show that it is unreasonable" (*Vavilov*, at para. 100). The challenging party must satisfy the court "that

> any shortcomings or flaws relied on ... are sufficiently central or significant to render the decision unreasonable" (*Vavilov*, at para. 100).
>
> [Emphasis added]

[55] Per the Supreme Court of Canada's more recent judgment in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21, the purpose of reasonableness review is to uphold the rule of law while according deference to administrative decision-makers:

> [57] *Vavilov* explained that the purpose of reasonableness review is "to give effect to the legislature's intent to leave certain decisions with an administrative body while fulfilling the constitutional role of judicial review to ensure that exercises of state power are subject to the rule of law" (para. 82). Reasonableness review starts from a posture of judicial restraint and "a respect for the distinct role of administrative decision makers" (para. 13), arising from the legislature's institutional design choice to give administrative decision makers rather than courts the jurisdiction to decide certain issues (para. 24). Reasonableness review also serves to "maintain the rule of law" (para. 2) and "to safeguard the legality, rationality and fairness of the administrative process" (para. 13). Thus, the purpose of reasonableness review is to uphold "the rule of law, while according deference to the statutory delegate's decision" (*Canada Post*, at para. 29).
>
> [Emphasis added]

[56] *Vavilov* makes it abundantly clear the role of this Court is not to reweigh and reassess the evidence unless there are "exceptional circumstances." The Supreme Court of Canada instructs:

> [125] It is trite law that the decision maker may assess and evaluate the evidence before it and that, absent exceptional circumstances, a reviewing court will not interfere with its factual findings. The reviewing court must refrain from "reweighing and reassessing the evidence considered by the decision maker": *CHRC*, at para. 55; see also *Khosa*, at para. 64; *Dr. Q*, at paras. 41-42. Indeed, many of the same reasons that support an appellate court's deferring to a lower court's factual findings, including the

> need for judicial efficiency, the importance of preserving certainty and public confidence, and the relatively advantageous position of the first instance decision maker, apply equally in the context of judicial review: see *Housen*, at paras. 15-18; *Dr. Q*, at para. 38; *Dunsmuir*, at para. 53.
>
> [Emphasis added]

[57] To the same effect, the Federal Court of Appeal held in *Doyle v Canada (Attorney General)*, 2021 FCA 237 [*Doyle*] that the role of this Court is not to reweigh and reassess the evidence unless there is a fundamental error:

> [3] In doing that, the Federal Court was quite right. Under this legislative scheme, the administrative decision-maker, here the Director, alone considers the evidence, decides on issues of admissibility and weight, assesses whether inferences should be drawn, and makes a decision. In conducting reasonableness review of the Director's decision, the reviewing court, here the Federal Court, can interfere only where the Director has committed fundamental errors in fact-finding that undermine the acceptability of the decision. Reweighing and second-guessing the evidence is no part of its role. Sticking to its role, the Federal Court did not find any fundamental errors.
>
> [4] On appeal, in essence, the appellant invites us in his written and oral submissions to reweigh and second-guess the evidence. We decline the invitation.

[58] *Vavilov* requires reviewing courts to assess whether the decision subject to judicial review meaningfully grapples with the key issues:

> [127] The principles of justification and transparency require that an administrative decision maker's reasons meaningfully account for the central issues and concerns raised by the parties. The principle that the individual or individuals affected by a decision should have the opportunity to present their case fully and fairly underlies the duty of procedural fairness and is rooted in the right to be heard: Baker, at para. 28. The concept of responsive reasons is inherently bound up with this principle, because reasons are the

> primary mechanism by which decision makers demonstrate that they have actually listened to the parties.
>
> [128] Reviewing courts cannot expect administrative decision makers to "respond to every argument or line of possible analysis" (*Newfoundland Nurses*, at para. 25), or to "make an explicit finding on each constituent element, however subordinate, leading to its final conclusion" (para 16). To impose such expectations would have a paralyzing effect on the proper functioning of administrative bodies and would needlessly compromise important values such as efficiency and access to justice. However, a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it. In addition to assuring parties that their concerns have been heard, the process of drafting reasons with care and attention can alert the decision maker to inadvertent gaps and other flaws in its reasoning: *Baker*, at para. 39.

B. *Review of delisting applications under s 8 of Russia Regulations*

[59] Counsel advises this is the second case involving judicial review of a decision by the Minister not being satisfied there are "reasonable grounds to recommend" removal from the Sanctions List under s 8(1) of the *Russia Regulations*.

[60] The first is *Makarov v Canada (Foreign Affairs)*, 2024 FC 1234 [*Makarov*]. As noted in *Makarov*, this Court is required to afford the Minister's decision the "widest deference" given the circumstances, context and purposes of the *Russia Regulations* and the Minister's undoubted knowledge and expertise along with that of her Deputy Minister and departmental officials, all in the context of the enormous complexity of global and international affairs generally, and the Canadian and global responses to Russia's invasion of and war in Ukraine. The bar the Applicant must overcome to succeed is exceedingly high:

[69] As set out in more detail below, given the profound opaqueness of Russian (and Turkmenistan and other regional) public and business decision-making relevant to this case, coupled with the record including the Applicant's submissions, and given the nature and purpose of the Russia Regulations, the Court will afford the widest deference to the Minister's conclusion that the Applicant did not establish reasonable grounds to recommend his removal from the sanctions list as required by subsection 8(2) of the Russi[a] Regulations.

[70] Also by way of introduction, the Court finds the Minister's Decision is a "factually suffused determination" per the Federal Court of Appeal in *Portnov v Canada (Attorney General)*, 2021 FCA 171, which holistically drew on the records of both parties. This Court gives the widest deference to the Minister's weighing and assessing of the facts and inferences available, particularly given the Minister's expert role and her knowledge obtained at the apex of Canada's foreign policy, the Minister's consideration of Canada and the world's response to Russia's invasion of Ukraine, together with the context and Canada's implementation of the Russia Regulations' sanctions regime in the Applicant's circumstances.

…

[83] In the result, I have concluded the deference owed to this Minister in this case is equal to that owed to the Governor in Council – that is to say, the Minister is owed the widest deference on judicial review of a determination of who should or should not be sanctioned in this case and cases like it. I say this given the circumstances, context and purposes of the *Russia Regulations* as set out in the Regulatory Impact Assessment Statements referred to above, the findings of the Minister in her Decision letter and supporting material relied upon from the Memorandum, the Minister's undoubted knowledge and expertise along with that of her Deputy Minister and departmental officials, all in the context of the enormous complexity of global and international affairs generally, and the Canadian and global responses to Russia's invasion of and war in Ukraine, which among other things entail issues relating to war and peace. While the issue is this case is justiciable, the bar the Applicant must overcome to succeed is exceedingly high.

[Emphasis added]

[61] *Makarov* also confirmed jurisprudence that judicial review is doctrinally different from civil or criminal proceedings:

> [64] It is also the law that judicial review is doctrinally different from and must not be transformed into civil or criminal proceedings before ordinary courts. For example, in *Chshukina v Canada (Attorney General)*, 2016 FC 662, my colleague Justice Roy at paragraph 43 concludes: "[43] As has been said many times before, administrative proceedings must not be transformed into civil or criminal proceedings before ordinary courts." The same conclusion was reached by the Federal Court of Appeal in *Turcotte v Commission de l'Assurance-Emploi du Canada*, (26 February 1999), Montréal A-186-98 (FCA) at paragraph 5 that this Court is not to import criminal law principles into administrative law:
>
> > [5] As Marceau J.A. said in *The Attorney General of Canada and Cou Lai*,[1] we are not in a criminal law context but in an administrative law one. It does not seem desirable to import the principles applicable to one into the other.
>
> [65] To the same effect is *Canada (Attorney General) v Lai*, (25 June 1998), Vancouver A-525-97, where the Federal Court of Appeal held:
>
> > [4] …. In any event, we are not in a criminal law context, but in an administrative law one. The sanctions provided by the Act must be viewed not so much as punishment, but as a deterrent necessary to protect the whole scheme whose proper administration rests on the truthfulness of its beneficiaries. And the Commission's practices, like the one involved here, are established not as limitations of discretion, but as a means of determining guidelines that will assure some consistency. The position adopted by the umpire, if upheld, would limit the discretion to impose penalties conferred on the Commission by section 33 of the Act. That would defeat the will of Parliament.
>
> …
>
> [98] This jurisprudence is supported by the Federal Court of Appeal in *Canadian Recording Industry Association v Society of Composers, Authors and Music Publishers of Canada*, 2010 FCA

322. There in language I adopt as applicable to this Minister in this case, the Federal Court of Appeal held certain if not all administrative tribunals are entitled to act on material that is logically probative, even though such material is not evidence in a court of law, because administrative tribunals are not bound by the rules of evidence. Simply put, the normal rules of evidence do not apply to administrative tribunals and agencies such as the Minister in this case. See paragraphs 20 and 21:

> [20] In any event, the Board is not a court; it is an administrative tribunal. While many tribunals have specific exemptions from the obligation to comply with the rules of evidence, there is authority that even in the absence of such a provision, they are not bound, for example, to comply with the rule against hearsay evidence. The Alberta Court of Appeal put the matter as follows in *Alberta (Workers' Compensation Board) v. Appeals Commission*, 2005 ABCA 276, [2005] A.J. No. 1012, at paras. 63-64:
>
> > This argument departs from established principles of administrative law. As a general rule, strict rules of evidence do not apply to administrative tribunals, unless expressly prescribed: *Toronto (City) v. CUPE, Local 79* (1982), 1982 CanLII 2229 (ON CA), 35 O.R. (2d) 545 at 556 (C.A.). See also *Principles of Administrative Law* at 289-90; Sara Blake, *Administrative Law in Canada*, 3rd ed., (Markham, Ont.: Butterworths, 2001) at 56-57; Robert W. MacAulay, Q.C. & James L.H. Sprague, *Practice and Procedure before Administrative Tribunals*, loose-leaf (Toronto: Carswell, 2004) at 17-2. While rules relating to the inadmissibility of evidence (such as the Mohan test) in a court of law are generally fixed and formal, an administrative tribunal is seldom, if ever, required to apply those strict rules: *Practice and Procedure before Administrative Tribunals* at 17-11. "Tribunals are entitled to act on any material which is logically probative, even though it is not evidence in a court of law": *T.A. Miller Ltd. v. Minister of Housing and Local Government*, [1968] 1 W.L.R. 992 at 995 (C.A.); *Trenchard v.*

> *Secretary of State for the Environment*, [1997] E.W.J. No. 1118 at para. 28 (C.A.). See also *Bortolotti v. Ontario (Ministry of Housing)* (1977), 1977 CanLII 1222 (ON CA), 15 O.R. (2d) 617 (C.A.).
>
> This general rule applies even in the absence of a specific legislative direction to that effect. While many statutes stipulate that a particular tribunal is not constrained by the rules of evidence applicable to courts of civil and criminal jurisdiction, "these various provisions do not however alter the common law; rather they reflect the common law position: in general, the normal rules of evidence do not apply to administrative tribunals and agencies": *Administrative Law*, supra, at 279-80.

[21] This principle has been a feature of Canadian jurisprudence for some time. In *Canadian National Railways Co. v. Bell Telephone Co. of Canada*, 1939 CanLII 34 (SCC), 1939 S.C.R. 308, at p. 317, 50 C.R.T.C. 10, (*Canadian National Railways*) a case dealing with the Board of Railway Commissioners, the Supreme Court described the powers of that Board in the following terms:

> The Board is not bound by the ordinary rules of evidence. In deciding upon questions of fact, it must inevitably draw upon its experience in respect of the matters in the vast number of cases which come before it as well as upon the experience of its technical advisers. Thus, the Board may be in a position in passing upon questions of fact in the course of dealing with, for example, an administrative matter, to act with a sure judgment on facts and circumstances which to a tribunal not possessing the Board's equipment and advantages might yield only a vague or ambiguous impression.
>
> *Cambie Hotel*, cited above, at paras. 28-36, is to the same effect. In my view, even in the

> absence of a specific exemption, the Board was not bound by the rules of evidence.
>
> [Emphasis added]

C. *Judicial review of statutory interpretation on reasonableness standard*

[62] In *Vavilov,* the Supreme Court of Canada discusses governing statutory schemes such as the *Russia Regulations* as one of the legal constraints on administrative decision-makers:

> [108] Because administrative decision makers receive their powers by statute, the governing statutory scheme is likely to be the most salient aspect of the legal context relevant to a particular decision. That administrative decision makers play a role, along with courts, in elaborating the precise content of the administrative schemes they administer should not be taken to mean that administrative decision makers are permitted to disregard or rewrite the law as enacted by Parliament and the provincial legislatures. Thus, for example, while an administrative body may have considerable discretion in making a particular decision, that decision must ultimately comply "with the rationale and purview of the statutory scheme under which it is adopted": *Catalyst*, at paras. 15 and 25-28; see also *Green*, at para. 44. As Rand J. noted in *Roncarelli v. Duplessis*, 1959 CanLII 50 (SCC), [1959] S.C.R. 121, at p. 140, "there is no such thing as absolute and untrammelled 'discretion'", and any exercise of discretion must accord with the purposes for which it was given: see also *Congrégation des témoins de Jéhovah de St-Jérôme-Lafontaine*, at para. 7; *Montréal (City) v. Montreal Port Authority*, 2010 SCC 14, [2010] 1 S.C.R. 427, at paras. 32-33; *Nor-Man Regional Health Authority*, at para. 6. Likewise, a decision must comport with any more specific constraints imposed by the governing legislative scheme, such as the statutory definitions, principles or formulas that prescribe the exercise of a discretion: see *Montréal (City)*, at paras. 33 and 40-41; *Canada (Attorney General) v. Almon Equipment Limited*, 2010 FCA 193, [2011] 4 F.C.R. 203, at paras. 38-40. The statutory scheme also informs the acceptable approaches to decision making: for example, where a decision maker is given wide discretion, it would be unreasonable for it to fetter that discretion: see *Delta Air Lines*, at para. 18.
>
> [109] As stated above, a proper application of the reasonableness standard is capable of allaying the concern that an administrative

> decision maker might interpret the scope of its own authority beyond what the legislature intended. As a result, there is no need to maintain a category of "truly" jurisdictional questions that are subject to correctness review. Although a decision maker's interpretation of its statutory grant of authority is generally entitled to deference, the decision maker must nonetheless properly justify that interpretation. Reasonableness review does not allow administrative decision makers to arrogate powers to themselves that they were never intended to have, and an administrative body cannot exercise authority which was not delegated to it. Contrary to our colleagues' concern (at para. 285), this does not reintroduce the concept of "jurisdictional error" into judicial review, but merely identifies one of the obvious and necessary constraints imposed on administrative decision makers.

[63] *Vavilov* provides more specific guidance in reviewing decisions dealing with statutory interpretation:

> [116] … Where reasonableness is the applicable standard on a question of statutory interpretation, the reviewing court does not undertake a de novo analysis of the question or "ask itself what the correct decision would have been": *Ryan*, at para. 50. Instead, just as it does when applying the reasonableness standard in reviewing questions of fact, discretion or policy, the court must examine the administrative decision as a whole, including the reasons provided by the decision maker and the outcome that was reached.
>
> …
>
> [119] Administrative decision makers are not required to engage in a formalistic statutory interpretation exercise in every case. As discussed above, formal reasons for a decision will not always be necessary and may, where required, take different forms. And even where the interpretive exercise conducted by the administrative decision maker is set out in written reasons, it may look quite different from that of a court. <u>The specialized expertise and experience of administrative decision makers may sometimes lead them to rely, in interpreting a provision, on considerations that a court would not have thought to employ but that actually enrich and elevate the interpretive exercise.</u>
>
> [120] But whatever form the interpretive exercise takes, the merits of an administrative decision maker's interpretation of a statutory provision must be consistent with the text, context and

purpose of the provision. In this sense, the usual principles of statutory interpretation apply equally when an administrative decision maker interprets a provision. Where, for example, the words used are "precise and unequivocal", their ordinary meaning will usually play a more significant role in the interpretive exercise: *Canada Trustco Mortgage Co. v. Canada*, 2005 SCC 54, [2005] 2 S.C.R. 601, at para. 10. Where the meaning of a statutory provision is disputed in administrative proceedings, the decision maker must demonstrate in its reasons that it was alive to these essential elements.

[121] The administrative decision maker's task is to interpret the contested provision in a manner consistent with the text, context and purpose, applying its particular insight into the statutory scheme at issue. It cannot adopt an interpretation it knows to be inferior — albeit plausible — merely because the interpretation in question appears to be available and is expedient. The decision maker's responsibility is to discern meaning and legislative intent, not to "reverse-engineer" a desired outcome.

[122] It can happen that an administrative decision maker, in interpreting a statutory provision, fails entirely to consider a pertinent aspect of its text, context or purpose. Where such an omission is a minor aspect of the interpretive context, it is not likely to undermine the decision as a whole. It is well established that decision makers are not required "to explicitly address all possible shades of meaning" of a given provision: *Construction Labour Relations v. Driver Iron Inc.*, 2012 SCC 65, [2012] 3 S.C.R. 405, at para. 3. Just like judges, administrative decision makers may find it unnecessary to dwell on each and every signal of statutory intent in their reasons. In many cases, it may be necessary to touch upon only the most salient aspects of the text, context or purpose. If, however, it is clear that the administrative decision maker may well, had it considered a key element of a statutory provision's text, context or purpose, have arrived at a different result, its failure to consider that element would be indefensible, and unreasonable in the circumstances. Like other aspects of reasonableness review, omissions are not stand-alone grounds for judicial intervention: the key question is whether the omitted aspect of the analysis causes the reviewing court to lose confidence in the outcome reached by the decision maker.

[123] There may be other cases in which the administrative decision maker has not explicitly considered the meaning of a relevant provision in its reasons, but the reviewing court is able to discern the interpretation adopted by the decision maker from the record and determine whether that interpretation is reasonable.

> [124] Finally, even though the task of a court conducting a reasonableness review is not to perform a *de novo* analysis or to determine the "correct" interpretation of a disputed provision, it may sometimes become clear in the course of reviewing a decision that the interplay of text, context and purpose leaves room for a single reasonable interpretation of the statutory provision, or aspect of the statutory provision, that is at issue: *Dunsmuir*, at paras. 72-76. One case in which this conclusion was reached was *Nova Tube Inc./Nova Steel Inc. v. Conares Metal Supply Ltd*., 2019 FCA 52, in which Laskin J.A., after analyzing the reasoning of the administrative decision maker (at paras. 26-61 (CanLII)), held that the decision maker's interpretation had been unreasonable, and, furthermore, that the factors he had considered in his analysis weighed so overwhelmingly in favour of the opposite interpretation that that was the only reasonable interpretation of the provision: para. 61. As discussed below, it would serve no useful purpose in such a case to remit the interpretative question to the original decision maker. Even so, a court should generally pause before definitively pronouncing upon the interpretation of a provision entrusted to an administrative decision maker.
>
> [Emphasis added]

[64] In *Auer v Auer*, 2024 SCC 36 at paragraph 3 [*Auer*] (and *TransAlta Generation Partnership v Alberta*, 2024 SCC 37 at para 4 [*TransAlta*]), the Supreme Court of Canada reiterates reasonableness standard is presumed to apply when assessing the *vires* of subordinate legislation such as the *Russia Regulations*:

> [3] I conclude that the reasonableness standard as set out in *Vavilov* presumptively applies when reviewing the *vires* of subordinate legislation. I also conclude that some of the principles from *Katz Group* continue to inform such reasonableness review: (1) subordinate legislation must be consistent both with specific provisions of the enabling statute and with its overriding purpose or object; (2) subordinate legislation benefits from a presumption of validity; (3) the challenged subordinate legislation and the enabling statute should be interpreted using a broad and purposive approach to statutory interpretation; and (4) a *vires* review does not involve assessing the policy merits of the subordinate legislation to determine whether it is necessary, wise, or effective in practice.

> [4] However, for subordinate legislation to be found *ultra vires* on the basis that it is inconsistent with the purpose of the enabling statute, it no longer needs to be "irrelevant", "extraneous" or "completely unrelated" to that statutory purpose. Continuing to maintain this threshold from *Katz Group* would be inconsistent with the robust reasonableness review detailed in *Vavilov* and would undermine *Vavilov's* promise of simplicity, predictability and coherence.
>
> [Emphasis added]

VI. Submissions and analysis

[65] The Applicants submit the Minister's Decisions are unreasonable because they lack a coherent and rational chain of analysis, contain fatal flaws in their overarching logic in light of the evidentiary record, and are not justified in light of the legal and factual constraints.

[66] The Respondents submit the Decisions meet the hallmarks of reasonableness: they are justified, transparent, and intelligible and fall within the range of acceptable outcomes.

[67] As will be seen, I agree with the Respondents such that these applications will be dismissed. I find the Minister's Decisions are reasonable based on the teachings of *Vavilov*: they are transparent, intelligible and justified.

A. *Were the Decisions reasonable?*

(1) Review of the Minister's Decisions

[68] As outlined above, s 8(1) of the *Russia Regulations* allows a listed person to apply to the Minister to have their name removed from the *Russia Regulations*. This is not a matter of right. It

is trite law — but needs recalling in this case — that these Applicants, in common with most seeking relief under such discretionary orders, have the onus to provide sufficient evidence to establish their case to the Minister's satisfaction. That required them to provide an evidentiary basis on which the Minister might find "reasonable grounds to recommend to the Governor in Council that the applicant's name be removed from Schedule 1, 2 or 3."

[69] Simply put, and in the circumstances, they failed to provide enough evidence to satisfy the Minister. And with respect, I am not persuaded the Minister's Decisions are unreasonable.

[70] The core criteria for the Applicants to meet is "reasonable grounds to recommend." *Makarov* noted the standard to establish "reasonable grounds" under s 8(2) of the *Russia Regulations* is whether the Minister's Decision on "reasonable grounds" is itself reasonable:

> [63] As the Supreme Court of Canada held in *Mugesera v Canada (Citizenship and Immigration)*, 2013 SCC 40 at paragraph 114, the "reasonable grounds" under the *Russia Regulations*, requires "more than mere suspicion, but less than the standard applicable in civil matters of proof on a balance of probabilities." Because this is a judicial review based on reasonableness, the issue is whether the Minister's Decision on "reasonable grounds" is itself reasonable.

(2) The Minister's authority to remove adult children from the Sanctions List

[71] The Applicants submit, and the record supports, that not all family members of "associates" listed by the Governor in Council (or of others listed under s 2) have in all instances been placed on the Sanctions List pursuant to s 2(d) of the *Russia Regulations.* That appears to be a case-by-case determination. It also appears adult children of listed individuals may have been removed from the Sanctions List in other (but successful) applications to the Minister under

s 8. The Minister's affiant confirmed delisting is a discretionary assessment based on available information, and is conducted on a case-by-case basis: see cross-examination of Mr. Weichert, Director of Eastern Europe and Eurasia Division, Global Affairs Canada at 853-54.

[72] The Applicants submit the Minister's comment in each Decision that "[t]here is every reason to believe that Ms. Fridman is still the daughter of Mr. Fridman" [emphasis on the word "still" by the Applicants] demonstrates the Decisions are unreasonable. They argue this language "establishes a discriminatory non-rebuttable presumption that does not align with fundamental values of Canadian society, which guide the Minister's exercise of discretion."

[73] They also argue "family status" is a prohibited ground of discrimination under the *Canadian Human Rights Act*, RSC 1985, c H-6 [*Canadian Human Rights Act*]. The Applicants further submit their family relationship alone does not establish a risk of circumvention. They say to find otherwise would result in adult children of Russian individuals being punished for the "acts" or "status" of their parent, which they say Mr. Weichert confirmed is not the objective of subsection 2(d).

[74] The Respondents submit the Decision to maintain the listing of a family member is at the discretion of the Minister and made on a case-by-case basis. As further outlined below, the Respondents maintain, and I agree, the Decisions were not based solely on the fact that the Applicants are the daughters of Mr. Fridman, but rather on undisputed facts regarding the financial support they received from him and the context and purposes of the *Russia Regulations*.

Notably the Decisions go over the factual basis of each application, pointing out differences between the two.

[75] The Respondents further submit the *Canadian Human Rights Act* does not apply in this case because the Applicants have "no nexus to Canada… d[o] not live in Canada, d[o] not purport to have any assets in Canada, and ha[ve] not alleged any other connection to Canada," nor have they "demonstrated any harm or substantial impact from [their] listing on Canada's Sanctions List."

[76] In my respectful view, the Minister's use of the word "still" in the Decisions was reasonable in the circumstances. It reasonably confirms the legal relationship leading (along with the context and purposes of the 2022 amendments) to the Applicants' listing as family members by the Governor in Council. Their continued relationship with their father justifies their continued presence on the Sanctions List and is in my view the proper starting point of consideration of their applications under s 8(1).

[77] In this case, the Applicants were listed and applied for delisting at the same time as their mother. The daughters' applications each referred to the mother's situation. The delisting applications for all three moved simultaneously essentially until the Applicants' submissions were dismissed. Up to that time all three applications ran in parallel.

[78] At the last minute the mother's application was removed from the Minister's consideration by departmental officials. Later, as we now know, the mother was delisted likely

because she was *not still* a family member of Mr. Fridman given their separation and divorce. Thus, while the mother not still a family member, that was not the case with the Applicants. They were still Mr. Fridman's family members and in my view were reasonably described as still his daughters.

[79] I see no reasonable basis to read anything more into the use of the word "still" than to reasonably distinguish between the daughters who were "still family members" and the mother was not still a family member, all in the context of the mother and daughters' applications to and before the Minister.

[80] I also see no merit in the argument the Applicants were discriminated against contrary to the *Canadian Human Rights Act*. I am not persuaded this legislation applies where, as here, the Applicants have no nexus to Canada. They have (and have had) no presence, personal or economic, in Canada. They do not live in Canada and never have. They have no assets or business interests or any other connection to Canada. Counsel confirmed they have no status under the *Immigration and Refugee Protection Act*, SC 2001, c 27, under which they are inadmissible under s 35.1(a) as sanctioned persons. With respect, this pleading seems unconnected to the Applicants' reality: see for example: *Slahi v Minister of Justice*, 2009 FC 160, paragraph 47; and *Canadian Security Intelligence Service Act (CA) (Re)*, 2022 FC 1444, paragraphs 153-56, 170-72.

(3) Risk of evading sanctions

[81] The Applicants submit the Decision is unreasonable because they say there is no evidence they have ever been used or might be used to evade sanctions. Essentially, as I understand them, they claim there is insufficient evidence to maintain their continued presence on the Sanctions List. They further submit they were not properly placed on the Sanctions List in the first place.

[82] Generally, and in my respectful view, these arguments are an invitation to reweigh, reassess and second-guess the Minister's Decision made in the context of and in relation to the purposes of the *Russia Regulations* together with the scant evidence submitted by the Applicants, and the absence of any direct evidence from the father except for public open source documents. However, and as noted above, reweighing and reassessing evidence forms no part of judicial review unless there are exceptional circumstances per *Vavilov* at paragraph 125 and *Doyle* at paragraphs 3-4. I see no such exceptions or special circumstances in this case.

[83] That said I briefly address the Applicants' main evidentiary submissions here and elsewhere in this analysis.

[84] The Applicants note that while the Minister does not claim Mr. Fridman gave the Applicants money in an attempt to circumvent sanctions, the Decision states: "[m]aintaining limited financial ties or dependence on your father does not preclude him from attempting to use you to maintain access to his funds or circumvent sanctions prohibitions." The Applicants submit

this reasonable determination is nonetheless flawed because it is based on an unreasonable belief of the risk Mr. Fridman will try to use them to evade sanctions. They submit "this finding is based on a discriminatory overgeneralization that is not grounded on objective evidence that such a risk exists."

[85] The Respondents submit the Decisions were not based on overgeneralizations but rather on specific admissions by the Applicants about undisputed facts: the financial support they received over the past decade from their father and the fact that they are not estranged from him.

[86] I agree.

[87] I would also note Mr. Fridman's position as a multi-billionaire, top Russian financier, and founder and main shareholder of the Russian's largest private bank. It is also undisputable that Mr. Fridman is an oligarch and "associate" and enabler of President Putin who as such was placed and remains on the Sanctions List by the Governor in Council per s 2(c) of the *Russia Regulations*.

[88] In my respectful view these core facts from the Applicants and the record in this case, which are not in dispute, together with the fact the Applicants are Mr. Fridman's daughters and "family members," together with the context and purposes of the *Russia Regulations*, permit the Minister to reasonably conclude the Applicants had not established "reasonable grounds to recommend" their delisting.

[89] In addition, and in my respectful view, the Minister in considering the delisting a family member will generally have to consider the closeness or otherwise of the relationship between the family members. This is because family relationship is a contextual statutory and regulatory starting point for an individual's placement of the Sanctions List under s 2(d) of the *Russia Regulations*. In addition, as the delisting of the mother demonstrates, family status is also core to a delisting applications.

[90] On the Respondents' evidence in cross-examination, I accept that family membership alone may or may not be enough to justify the Governor in Council finding "reasonable grounds to believe" a particular family member should be listed in the first place. However this case is not about the Applicants' placement of the Sanctions List in the first place; this case concerns the reasonableness of Decisions rejecting their *delisting* applications.

[91] On a related point, at the hearing, the Applicants argued that the case should focus almost exclusively (or perhaps even exclusively) on Applicants, and that the Court should pay little if any attention to their father notwithstanding the father's sanction evasion was the prospective risk aimed at through the Applicants' their listing in the first place. Counsel for the Applicants maintained they are completely independent from Mr. Fridman's business and from him financially.

[92] Counsel submitted "this application is not about him, it is about them."

[93] I disagree. I was not pointed to any jurisprudence nor evidence nor anything relating to the *Russia Regulations* supporting the proposition that the Minister (or this Court) should

discount or ignore the closeness or otherwise of the Applicants' relationships with their father, the multi-billionaire listed "associate" also on Canada's Sanctions List. In my respectful view, the relative closeness of this family membership is entirely relevant in the context of delisting and may not be ignored any more in a delisting application than in an original listing.

[94] Indeed, while they argue the case is about them and not their father, the Applicants do in fact submit otherwise; they did provide (albeit scant) evidence of that relationship through the substantial financial support received from their father over recent years, most recently towards living and education expenses and gifts. They both allege they are now financially independent of their father (another relationship point). They note media reports the father will not pass his property to them. They also say he separates his family from his business. All of this on the Applicants' evidence, relates, albeit minimally, to the closeness of their relationship with their father.

[95] In this connection and in terms of closeness between the Applicants and their father, I note the Applicants describe their father's financial support between 2020 and 2021 (Laura) and until May 2022 (Katia) as being "like many parents" and "like any parent would" in their memoranda. This evidence might be taken to suggest a relatively normal or close relationship between father and daughters.

[96] The Respondents also note and I agree there is no evidence of estrangement, a point the Applicants do not dispute. The Applicants filed no evidence from their listed "associate" father as to the closeness or otherwise of *his* relationship with them. Indeed, their father filed no direct

evidence at all. The father does not corroborate the daughters' evidence, nor does he provide any direct evidence concerning any risk of sanction evasions on his part. Thus it seems to me even if the case has little to do with the father and is all "about them" (an erroneous assumption) the Applicants are unable to avoid the fact they are part of a family that is not estranged.

[97] I mentioned the absence of evidence from the father at the hearing and at the beginning of these Reasons. Counsel for the Applicants submitted that any evidence from Mr. Fridman was not likely to have changed the outcome of the Decision, or if it would have, it should have been raised in the procedural fairness letter. Counsel also reiterated the Applicants are completely independent from Mr. Fridman's business and from him financially, emphasizing "this application is not about him, it is about them." Further, counsel submitted that requiring the primary target of sanctions to give supporting statements in delisting applications such as these would be "too big of a requirement."

[98] I disagree. In my view these applications do not simply concern the Applicants in a vacuum detached from their relationship with their father and his relationship with them, notwithstanding they attempt to cast it this way. As noted, this argument ignores the regulatory context which authorizes their listing as "family members" of their father, and the regulatory framework they find themselves in which likewise underpins their request to be delisted as "family members."

[99] The Applicants submitted they should have received a procedural fairness letter if their relationship with their father was at issue. But in fact they did receive a procedural fairness letter,

dated July 10, 2023, giving them what I consider clear notice that their relationship with their father was indeed under consideration in their delisting applications, and inviting submissions:

> We are writing on behalf of Global Affairs Canada ("the Department") further to the delisting application that you submitted on December 23, 2022.
>
> Sanctions related to Russia were imposed under [the *Russia Regulations*] in response to Russia's grave human rights violations and unlawful contravention of the sovereignty and territorial integrity of Ukraine. These sanctions aim to apply pressure on the Russian regime, including to limit Russia's ability to fund its war against Ukraine. The Regulations allow Canada to target sanctions at key individuals whom the Department considers to be influential or to have close ties to the Russian Regime.
>
> You were listed under Schedule 1 of the [*Russia Regulations*] on May 27, 2022, pursuant to subsection 2(d). A person listed pursuant to subsection 2(d) is someone who the Governor in Council, on the recommendation of the Minister of Foreign Affairs, is satisfied there are reasonable grounds to believe is a family member of a person referred to in any of paragraphs (a) to (c) and (g) of the Regulations.
>
> According to open source information gathered by the Department, you are the daughter of Mr. Mikhail Maratovich Fridman, who was listed under Schedule 1 of the Russia Regulations pursuant to subsection 2(c).
>
> According to some of the open source information gathered by the Department, Mikhail Fridman is the founder and one of the main shareholders of the Alfa Group, which includes the major Russian bank Alfa Bank, an entity which is currently listed under Schedule 1, Part 2, item 81, of the Russia Regulations. Some of the open-source information gathered by the Department notes that Mr. Fridman has managed to cultivate strong ties to the administration of President Vladimir Putin, and, for example, that he has been referred to as a top Russian financier and enabler of President Putin's inner circle.
>
> If you would like to make submissions in response to the information that the Department has shared in this letter, please do so before July 24, 2023. If you require more time to respond, please inform us by July 17, 2023. Please note that in deciding whether there are reasonable grounds to recommend your removal from Schedule 1 of the Russia Regulations to the Governor in

> Council under section 8 of the Regulations, the Minister will consider all of the information that you provide.

[100] Notably, the Applicants provide no new personal information about the closeness or otherwise of their relationship with their father either before or in response to the procedural fairness letters. Nothing is provided from Mr. Fridman himself.

[101] I add it is idle to speculate what consideration the Minister might have given to whatever submission the Applicants might have made detailing the nature of their relationship with their father, because they chose (like their father) to say virtually nothing, notwithstanding they had that opportunity (1) in their original submissions and (2) in response to the procedural fairness letter.

[102] More fundamentally, as the Respondents put it, in this respect the Applicants fail to recognize the *Russia Regulations* serve a "preventative purpose." Here again I agree. I am unable to find other than that the Applicants are listed to prevent their use by their very wealthy father to avoid Canadian sanctions.

[103] In my view, there is no requirement on the Minister to prove prior sanction evasion by the Applicants prior to their being added to the Sanctions List by the Governor in Council. Nor is there any such requirement lying on the Minister to justify not recommending them for removal. Such propositions if accepted would turn the *Russia Regulation* on their head.

[104] In this, the Respondents submit and I agree:

> It would be contrary to the objectives of the scheme to require evidence of prior sanctions evasion as a pre-condition to listing a family member. If that were the case, Canada would need to wait until a listed person had transferred assets to a family member before being able to list that family member. Such result would render the Regulations ineffective.

[105] The Respondents also point to the cross-examination of Mr. Weichert, which at page 41, lines 18-24, where (in answer to the Applicants' questions) he affirmed the Minister assesses prospective risk of sanction evasion:

> Q. So you just -- you don't know whether Canada imposes sanctions on family members, period, or whether Canada imposes sanctions on family members seeking to facilitate these type of arrangements. You don't know.
>
> A. We're looking at the risk of a family member being used to evade sanctions.

[106] The Applicants further argue they are listed solely because they are family members, even while they submit evidence of the closeness or otherwise of that relationship. They say any such "presumption is contrary to principles under immigration law which dictate that complicity by association requires contribution to the condemned activities and 'the existence of a shared common purpose'," citing *Harb v Canada (Minister of Citizenship and Immigration)*, 2003 FCA 39 at paragraphs 17-18, citing *Bazargan v Minister of Employment and Immigration* (1996), 205 NR 232 (FCA), at paragraphs 11-12.

[107] However, and with respect, I am not persuaded immigration law jurisprudence is relevant because it relates to a wholly different legislative scheme dealing with who may enter and remain in Canada, not how Canada responds to an unlawful invasion in the context of

international economic sanctions and by Canada and its allies designed to end a war by one nation against another.

[108] I respectfully decline to second-guess the Minister's assessment of the evidence in this case. In my view the Minister acted reasonably in dismissing their request in these respects.

(4) Consistency with the objectives of Canada's sanctions regime and international law and decisions of European Courts

(a) *Decisions are consistent with objectives of Russia Regulations*

[109] The Applicants submit the statutory scheme requires but lacks a "sufficient link" between the Applicants, the objective of Canada's sanctions regime, and Russia's invasion of Ukraine.

[110] I respectfully disagree. In my view, maintaining the Applicants' listing under s 2(d) of the Sanctions List is reasonably consistent with the objectives and purposes of the *Russia Regulations*. These purposes are in fact set out in the RIAS issued in February 2022 (*Regulations Amending the Special Economic Measures (Russia) Regulations*, (February 24, 2022), C Gaz II, vol 156, no 6 at 710) along with the regulations themselves, namely:

> 1. Impose costs on Russia for its official recognition of the independence and sovereignty of the so-called DNR and LNR regions.
>
> 2. Stress that Canada does not recognize the independence and sovereignty of the so-called LNR and DNR, as they are integral parts of Ukraine.
>
> 3. Align Canada's actions with those taken by international partners to underscore continued unity with Canada's allies and partners in responding to Russia's actions in Ukraine.

[111] In addition, in my view continuing the Applicants on the Sanctions List is consistent with the regulations of May 2022, listing the Applicants in the first place. Notably, the RIAS accompanying their listings (and that of their mother) (*Regulations Amending the Special Economic Measures (Russia) Regulations*, (May 27, 2022), C Gaz II, vol 156, no 12 at 2081) refers to Russia's blatant violation of Ukraine's territorial integrity and sovereignty under international law. These listings are described in language that reinforces the above: Canada sought to a) "impose further [economic] costs on Russia for its unprovoked and unjustifiable invasion of Ukraine," b) "align with actions taken by international partners to underscore continued unity with our allies and partners in responding to Russia's ongoing actions in Ukraine," and c) "signal Canada's strong condemnation" of Russia's latest violations of Ukraine's territorial integrity and sovereignty, in addition to being "in solidarity with like-minded countries."

[112] In my respectful view, the Applicants' continued listing reasonably accomplishes all three purposes of the *Russia Regulations*. First, their continued listing reasonably imposes further economic costs on Russia and in particular on family members of "associates" of President Putin, i.e., those enabling the war on Ukraine. I appreciate this may seem harsh to some (although there is no evidence of hardship to the Applicants in this case), however in my view this is a policy decision made by the government under legislation enacted by Parliament in relation to foreign affairs. I was given no reason to doubt the impact of Canada's sanctions on family members might carry some weight inside and likewise may affect actions of some of Russia's ruling oligarchs and enablers of the war. This calculation is a matter for the Governor in Council to assess - which it has done.

[113] Second, the *Russia Regulations* are enacted (b) to emphasize Canada's condemnation of Russia's latest violations of Ukraine's territorial integrity and sovereignty. The consequences on listed family members may seem harsh in this respect - although nothing suggests this is the case with the Applicants who provided no evidence of negative impact. In any event, a family member's suffering as a result of being listed is in my respectful an inevitable *and therefore intended* consequence of the Governor in Council's decision to create the list in the first instance and then to place family members on it.

[114] Continuation of the Applicants listing in my view reasonably makes it clear to the family concerned (including listed "associates" per s 2(c)), that Canada is emphasizing, i.e., making the point where it might possibly count with the war's enablers, that Canada condemns Russia's continued war against Ukraine. This is a matter of government policy in relation to foreign affairs.

[115] Third, the *Russia Regulations* align Canada's actions to underscore continued unity with Canada's international allies and partners in responding to Russia's actions in Ukraine. A policy decision to speak and act in concert with the international community is an extremely high-level Executive policy decision in relation to foreign affairs, which is almost certainly well beyond the ken of the courts.

[116] All of the foregoing is confirmed in Mr. Weichert's affidavit, which affirms "the top evasion tactic" regarding the earlier 2014 sanctions included the use of family members and "close" associates:

> 16. Despite the comprehensive sanctions imposed by Canada and the international partners on Russia since 2014, several sanctioned Russian elites have managed to evade sanctions and maintain access to funds through various evasion tactics, most notably the transfer of assets to family members and close associates.
>
> 17. In February 2022, Australia, Canada, France, Germany, Italy, Japan, the United Kingdom, the United States, and the European Commission launched the Russian Elites, Proxies, and Oligarchs Task Force ("REPO Task Force") to, among other things, identify typologies of Russian sanctions evasion and facilitate more effective sanctions implementation. The top evasion tactic identified by the REPO Task Force was the use of family members and close associates to maintain continued access and control of assets. The Task Force identified various instances in which Russian elites transferred their assets to their children or spouses, either in the period immediately leading up to a sanctions listing or closely thereafter. The work and findings of the REPO Task Force are described in the public report entitled Global Advisory on Russian Sanctions Evasion Issued Jointly by the Multilateral REPO Task Force dated March 9, 2023.
>
> [Emphasis added]

(b) *Decisions of European Courts not considered*

[117] The Applicants also point to jurisprudence from the EU courts as support for these arguments.

[118] I agree, as the Applicants point out, that the Supreme Court of Canada has found values and principles "enshrined in international law constitute a part of the legal context in which legislation is enacted and read" (*Baker v Canada (Minister of Citizenship and Immigration),* 1999 CanLII 699 (SCC), [1999] 2 SCR 817 [*Baker*] at para 70). I note this principle applies generally in the context of international human rights, labour law and the like. But here, the Applicants are asking to apply decisions from the European Court, dealing with very different

sanction regimes, to Canadian sanctions. I am not persuaded that was the Supreme Court's intended application of *Baker*.

[119] The Applicants cite the following authorities for their "insufficient link" argument: *Pye Phyo Tay Za v Council of the European Union, Judgement of the Court of Justice of the European Union (Grand Chamber)*, C-376/10 P, 13 March 2012; *Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union* (Case C-402/05 P and C-415/05 P), Judgement of the Court of Justice of the European Union (Grand Chamber), 3 September 2008; *Prigozhina v Council*, Judgement of the General Court (First Chamber), T-212/22, 8 March 2023. See also *Mazepin v Council, Judgement of the General Court* (First Chamber), T-743/22, 20 March 2024, where the Court of Justice of the European Union annulled sanctions against family members where there was no established risk of circumvention.

[120] I am not persuaded by this submission and substantially agree with the contrary submissions of the Attorney General of Canada:

> 72. Properly interpreted, the legislative scheme confers broad discretion to list a person that is reasonably believed to be a family member of an associate of the Russian regime. The Regulations do not impose any other conditions with respect to listing family members under paragraph 2(d). The text of paragraph 2(d) is broadly worded and contains no temporal limitations, nor does it limit the nature of the familial relationship. The absence of any qualifying language reflects the high level of discretion afforded to the GIC and Minister to determine whether a specific listing furthers the objectives of the scheme.
>
> 73. Contrary to the Applicant's submissions, there is no requirement in the Regulations or the SEMA to show that the Applicant was herself engaged in direct or indirect political activities, or that she provided funding or contributed to a violation or attempted violation of the sovereignty or territorial integrity of

> Ukraine. Those are separate grounds for listing a person, which do not apply to the Applicant.
>
> 74. It would be inappropriate to read in a requirement that there be a "sufficient link" between the Applicant and Russia's "breach of international peace and security". Parliament has chosen a scheme which provides discretion to the GIC to enact regulations affecting any foreign national that it "considers necessary" where the preconditions in s. 4(1) of SEMA are established. The GIC in turn chose to circumscribe the categories of foreign nationals who may be sanctioned to those listed in paragraphs 2(a)-(g) of the Regulations. Nothing in paragraph 2 suggests that there must be a "sufficient link" between a person listed under paragraph 2(d), and the breach of international peace and security described in s. 4(1) of SEMA.
>
> 75. As explained in *Vavilov*, on judicial review, a reviewing court should consider whether a grant of authority is limited or uses broad, open-ended language. Where broad language is used, "it clearly contemplates that the decision maker is to have greater flexibility in interpreting the meaning of such language." The regulation-making authority in s. 4 of the SEMA is broadly worded, as is the language in s. 2 of the Regulations. This provides the Minister and the GIC with flexibility to sanction a broad category of persons connected (either directly, or indirectly through a family member or association) to the Russian regime and its actions in Ukraine. This is crucial to ensuring that sanctions are effectively applied in a complex international crisis.
>
> [Footnotes omitted]

[121] As I understand matters, these decisions deal with entirely distinct sanction regimes that do not specifically list family members of associates. It seems to me these decisions have little if anything to do with the case at bar. I am not persuaded they are of assistance.

(5) *Ultra vires* submissions

[122] The Applicants further submit the *Russia Regulations* insofar as they concern the Applicants, are *ultra vires* because they are inconsistent with their objectives: *Katz Group*

Canada Inc v Ontario (Health and Long-Term Care), 2013 SCC 64 [*Katz*], at paragraph. 24. With respect, I agree with the Respondent that this is "not a true *ultra vires* argument", but a variant of the same arguments as above. These arguments are specific to the Applicants' delisting applications; the Applicants do not submit s 2(d) of the *Russia Regulations* are *ultra vires* the *SEMA*.

[123] The Respondents re-emphasize that maintaining the Applicants' listing is consistent with the objectives of the sanctions regime – as this Court just found as set out above. In the alternative, the Respondents take the position that the Regulations are *intra vires* the *SEMA*.

[124] I note the Supreme Court of Canada recently reviewed, and in some respects rejected the framework the Supreme Court previously provided in *Katz.* Indeed, the Supreme Court of Canada has (at least in my preliminary assessment) just set out a new approach that appears to blend other aspects of *Katz* with jurisprudence from the Federal Court of Appeal: see *Auer*; *TransAlta*.

[125] With respect, this issue was insufficiently addressed by counsel in either written or oral submissions to warrant resolution and I decline to do so.

(6) Consideration of the evidence

[126] For completeness, I note the Applicants make several additional submissions regarding evidence they say the Minister should have considered, but impliedly did not, notably 1) their opposition to the war, 2) information regarding a property in Saint Tropez, and 3) a public

statement from their father that he did not intend to give them his fortune or involve them in his business.

[127] These submissions have no merit, because it is trite that no administrative decision-maker is required to comment upon every detail of the submissions before them; indeed, all decision-makers are presumed to have considered the submissions made to them: see e.g. *Singh v Canada (Citizenship and Immigration),* 2024 FC 1483 at paragraph 46 [per Gascon J].

[128] That said, the Applicants submit "the [Minister's] recommendation should have changed following receipt of information relating to the Saint Tropez property":

> 73. Prior to receiving the November 14, 2023 letter from the Applicant's mother, the draft Decision letter relied – albeit erroneously – on the fact that the Saint Tropez property "was added to a list of frozen Russian assets by the French treasury in May 2022 because Mr. Fridman continued to receive proceeds from the property". This was the only "supporting information" provided in the MFA that alleged a "risk" of circumvention involving the Applicant.
>
> 74. These claims were unfounded, and the Applicant's mother was removed from the Sanctions List following her submission of supplemental information. As a result, reference to the Saint Tropez property was removed from the draft Decision letter as a basis for the recommendation, but the recommendation remained unchanged. This error carried over in the Minister's Decision as there is no other objective basis for the conclusion that a risk of circumvention exists.

[129] The Respondents submit reviewing courts should not intervene with a decision-maker's factual findings absent exceptional circumstances (*Vavilov* at para 15), which do not exist in the case at bar. I agree and reiterate what I found in *Makarov* at paragraph 72:

> [72] Also as will be seen, I decline the Applicant's repeated and numerous invitations to reweigh, reassess and second-guess the Minister's conclusions on the record filed in this case. To engage in the proposed reweighing and second guessing of the Minister's informed conclusions, with respect, would offend basic governing principles of administrative law and judicial review established by both the Supreme Court of Canada and Federal Court of Appeal in *Vavilov* and *Doyle*. This governing jurisprudence is fatal where, as here, the Applicant does not establish the errors he alleges, either individually or collectively, constitute exceptional circumstances or fundamental error on the Minister's part. Indeed, almost all the Applicant's arguments invite the Court to impermissibly substitute the Court's opinions for those of the Minister.

[130] The Applicants' position regarding Russia's war against the Ukraine (and their father's statements about leaving his fortune to charity, as well as the Applicants' arguments regarding the Saint Tropez property) were all included in their filings with the Minister. The Applicants' views were not made public until this matter was started. Mr. Fridman' public statement was "made six years before the invasion of Ukraine and the imposition of sanctions against Russia, [and] says nothing of the risk Mr. Fridman will covertly attempt to circumvent sanctions by transferring assets to his daughters." Therefore, under fundamental principles of administrative law, these are all deemed to have been considered but found insufficient to impact the Decisions. There is no unreasonableness in this respect.

[131] Finally, after receiving the Applicants' mother's delisting application, the Minister's department provided an updated recommendation to the Minister that specifically advised:

> The recommendation to maintain the listings of Larisa [Laura] and Ekaterina [Katia] Fridman is based on the familial connection between Mr. Fridman and his daughters and evidence of recent financial ties which could be exploited by Mr. Fridman to circumvent sanctions against him. <u>This recommendation would not change regardless of Mr. Fridman's links to the villa.</u>

[Emphasis added]

[132] I find no merit in the Applicants' submissions in these respect.

B. *Remedy*

[133] The Applicants ask that if the Court finds the Decisions unreasonable, it should order the Minister to recommend the Applicants' names be removed from the Sanctions List, or issue special directions to the Minister. I need not consider this further because the Court will dismiss these applications.

VII. Conclusion

[134] These applications will be dismissed because they are reasonable in that they are transparent, intelligible and justified per *Vavilov*.

VIII. Costs

[135] The parties agreed the unsuccessful party should pay the successful party an all-inclusive lump sum cost award in the amount of $5,000 per application, for a total of $10,000, which in my view is reasonable and will therefore be ordered.

JUDGMENT in T-2724-23 and T-2726-23

THIS COURT'S JUDGMENT is that:

1. These two applications for judicial review are dismissed.

2. The Applicants shall pay to the Respondents an all-inclusive lump sum cost award of $5,000 for each application, totalling in the aggregate $10,000.00.

3. A copy of this Judgment and Reasons shall be placed in each Court file shown in the style of cause.

"Henry S. Brown"
Judge

Annex "A": Differences in submissions between files T-2724-23 and T-2726-23

Applicants' Submissions

T-2724-23 (Katia Fridman)	**T-2726-23 (Laura Fridman)**
3. The Delisting Application was supported by a Solemn Affirmation and contained evidence that (a) there is no nexus between the Applicant's listing and the objectives of Canada's sanctions regime against Russia; (b) she has received minimal financial support from her father; (c) she has never been involved in her father's business and has not resided in Russia since 1999; (d) her father vowed to donate his fortune to charity, and not to his children; and (e) she is opposed to the war in Ukraine.	3. The Delisting Application was supported by a Solemn Affirmation and contained evidence that (a) there is no nexus between the Applicant's listing and the objectives of Canada's sanctions regime against Russia; (b) since her graduation in 2015, she has been financially independent from her father, except in 2020 and 2021 when she was unable to work as a ballerina because of an injury and pandemic-related restrictions; (c) she has never been involved in her father's business and has not resided in Russia since 1999; (d) her father vowed to donate his fortune to charity, and not to his children; and (e) she is opposed to the war in Ukraine.
7. The Applicant is the 28-year-old daughter of Olga Ayziman and Mikhail Fridman. She was born in France in 1996 and currently resides in Neuilly-sur-Seine, France.	7. The Applicant is the 31-year-old daughter of Olga Ayziman and Mikhail Fridman. She was born in France in 1993.
10. Between 1999 and 2014, the Applicant lived exclusively with her mother in Paris.7 The Applicant's mother has received no spousal or child support from Mr. Fridman since 2009. 11. Between 2014 and 2018, the Applicant completed a bachelor's degree in history from Yale University. Between 2020 and 2022, she completed an MBA at the Columbia Business School. Since 2018, the Applicant worked in various positions in New York City, and she has been financially independent from her father since completing her studies in May 2022. 12. The Applicant's father financially supported his daughter through her studies. The Applicant has transparently disclosed that	10. Between 1999 and 2012, with the exception of the period of 2006-2007 when she attended boarding school in the United Kingdom, the Applicant lived exclusively with her mother in Paris. The Applicant's mother has received no spousal or child support from Mr. Fridman since 2009. 11. The Applicant is a painter, digital artist, and an academically trained dancer. Between 2012 and 2015, the Applicant completed a bachelor's degree in economics from Yale University, where she also performed as a dancer at the Yale College of Arts. 12. The Applicant's father financially supported his daughter through her studies. The Applicant has transparently disclosed that her father paid for her tuition fees and

her father paid for her tuition fees, provided periodical support for living expenses between 2014-2018 during her undergraduate studies and her MBA, and offered gifts of approximately USD $10,000 on special events such as birthdays. This financial support does not constitute circumvention.	provided an amount of approximately USD $3,000 for her monthly living expenses between 2012-2015 during her undergraduate studies, and gifts of approximately USD $10,000 on special events such as birthdays. However, this financial support does not constitute circumvention. 13. After completing her studies, the Applicant supported herself financially. She returned to Neuilly-sur-Seine, France to pursue her dream of becoming a professional ballet dancer. Determined to achieve this through her own means, she funded her professional ballet training by working multiple jobs. From March 2017 to July 2021, she worked as a professional ballet dancer with the Israel Ballet. 14. However, in 2020, the Applicant got injured and, as a result, was unable to work for an extended period of time. In addition, in 2020, because of pandemic-related restrictions, her work with the Israel Ballet was interrupted. This resulted in her income being insufficient to cover her basic living expenses. For those reasons, exceptionally, the Applicant's father supported her financially during those two years ($75,000 in 2020 and $25,000 in 2021) to ensure that her basic needs are covered, like any parent would. 15. The Applicant has since pursued her passion for painting and digital art and has exhibited her work in several galleries. She has also started her own business selling specialty stylized t-shirts with her own designs.
60. The Decision states that the Applicant has "received financial support from [her] father, Mr. Mikhail Maratovich Fridman, until May 2022, and that [she] continue[s] to receive occasional monetary gifts from him." The MFA similarly states that the Applicant "continued to receive financial support from	62. The Decision states that the Applicant has "received financial support from [her] father, Mr. Mikhail Maratovich Fridman in 2020 and 2021," when "she was unable to work as a ballerina due to pandemic-related restrictions."

her father up until May 2022, which amounted to approximately US$100,000 in 2021 and 2022, and that she continues to receive occasional monetary gifts." 61. The "financial support" received by the Applicant from her father until May 2022 is entirely associated with her post-secondary university education and related basic living expenses. Like many parents, the Applicant's father supported her through her studies between 2014-2018 and 2021-2022. This is not circumvention of Canadian sanctions, nor does it insinuate a risk of circumvention. 62. The vast majority of this "financial support" occurred well before the war started and before Mr. Fridman was subject to sanctions. They are also entirely unrelated to the war in Ukraine. 63. Further, the "occasional monetary gifts" refer to gifts received by the Applicant on special events, such as birthdays, which she indicated were approximately $10,000. Considering that Mr. Fridman's wealth has been reported as $12.6 billion, this amount is immaterial and cannot be considered circumvention. In fact, the Minister does not assert that it does. 64. After graduating with her MBA in May 2022, the Applicant's primary source of revenue was from her full-time employment at the Environmental Financial Consulting Group, where she earned an annual income of USD $104,000.90 This sufficiently covered her living expenses, which primarily consisted of her apartment rental fee in New York City (i.e., ½ of USD $6,000).	63. The "financial support" received by the Applicant from her father in 2020-2021 is entirely unrelated to the sanctions against Russia and was done in very exceptional circumstances. In 2020, the Applicant got injured and, as a result, was unable to work for an extended period of time. In addition, in 2020, because of pandemic-related restrictions, her work with the Israel Ballet was interrupted. This resulted in her income being insufficient to cover her basic living expenses. For those reasons, exceptionally, the Applicant's father supported her financially during those two years to ensure that her basic needs are covered, like any parent would. 64. Similarly, Mr. Fridman's financial support of his daughter between 2012 and 2015 was entirely related to her post-secondary university education. 65. The "financial support" referred to above occurred well before the war in Ukraine began in February 2022 and long before Mr. Fridman became subject to sanctions. Further, considering that Mr. Fridman's wealth has been reported as $12.6 billion, these amounts are immaterial. This is not circumvention of Canadian sanctions, nor does it insinuate a risk of circumvention. In fact, the Minister does not assert that it does.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2724-23 T-2726-23
STYLE OF CAUSE:	KATIA FRIDMAN v CANADA (MINISTER OF FOREIGN AFFAIRS) AND THE ATTORNEY GENERAL OF CANADA, LAURA FRIDMAN v CANADA (MINISTER OF FOREIGN AFFAIRS) AND THE ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	OTTAWA, ONTARIO
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APPEARANCES:

Stephanie Desjardins Michelle Folinas	FOR THE APPLICANTS
Sonja Pavic Rebecca Ro	FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Tereposky & Derose LLP Barristers and Solicitors Ottawa, Ontario	FOR THE APPLICANTS
Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENTS