

Federal Court



Cour fédérale

Date: 20250703

Docket: T-298-24

Citation: 2025 FC 1185

Ottawa, Ontario, July 3, 2025

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

ANDREY IGOREVICH MELNICHENKO

Applicant

and

**THE MINISTER OF FOREIGN AFFAIRS
AND THE ATTORNEY GENERAL OF
CANADA**

Respondents

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Andrey Igorevich Melnichenko [Mr. Melnichenko], seeks judicial review of the January 15, 2024, decision of the Minister of Foreign Affairs [Minister]. The Minister decided to not recommend to the Governor in Council to remove Mr. Melnichenko's name from

Schedule I, Part I of the *Special Economic Measures (Russia) Regulations*, SOR/2014-58 [Russia Regulations or Regulations].

[2] The Russia Regulations were enacted under the *Special Economic Measures Act*, SC 1992, c 17 [SEMA] in response to Russia's invasion of Crimea in 2014. Following Russia's invasion of Ukraine in February 2022, the Regulations were amended to impose additional sanctions pursuant to SEMA.

[3] The Regulations set out a range of restrictions and prohibitions on activities related to persons named in Schedule 1. Among other things, the Regulations prohibit individuals and entities in Canada, as well as Canadians abroad, from engaging in transactions involving named individuals, entities and sectors. This includes dealing in property, providing financial or related services, and facilitating transactions connected to persons named in Schedules 1, 2 and/or 3. Canadians are also barred from providing new debt financing, equity financing, or services supporting key Russian industries. Additional prohibitions cover the export or import of goods related to oil production, luxury items, arms, gold, diamonds, steel, aluminum, and technologies listed in other schedules. Any assistance or facilitation of the prohibited activities is also prohibited.

[4] On February 23, 2023, the amended Regulations came into force. The Governor in Council added Mr. Melnichenko's name to Schedule 1, based on being satisfied that there were reasonable grounds to believe that he is an associate of senior officials of the Russian regime. 121 other individuals were also added to Schedule 1 at that time.

[5] Mr. Melnichenko subsequently applied to the Minister pursuant to section 8 of the Regulations requesting that the Minister recommend to the Governor in Council that his name be removed from Schedule 1—in other words, to “delist” him.

[6] For the reasons that follow, the Application for Judicial Review is dismissed; the Minister’s decision to not recommend to the Governor in Council that Mr. Melnichenko be “delisted” is reasonable. The Minister’s discretionary decision is owed significant deference. The Minister’s interpretation of “associate” in paragraph 2(c) of the Regulations is reasonable and her finding that Mr. Melnichenko is an “associate” is supported by clear and undisputed evidence. The Minister did not misapprehend or ignore any evidence and there is no fundamental flaw in the Minister’s decision that warrants the Court’s intervention.

II. Background

A. *The Applicant*

[7] Mr. Melnichenko is described as a “self made” Russian billionaire born in Gomel, Belarus. In his third year of studies at Moscow State University, he launched a currency exchange with fellow students. This business was subsequently integrated with a privately owned bank. In 1993, Mr. Melnichenko and his partners established their own financial company, which became MDM Bank. In 1997, Mr. Melnichenko became the bank’s sole owner. MDM bank expanded rapidly. In 2007, Mr. Melnichenko sold his shares in MDM bank to a group of investors.

[8] In 2000, Mr. Melnichenko and a partner established the MDM Group focusing on fertilizer, coal and metal pipelines. Three separate companies were formed within the MDM group: EuroChem, Siberian Coal Energy Company [SUEK] and TMK. Mr. Melnichenko stepped down as President of the MDM group in 2004. He later transferred his ownership and control of his shares in EuroChem and SUEK to a trust.

[9] Mr. Melnichenko acknowledges that he remained involved in the management of both EuroChem and SUEK as a non-executive member of the boards of directors or other “collective bodies” until March 8, 2022, when he resigned from his position as a non-executive board member at SUEK and EuroChem and as beneficiary of the trust.

[10] Mr. Melnichenko also acknowledges that he has been a member of the Russian Union of Industrialists and Entrepreneurs [RSPP] since 2007 and has served in various roles. He describes the RSPP as a private forum established by the Russian business community, similar to a Chamber of Commerce, which necessitates some engagement with the Government of Russia. In his submissions to the Minister, he noted his fiduciary duties toward the RSPP and that, as such, he represented the RSPP regularly at meetings with the Russian government and with President Putin to represent the interests of business.

[11] Mr. Melnichenko notes that he has not lived in Russia since 2004; he lived in the UK and France and has been a permanent resident of Switzerland since 2009, but as a result of sanctions, now resides in the UAE.

B. *Procedural History*

[12] On October 21, 2022, Mr. Melnichenko proactively provided the Minister with detailed written submissions and supporting evidence arguing that reasonable grounds did not exist to establish that he met the criteria to be listed pursuant to SEMA and the Regulations.

[13] As noted, on February 23, 2023, amended Regulations came into force, which listed Mr. Melnichenko in Schedule 1.

[14] On March 23, 2023, Mr. Melnichenko submitted a Notice of Application pursuant to section 8 of the Regulations to have his name removed [i.e., to be delisted].

[15] In his Notice of Application, Mr. Melnichenko stated that he does not have and has not had any “association with” the Government of Russia or President Putin. He argued that the Minister had failed to provide an evidentiary basis and that he was not an “elite or close associate”. He added that he was not influential, had no close ties to the government or the President, and was not part of the “inner circle”.

[16] On May 25, 2023, Global Affairs Canada [GAC] (which the Minister of Foreign Affairs leads and is responsible for) wrote to Mr. Melnichenko in response to his application to be delisted, explaining the purpose of the sanctions imposed against Russia and their impact. The letter noted the open-source information gathered about Mr. Melnichenko, including his role in EuroChem, SUEK and RSPP and his meeting with President Putin in February 2022. The letter

further noted that Mr. Melnichenko was listed in February 2023, pursuant to paragraph 2(c) of Schedule 1 of the Regulations—someone who the Governor in Council, on the recommendation of the Minister of Foreign Affairs, is satisfied there are reasonable grounds to believe is an associate of a person referred to in any of paragraphs (a) to (b). GAC invited Mr. Melnichenko to respond, noting that the Minister would consider all information provided.

[17] On June 8, 2023, Mr. Melnichenko submitted extensive written submissions in support of his application to be delisted with supporting evidence. Mr. Melnichenko submitted additional supporting evidence in October 2023.

[18] On January 15, 2024, the Minister rendered her decision not to recommend that Mr. Melnichenko be removed from Schedule 1 (i.e. delisted). This decision is the subject of this Application for Judicial Review.

III. The Decision Under Review

[19] The Minister advised Mr. Melnichenko of her decision by letter dated January 15, 2024. The letter and the GAC Memorandum for Action, “Application for Delisting – Andrey Igorevich Melnichenko”, dated January 13, 2024 [the Memorandum], including the recommendation of the Deputy Minister that the Minister signed in approval, constitute the Decision.

[20] The key parts of the letter state:

I have considered the arguments put forth in your October 2022, March 2023, June 2023 and October 2023 submission to Global Affairs Canada, and have decided not to make a recommendation

to the Governor in Council to remove you from Schedule 1 of the Russia Regulations.

Based on a review of the materials that you submitted and available open-source information, I do not believe that there are reasonable grounds to conclude that you are not an associate of senior officials of the Government of Russia, notably President Vladimir Putin. While you confirmed in your application that you no longer reside in Russia, you remain a member of the regime of President Putin. As such, you were one of a small group of Russian business leaders called to meet with President Putin on February 24, 2022, immediately following the launch of the invasion of Ukraine and again one year later in March 16, 2023. This indicates your association with the Russian regime and to President Putin himself. In reaching this decision, I have taken into consideration your submissions regarding your status as an oligarch, the means by which you acquired your wealth, your residency status, your current role with EuroChem and SUEK, as well as your lack of personal relationship with President Putin. I find these to be irrelevant to the determination concerning whether you are an associate of a person referred to in paragraphs (a) to (b) of the Regulations.

Canada's autonomous sanctions aim to denounce Russia's breach of international security and apply pressure on the Russian regime, including to limit Russia's ability to fund its war against Ukraine and shine a light on Russia's unlawful actions. These sanctions include listings that target individuals who the Government of Canada considers to have ties to the Russian regime. Maintaining your listing is consistent with Canada's foreign policy goals with regard to Russia and with Canada's approach to sanctions implementation.

[21] GAC's Memorandum set out additional background information and considerations. The Memorandum noted that following a thorough review and assessment of Mr. Melnichenko's delisting application and supporting documents, along with open-source material, GAC's opinion was that there were not reasonable grounds to recommend to the Governor in Council that Mr. Melnichenko's name be removed from Schedule 1. Among other things, the Memorandum noted:

- There is ample evidence demonstrating an association between Mr. Melnichenko and individuals listed under paragraphs 2(a) and 2(b) of the Regulations, “notably President Putin” and citing Annexes 1, 2 and 3 of the Memorandum. (These Annexes include detailed information supporting Mr. Melnichenko’s inclusion in Schedule 1).
- Although Mr. Melnichenko no longer lives in Russia, he remains a member and holds senior roles in the RSPP, a sanctioned organization by the US and the UK.

Mr. Melnichenko acknowledged that as part of his RSPP government relations activities, he had frequent professional interactions with President Putin and Russian officials, sometimes in small group meetings, reinforcing his connection to the regime.
- Mr. Melnichenko’s submission that his association with President Putin was not personal, but rather purely professional and in group settings does not preclude concluding that Mr. Melnichenko is an “associate” of President Putin.
- Although the Regulations do not set out a definition of “associate”, GAC’s view is that “the term [associate] implies the existence of a relationship between two persons that amounts to more than a random or circumstantial connection”. The connection described by Mr. Melnichenko, including repeated professional contacts in small groups with President Putin, is exceptional and constitutes sufficient connection that is neither random or circumstantial and supports that he is an “associate” of President Putin.
- Mr. Melnichenko’s attendance, as one of a few Russian business leaders, in his capacity as an RSPP member, at meetings with President Putin, including a meeting on February 24, 2022, immediately after Russia’s invasion of Ukraine and again in March 2023, is evidence of his continued association with the Putin regime.

- In a *Financial Times* interview, Mr. Melnichenko refused to condemn Russia's invasion, claiming that the US and Ukraine bore equal responsibility. Mr. Melnichenko also denied that the war was illegal, although he acknowledged that specific acts were a crime.
- GAC's view is that Mr. Melnichenko's submissions regarding the source of his wealth, residency status, lack of a personal relationship with President Putin, and his current relationship with EuroChem and SUEK are irrelevant to the determination that he is an associate of persons listed in paragraphs 2(a) to (b). The evidence provided by Mr. Melnichenko demonstrates a clear association with President Putin and other listed individuals.
- In response to Mr. Melnichenko's submission that his listing could disrupt global fertilizer supplies from EuroChem, GAC notes that Canada's sanctions target individuals, not essential exports like food and agricultural products to third countries.
- Mr. Melnichenko remains sanctioned by Canada's allies, including the United States, United Kingdom, European Union, Switzerland, Japan, Australia and New Zealand, and his continued listing is consistent with Canada's foreign policy goals regarding Russia and with Canada's approach to sanctions implementation.

IV. The Relevant Statutory Provisions

[22] The relevant statutory provisions are set out in Annex 1.

[23] The SEMA grants the Governor in Council authority to make Orders in Council to restrict or prohibit certain activities to further the purpose of the Act, as described above.

[24] A person may be listed in Schedule 1 of the Regulations if the Governor in Council, on the recommendation of the Minister, is satisfied there are reasonable grounds to believe the person is a person described in any of paragraphs 2(a)–(g). Mr. Melnichenko was listed in Schedule 1 pursuant to paragraph 2(c).

[25] Schedule 1 stated, at the relevant time:

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

(a) a person who has 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 in Ukraine;

(a) a person who has engaged in activities that directly or indirectly facilitate, support, provide funding for or

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) une personne s'étant livrée 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 à une telle violation ou tentative ou qui entravent le travail d'organisations internationales en Ukraine;

a.1) une personne ayant participé à des violations graves et systématiques des droits de la personne en

contribute to a violation or attempted violation of the sovereignty or territorial integrity of Ukraine or that obstruct the work of international organizations in Ukraine;	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);
(e) an entity owned, held or controlled, directly or indirectly, by a person referred to in any of paragraphs (a) to (d) or acting on behalf of or at the direction of such a person;	e) une entité appartenant à une personne visée à l'un des alinéas a) à d) ou détenue ou contrôlée, même indirectement, par elle ou pour son compte ou suivant ses instructions;
(f) an entity owned, held or controlled, directly or indirectly, by Russia or acting on behalf of or at the direction of Russia; or	f) une entité appartenant à la Russie ou détenue ou contrôlée, même indirectement, par elle ou pour son compte ou suivant ses instructions;
(g) a current or former senior official of an entity referred to in paragraph (a), (a.1), (e) or (f).	g) un cadre supérieur ou un ancien cadre supérieur d'une entité visée aux alinéas a), a.1), e) ou f).

[26] Section 3 of the Regulations sets out the prohibitions with respect to any dealings with a listed person.

[27] Section 8 of the Regulations governs requests from a listed person to have their name removed from Schedule 1 (or another schedule). The decision whether to recommend to the Governor in Council to “delist” rests with the Minister of Foreign Affairs. Section 8 sets out the process and provides that “the Minister must decide whether there are reasonable grounds to recommend to the Governor in Council that the applicant’s name be removed from Schedule 1, 2 or 3” [Emphasis added].

V. The Issue

[28] The issue is whether the Minister’s decision to not recommend to the Governor in Council that Mr. Melnichenko’s name be removed from Schedule 1 (the sanctions list) is reasonable.

[29] Mr. Melnichenko submits that the decision is not reasonable because the Minister erred in her interpretation of “associate” and then relied on her erroneous interpretation to find that he is an “associate”. He also argues that the Minister dismissed relevant and credible evidence as irrelevant without justification and fundamentally misapprehended two of the key bases upon which the Minister found that he is an associate of the Russian regime and President Putin—i.e., his membership in the RSPP and his attendance at two meetings with President Putin.

[30] The Respondent submits that the Minister reasonably interpreted “associate” and, based on clear and undisputed evidence that demonstrates that Mr. Melnichenko is an “associate” of persons described in paragraphs 2(a) to (b) of the Regulations, reasonably decided to not recommend that Mr. Melnichenko be removed from Schedule 1.

VI. The Standard of Review

[31] The parties agree, as does the Court, that the standard of review of the Minister's decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 83, 87 [*Vavilov*]; *Mason v Canada Citizenship and Immigration*), 2023 SCC 21 at para 58 [*Mason*]).

[32] In *Vavilov*, the Supreme Court of Canada provided extensive guidance to the courts in reviewing a decision for reasonableness.

[33] The court conducting a judicial review begins by examining the reasons for the decision (in this case the Minister's letter and the Memorandum) with respectful attention, seeking to understand the reasoning process followed to arrive at the conclusion. 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 paras 85, 99, 102, 105-110). The court does not assess the decision-maker's reasons against a standard of perfection.

[34] In *Vavilov*, at para 100, the Supreme Court of Canada instructs that decisions should not be set aside unless there are serious shortcomings that are sufficiently central or significant to render the decision unreasonable. Two types of fundamental flaws that will render a decision unreasonable are noted at para 101: "[t]he first is a failure of rationality internal to the reasoning

process. The second arises when a decision is in some respect untenable in light of the relevant factual and legal constraints that bear on it”.

[35] The court conducting judicial review will not interfere with factual findings and should “refrain from reweighing and reassessing the evidence considered by the decision maker” (*Vavilov* at para 125).

[36] The decision-maker’s interpretation of its regulatory and statutory grant of authority is generally entitled to deference (*Vavilov* at para 109); but is not immune from review.

[37] The jurisprudence also establishes that a high degree of deference is owed to the Governor in Council and Ministerial decision-making (*Makarov v Canada (Foreign Affairs)*, 2024 FC 1234 at paras 69-85 [*Makarov*]).

VII. The Applicant’s Position

A. *Overview*

[38] Mr. Melnichenko disputes that he is an “associate” within the meaning of paragraph 2(c) of Schedule 1.

[39] Mr. Melnichenko submits that the Minister erred by adopting an erroneous, invented and overly broad definition of “associate”. He submits that the Minister failed to grapple with the interpretation and simply adopted the meaning proposed in the Memorandum, without

considering the well-established principles of statutory interpretation. He also submits that, due to the ambiguity in the meaning of “associate”, the Minister erred by failing to interpret it in accordance with *Charter* values. He submits that when “associate” is interpreted in accordance with principles of statutory interpretation, beginning with its plain meaning, and with *Charter* values, it is clear that he is not an “associate” of the Russian regime or President.

[40] Mr. Melnichenko submits that the Minister’s finding that he is an “associate”, based on this unreasonable interpretation is not reasonable.

[41] Mr. Melnichenko further submits that the Minister misapprehended or failed to take into consideration the extensive evidence he provided that contradicts the Minister’s findings.

[42] Mr. Melnichenko submits that there is only one reasonable outcome based on the evidence and that it would be pointless to remit his application for reconsideration by the Minister. He submits that the Minister should recommend to the Governor in Council that his name be removed from Schedule 1 and this Court should so order.

B. *The Minister’s interpretation of “associate” is not reasonable*

[43] Mr. Melnichenko argues that the Minister’s broad interpretation of the term “associate” does not reflect principles of statutory interpretation, in particular its ordinary dictionary meaning, and fails to consider Parliament’s intent. He argues that the broad definition proposed by GAC and applied by the Minister bears no similarity to the ordinary dictionary definition. He

submits that the GAC definition would capture many persons and would exceed the intent of Parliament.

[44] Mr. Melnichenko submits that the Minister confused the noun “associate” with the verb “to associate (with)”, which have different meanings. He points to the definition of the noun “associate” in the Oxford dictionary which states, “one who is united to another by a community of interest, and shares with him or her in enterprise, business, or action; a partner, comrade, companion”, and also, “a companion in arms, ally, confederate”, noting that other definitions that focus on sharing a position or office are not applicable. He submits that he is not part of a community of interest and is not a companion, partner, ally or comrade of President Putin or of a person listed in paragraphs 2(a) to (b) of Schedule 1.

[45] Mr. Melnichenko notes that he was not made aware of the Minister’s interpretation of “associate” until he received the Certified Tribunal Record and had no earlier opportunity to challenge the Minister’s interpretation.

[46] Mr. Melnichenko further argues that given the ambiguity in the term “associate”, the Minister was required to interpret it in accordance with *Charter* values—in particular freedom of association. He submits that freedom of association means that individuals have the right to participate in lawful organizations without fear of unjust sanction. By sanctioning him, based on his professional involvement in the RSPP, which he describes as a “counterweight” to governmental control in Russia, the Minister has disproportionately impacted his freedom of association.

C. *The Minister's finding that he is an "associate" is not reasonable*

[47] Mr. Melnichenko submits that by adopting an erroneous and overly broad interpretation, which would capture persons that Parliament did not intend to capture, the Minister then ignored the relevant facts and evidence that inform whether a person is an "associate" as that term should be interpreted in this context. He notes that the Regulations are intended to capture persons who are sufficiently close to the Russian regime so that sanctions would have an impact on that regime. Mr. Melnichenko submits that he is not such a person.

[48] Mr. Melnichenko submits that the Minister's reasons are confined to the Minister's letter and based on only two findings: that his membership in the RSPP and attendance at two meetings are sufficient to find that he is an "associate" of President Putin. He reiterates, as he did in his October 2022 submissions to the Minister, that the RSPP is a private, independent, non-governmental organization established by the Russian business community that focuses on promoting the interests of Russian business, and this necessitates some engagement with the Government of Russia, including in RSPP's lobbying role. He submits that the RSPP does not have ties to President Putin's regime and that the RSPP has publicly opposed certain government policies, such as the nationalization of private assets.

[49] Mr. Melnichenko submits that his role in the RSPP does not support any inference that he is connected to the regime. He submits that he is simply a member of the RSPP, and his current involvement is focussed on chairing the Committee on Climate Policy and Carbon Regulation, which has no connection to any political agenda or President Putin's government.

[50] He notes that he has never been part of government, his business success and wealth are a result of his own initiative, he has not lived in Russia for over 20 years and has divested himself of his role in SUEK and EuroChem.

[51] Mr. Melnichenko submits that the February 2022 meeting was previously scheduled and postponed to that date and may have been orchestrated by President Putin to coincide with the invasion of Ukraine, but this was not known to those in attendance. He notes that several RSPP members were in attendance and that his own attendance was only due to his membership in the RSPP, not in a personal capacity, and that he had little choice but to attend. Mr. Melnichenko describes the March 2023 meeting as a much larger event, resembling a congress. He disputes that the factors relied on by the Minister to find that he was or is an “associate” do not do so and that other evidence contradicts that he is an “associate” of President Putin or has any role in the Russian regime.

[52] Mr. Melnichenko submits that the fact that he has not been a resident in Russia for over 20 years was ignored. He points to expert opinions noting that he is not in the inner circle and that individuals who reside abroad are unlikely to be part of President Putin’s inner circle, as such persons are expected to spend most of their time in Russia and that President Putin regards businesspeople living outside of Russia with suspicion, disloyal and vulnerable to foreign influence. He submits that evidence regarding his lack of oligarch status, independent wealth, and lack of a personal relationship with President Putin was also dismissed as irrelevant and ignored. He submits that the Minister’s failure to mention this contradictory evidence undermines the foundation for the Minister’s finding.

[53] Mr. Melnichenko argues that the Minister erred by characterizing his supporting evidence as irrelevant. He submits that the Minister's finding that this evidence is irrelevant is not an issue of attributing little weight to the evidence, but rather of not considering it at all.

D. *Remedy: the Court should direct the Minister to recommend that his name be removed from Schedule 1*

[54] Mr. Melnichenko submits that given the evidence he provided to show that there are no reasonable grounds to believe he is an associate of the Russian regime or President Putin, the only reasonable outcome is that the Minister make the recommendation that his name be removed from Schedule 1, and that the Court should exercise its power to substitute its decision for the one that the Minister should have made.

VIII. The Respondent's Position

A. *Overview*

[55] The Respondent submits that the Minister considered Mr. Melnichenko's submissions, all the evidence submitted by him, and the information gathered by GAC, and reasonably decided to not recommend that Mr. Melnichenko's name be removed from Schedule 1 of the Regulations.

[56] The Respondent notes that the Minister's exercise of discretion pursuant to the Regulations, in a sensitive and complex foreign policy matter, is entitled to significant deference.

[57] The Respondent argues that the Minister's interpretation of "associate" is reasonable considering the text, context and purpose of the sanctions regime and that *Charter* values play no role in interpreting "associate" in these circumstances. Based on the evidence, the Minister's conclusion that there are not reasonable grounds to recommend that Mr. Melnichenko's name be removed from Schedule 1 based on the Minister's belief that he is an "associate" of President Putin is reasonable.

[58] The Respondent submits that there is clear and compelling evidence, including that Mr. Melnichenko remained a member of the RSPP and had attended key meetings with President Putin, which support the Minister's conclusion that Mr. Melnichenko is associated with the Russian regime and with President Putin.

B. *The Minister's Interpretation of Associate is Reasonable*

[59] The Respondent argues that Mr. Melnichenko's challenge to the Minister's interpretation of "associate" fails to consider the principles of statutory interpretation that require an interpretation consistent with the ordinary meaning in the relevant context, in this case, the legislative intent of SEMA and the Regulations.

[60] The Respondent notes that SEMA is broadly worded, which suggests a flexible approach to interpretation. This is also reflected in paragraph 2(c) of the Regulations which captures persons associated with the Russian regime, even if they are not directly involved in the activities proscribed in paragraphs 2(a), (a.1) or (b). The Respondent also points to section 12 of the

Interpretation Act, RSC 1985 c I-21 in support of a liberal interpretation in order to attain effective sanctions.

[61] The Respondent submits that the term “associate” in paragraph 2(c) chosen by Parliament is intentionally broad and undefined, in contrast to “close associate”, a term used in other legislation. The Regulations do not require evidence of direct political engagement, financial contributions, or participation in anti-Ukraine activities. The person need only be an associate of those involved in the activities described in paragraphs 2(a)–(b); they need not be involved in such activities themselves.

[62] The GAC Memorandum interpreted “associate” to imply “a relationship between two persons that amounts to more than a random or circumstantial connection”. The Respondent disputes Mr. Melnichenko’s argument that this definition does not reflect the Oxford dictionary definition of “associate”. The Respondent submits that the Minister’s interpretation is consistent with the dictionary definition and reflects the purpose of SEMA and the Regulations.

C. *Mr. Melnichenko’s new argument regarding Charter values should not be considered and Charter values are not at play*

[63] The Respondent submits that the Minister was not required to consider *Charter* values in interpreting “associate”.

[64] The Respondent notes that Mr. Melnichenko has raised a new argument on judicial review that he did not raise in his submissions to the Minister—that the Minister failed to

consider *Charter* values in interpreting “associate”. The Respondent submits that the Court should not consider new arguments as this would undermine the Minister’s role (*Makarov* at para 126; *Gomez v Canada (Attorney General)*, 2021 FC 1300 [*Gomez*] at paras 58-63).

[65] The Respondent argues that, in any event, *Charter* values are only considered in statutory interpretation when the statutory language is ambiguous. There is nothing ambiguous about the meaning of “associate” in this context. The Supreme Court of Canada [SCC] found that genuine ambiguity exists only when a provision has two equally plausible interpretations (*Bell ExpressVu Limited Partnership v Rex*, 2002 SCC 42 at para 29). The Respondent disputes that Mr. Melnichenko’s reliance on the elements of the dictionary definition of “associate” that refer to “partner” or “comrade” is an equally plausible definition in this context.

[66] The Respondent adds that, in any event, Mr. Melnichenko has no *nexus* to Canada that would permit him to assert *Charter* rights or values (*Slahi v Canada (Justice)*, 2009 FC 160 at para 47; *Canadian Security Intelligence Service Act (Re)*, 2022 FC 1444 at para 171).

[67] The Respondent further submits that even if *Charter* values should have been considered—which is not the case—the Minister’s interpretation of “associate” is proportionate and reasonable. Freedom of association does not protect affiliations with regimes engaged in serious international law violations such as Russia’s invasion of Ukraine.

D. *The Minister reasonably found that Mr. Melnichenko is an “associate”; the Minister did not ignore or misapprehend the evidence*

[68] The Respondent submits that the Minister’s decision to refuse Mr. Melnichenko’s delisting request is based on clear and compelling evidence, which is undisputed, regarding his continued role in the RSPP and his participation in high-level meetings with President Putin. The Respondent notes that Mr. Melnichenko did not dispute that he had held senior roles in the RSPP over many years and, in that capacity, engaged with the Government of Russia and President Putin. Mr. Melnichenko did not dispute that he had attended several meetings with officials and with President Putin, although not one-on-one, but in groups as small as 15 participants. The GAC Memorandum characterized these engagements as exceptional and more than incidental or circumstantial.

[69] The Respondent notes that Mr. Melnichenko participated in the February 24, 2022, meeting, held immediately after Russia launched its invasion of Ukraine, which focused on economic retaliation and resistance to sanctions resistance, as reflected in the published remarks of President Putin.

[70] The Respondent notes that Mr. Melnichenko also attended a meeting on March 16, 2023, although other RSPP members abstained, which was the first in-person gathering of Russia’s business elite following Russia’s invasion of Ukraine. At that event, President Putin urged Russia’s wealthiest individuals to support the economy amid Western sanctions.

[71] The Respondent further notes that Mr. Melnichenko did not dispute his professional interactions with Putin, but rather argued that because he was not a resident, oligarch or member of President Putin's inner circle, he was not an "associate". The Respondent submits that the Minister was not required to decide whether Mr. Melnichenko was a member of President Putin's "inner circle" or had a personal relationship, only whether he was an "associate".

[72] The Respondent disputes that contradictory evidence was ignored that would undermine the Minister's decision. The Minister considered all the submissions, but these factors did not change the Minister's finding that there was clear evidence of Mr. Melnichenko's role in the RSPP, his attendance at several meetings on behalf of the RSPP over the years and his attendance at the meetings in February 2022 and March 2023, which were sufficient to demonstrate an ongoing association with the Russian regime and to find that Mr. Melnichenko is an "associate" of persons described in paragraphs 2(a) to (b). The Respondent submits that the Minister did not err in finding these considerations to be irrelevant in the context of paragraph 2(c) of the Regulations.

[73] The Respondent also points to the record regarding Mr. Melnichenko's role in EuroChem and SUEK, noting that while he may have stepped down as owner in 2006 and resigned as the beneficiary of the trust in 2022, he continues to benefit from those businesses, including because his wife is the sole beneficiary of the trust.

IX. The Minister's Decision is Reasonable

A. *The Minister's decision is owed deference*

[74] The Minister's decision is entitled to the widest deference (*Makarov* at paras 69-71), taking into account her role and expertise in foreign policy generally and, more particularly, her role and expertise in addressing Canada's response to Russia's invasion of Ukraine. As noted by Justice Brown in *Makarov*, the burden on an applicant to challenge such decisions in this context is "exceedingly high" (at para 85).

[75] In *Makarov*, in determining whether the Minister reasonably decided not to recommend that the applicant be delisted from Schedule 1, Justice Brown concluded at para 69:

[69] As discussed below, the Court concludes that: (1) the Minister is entitled to the widest deference in weighing and assessing the record and making the Decision in this case given its nature and purpose and her role at the apex of Canadian decision making, (2) the Minister is not bound by the strict rules of evidence in making this Decision, (3) the Decision is not one to be tested on criminal or civil standards of proof, and (4) because viewed holistically the Decision meets the test of reasonableness established by the Supreme Court of Canada.

[76] Justice Brown explained his conclusions at paras 70-85, relying on the jurisprudence of the Federal Court of Appeal in *Portnov v Canada (Attorney General)*, 2021 FCA 171 at para 44, *Canada (Citizenship and Immigration) v Canadian Council of Refugees*, 2021 FCA 72 at para 37 and *Raincoast Conservation Foundation v Canada (Attorney General)*, 2019 FCA 224 at paras 18-19, which found that the Governor in Council is at the "apex of decision making" and decisions of the Governor in Council are entitled to the widest deference.

[77] Justice Brown further found that Ministerial decision-making is owed this same wide deference, relying on *Mikisew Cree First Nation v Canadian Environmental Assessment Agency*, 2023 FCA 191 at paras 118 and 120. Justice Brown stated, at para 81 of *Makarov*:

...much of what the jurisprudence says of the Governor in Council as a collective, is also true of individual Cabinet Ministers with very specialized knowledge and expertise in their relevant portfolio responsibilities, such as the Minister of Foreign Affairs in this case.

[78] Justice Brown concluded at para 85:

[85] 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 in this case is justiciable, the bar the Applicant must overcome to succeed is exceedingly high.

[Emphasis added.]

[79] As in *Makarov*, in the present context Mr. Melnichenko must overcome a high bar to establish that the Minister’s decision is not reasonable.

[80] Despite the high bar, the Court has applied the guidance of *Vavilov* in determining whether the Minister’s decision is reasonable. The Court has carefully considered

Mr. Melnichenko's arguments regarding the interpretation and scope of the term "associate" and the evidence on which he relies to counter the Minister's determination that he is an "associate". However, the Court finds that neither the Minister's interpretation of "associate" nor the Minister's assessment of the evidence to find that he is an "associate" demonstrates any fundamental flaw.

B. *The Minister's interpretation of "associate" is reasonable*

- (1) The Minister's interpretation is reviewed on the reasonableness standard and is owed significant deference

[81] Mr. Melnichenko submits that a legal constraint rendering the decision unreasonable is the Minister's reliance on an invented, erroneous and overly narrow interpretation of "associate", without really grappling with the interpretation. The Court disagrees; the letter and the Memorandum together constitute the reasons for the decision. The Minister approved the GAC Memorandum and recommendation, accepted the interpretation proposed in the memo, and applied it to the evidence before her.

[82] As noted in *Vavilov*, matters of statutory interpretation "are not treated uniquely and, as with other questions of law, may be evaluated on a reasonableness standard" (*Vavilov* at para 115). The reviewing court is not to undertake a *de novo* review (*Vavilov* at para 116).

[83] The same wide deference applies to the Minister's interpretation of "associate" as to her findings that Mr. Melnichenko is an "associate" given that the Minister is interpreting her home statute and applying her expertise (*Makarov* at para 85).

(2) Broad language justifies a broad interpretation

[84] In *Vavilov* at para 110, the Supreme Court of Canada stated:

[110] Whether an interpretation is justified will depend on the context, including the language chosen by the legislature in describing the limits and contours of the decision maker’s authority. If a legislature wishes to precisely circumscribe an administrative decision maker’s power in some respect, it can do so by using precise and narrow language and delineating the power in detail, thereby tightly constraining the decision maker’s ability to interpret the provision. Conversely, where the legislature chooses to use broad, open-ended or highly qualitative language — for example, “in the public interest” — it clearly contemplates that the decision maker is to have greater flexibility in interpreting the meaning of such language. Other language will fall in the middle of this spectrum.

[85] The SEMA gives the Governor in Council broad authority to enact regulations as “necessary” to achieve SEMA’s objectives (subsection 4(1)). The Regulations use the term “associate” in paragraph 2(c), without further qualifying language, which supports a broad interpretation.

[86] The *Interpretation Act*, RSC 1985, c1-21 also directs that remedial legislation “shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects” (section 12).

[87] A broad interpretation is justified in this context. Contrary to Mr. Melnichenko’s submission, it is apparent that Parliament and the Governor in Council intended to include persons who have interactions and relationships with those who are more directly engaged—

including the Russian government and/or President Putin, despite that these persons are not those described in paragraphs 2(a) and 2(b).

[88] The established principles of statutory interpretation also support the Minister's broad interpretation. The words of an enactment "are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intentions of Parliament" (*Rizzo & Rizzo Shoes Ltd (Re)*, [1998] 1 SCR 27 at para 2, 154 DLR (4th) 193 [*Rizzo Shoes*]). The Minister's interpretation reflects a common understanding and use of the term "associate" (*Rizzo Shoes* at para 21). Both Mr. Melnichenko and the Respondent note that the *Oxford English Dictionary* defines the noun "associate" as: "One who is united to another by community of interest, and shares with him or her in enterprise, business, or action; a partner, comrade, companion." ("associate", online: *Oxford English Dictionary* <www.oed.com/dictionary/associate_adj?tl=true&tab=meaning_and_use>).

[89] However, the Oxford dictionary provides several meanings of "associate" which vary to some extent, depending on the use of the word and context. The term associate is also defined as "a person with whom one is associated with".

[90] In common use, "associate" is not as narrow as preferred by Mr. Melnichenko and applies to a spectrum of relationships.

[91] The Minister's interpretation of "associate" is not inconsistent with the Oxford dictionary definition and takes into account the overall context and legislative intent. Although

Mr. Melnichenko points to the inclusion of “partner” and “comrade” in the definition and disputes that he is a partner or comrade of President Putin, these are different concepts than “associate”. If Mr. Melnichenko were a partner, comrade or ally he would likely be captured by other criteria in Schedule 1 for more direct involvement.

[92] Contrary to Mr. Melnichenko’s suggestion, the Minister did not confuse the noun “associate” with the verb “to associate”. The Minister noted that the evidence “indicates your association with the Russian regime and to President Putin himself” and noted that the determination in paragraph 2(c) is whether Mr. Melnichenko is “an associate of a person referred to in paragraphs (a) to (b)”. In the context, there is hardly a difference between an association with a person and being an associate of that person.

(3) The Minister was not required to consider *Charter* values

[93] As a general rule, issues that were not raised with the decision-maker will not be considered on judicial review (*Firsov v Canada (Attorney General)*, 2022 FCA 191 at para 49; *Gordillo v Canada (Attorney General)*, 2022 FCA 23 at para 99; *Makarov* at para 126; *Gomez* at paras 58-63). The Supreme Court of Canada has noted that there are several rationales for this rule, including that the “legislature has entrusted the determination of the issue to the [decision-maker]” and that courts should avoid undue interference with the discharge of administrative functions delegated to administrative bodies by Parliament (*Alberta (Information and Privacy Commissioner) v Alberta Teachers’ Association*, 2011 SCC 61 at para 24).

[94] Given the Minister’s responsibility for the conduct of foreign affairs, including the implementation of the sanctions regime (*Makarov* at paras 81, 127), the Court should have the benefit of the Minister’s reasons regarding whether and how *Charter* values should inform the interpretation of the Regulations.

[95] As noted by the Federal Court of Appeal in *Sullivan v Canada (Attorney General)*, 2024 FCA 7 at para 8, “all *Charter* arguments, whether based on rights, freedoms or values must be supported by a rich evidentiary record, not by the ‘unsupported hypotheses of enthusiastic counsel’ or judges: see the venerable, unquestioned case of *Mackay v. Manitoba*, 1989 CanLII 26 (SCC), [1989] 2 S.C.R. 357, 61 D.L.R. (4th) 385 at 362. We do not have that sort of evidentiary record here”.

[96] Mr. Melnichenko did not make the argument that the term “associate” should be interpreted in light of *Charter* values in his submissions to the Minister. He submits that he had no inkling that the Minister would adopt a different or broad interpretation until he received the GAC Memorandum, following the filing of his Application for Judicial Review and, therefore, he had no opportunity to respond to the Minister’s interpretation of “associate”.

[97] Although the Respondent submits only that the Court should not consider the new argument about *Charter* values, and the Court agrees, the Court observes that Mr. Melnichenko made several submissions to GAC and to the Minister and he was not precluded from proactively raising the issue of the interpretation of “associate”.

[98] In Mr. Melnichenko's October 2022 submissions to the Minister (prior to and in anticipation of being included in Schedule 1), he argued that he did not fit the criteria for listing, noting that he had no personal relationship with the Government of Russia or President Putin, had not engaged in any of the activities set out in section 2, was not a member of the "inner circle", did not own or control EuroChem or SUEK, and had attended the February 2022 meeting only in his capacity as a member of RSPP.

[99] In his March 2023 Notice of Application for delisting, he again submitted that he did not meet the criteria to justify listing him pursuant to the Regulations. He reiterated many of the same points made in his October 2022 submissions.

[100] The letter from GAC dated May 25, 2023, in response to Mr. Melnichenko's Notice of Application to be delisted, explains that he was added to Schedule 1 pursuant to paragraph 2(c) as "an associate of a person referred to in any of paragraphs (a) to (b) of the Regulations". The letter also states, among other things, "you are an associate of President Vladimir Putin...". The letter invited Mr. Melnichenko to provide submissions to the Minister with respect to his request to be delisted. Mr. Melnichenko was clearly advised that the Minister considered him to be an "associate".

[101] Mr. Melnichenko's submissions to the Minister in response did not argue that "associate" has a narrow definition, meaning "comrade", "ally" or "partner". Nor did he argue that the *Charter* value related to freedom of association should be considered. Therefore, the Court

should not usurp the role of the Minister and consider the *Charter* values argument for the first time now. In any event, the argument would not succeed.

(4) *Charter* values are not a consideration

[102] Freedom of association is a *Charter* right. *Charter* values and *Charter* rights are distinct. In *McKitty v Hayani*, 2019 ONCA 805 at para 88 the Court of Appeal for Ontario noted, “*Charter* values are not *Charter* rights by another name or in a different setting; they are a different juridical concept”. In *Commission scolaire francophone des Territoires du Nord-Ouest v Northwest Territories (Education, Culture and Employment)*, 2023 SCC 31 at para 75 [Commission scolaire], relied on by Mr. Melnichenko, the Supreme Court of Canada stated “*Charter* values are those that “underpin each right and give it meaning”” without providing further guidance.

[103] Mr. Melnichenko has not clearly articulated the *Charter* value underlying the *Charter* right of freedom of association but emphasizes that the sanctions disproportionately impact his freedom of association. In any event, Mr. Melnichenko has no *nexus* to Canada that would entitle him to any *Charter* protection. It is also not apparent how anyone that does have a *nexus* to Canada could benefit from an interpretation of “associate” as used in paragraph 2(c) that would be consistent with a *Charter* value underpinning freedom of association.

[104] Further, even if freedom of association is a *Charter* value to be considered in some other context, in the context of the Regulations, recognizing freedom of association would be inconsistent with the purpose of the Regulations, which is to sanction those who are associates of

persons engaged in violations of international law. Mr. Melnichenko is not disproportionately impacted; he is not precluded from continuing his association with the RSPP, but rather others in Canada and Canadians abroad are prohibited from engaging with him, as described in section 3 of the Regulations.

C. *The Minister reasonably found that Mr. Melnichenko is an “associate” within paragraph 2(c) of Schedule 1; the Minister did not misapprehend the evidence or ignore contradictory evidence*

[105] A reviewing court should not intervene with a decision-maker’s factual findings, absent exceptional circumstances (*Vavilov* at para 125). The Court does not find any exceptional circumstances in the present case; the Minister has not “fundamentally misapprehended or failed to account for the evidence before [her]” (*Vavilov* at para 126).

[106] The Minister’s decision to not recommend that Mr. Melnichenko’s name be removed from Schedule 1 based on her finding that she does “not believe that there are reasonable grounds to conclude that [he is] not an associate of senior officials of the Government of Russia, notably President Putin”, is reasonable.

[107] The Minister agreed with the Memorandum that informed her decision, including that the “level of connection that Mr. Melnichenko describes, including repeated professional contacts with President Putin in groups as small as 15, is exceptional, and constitutes a sufficient connection, neither random nor circumstantial” and agreed that this supports the conclusion that Mr. Melnichenko is associated with and is an associate of President Putin and the Russian regime within the meaning of paragraph 2(c) of the Regulations.

[108] Whether the broad definition of “associate” adopted by the Minister, which the Court finds reasonable, or the narrow definition preferred by Mr. Melnichenko is applied, the evidence relied on by the Minister supports the finding that Mr. Melnichenko is an “associate” of persons described in paragraphs 2(a)–(b) of the Regulations—in this case, of (a) “a person who has 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 in the Ukraine” and (b) “a former or current senior official of the Government of Russia”. As noted in the Memorandum, Mr. Melnichenko acknowledged that he had frequent professional interactions with President Putin and Russian officials. Mr. Melnichenko need not be a “partner” or “comrade” of an official or of President Putin; the evidence supports that he was within a community of interest as a business leader and his relationship was more than random or circumstantial.

[109] The Minister based her decision primarily on Mr. Melnichenko’s ongoing involvement with the RSPP and his presence at two meetings with President Putin since the war began as sufficient evidence of his ties to the Russian regime. Excerpts of the transcript of the February 2022 meeting reveals that the meeting focused on the invasion, and President Putin addressed the attendees as “colleagues” and “friends,” commended their role in preparing for sanctions, and urged their continued support. While this does not confirm that Mr. Melnichenko regarded President Putin in the same way, it remains evidence relevant to and supporting the Minister’s view that he is an “associate”. The second meeting, on March 16, 2023, was President Putin’s first in-person address to Russia’s business elite since the invasion. The evidence before the Minister described the meeting as President Putin’s encouragement of Russian billionaires to

prioritize national interests over profit and help stabilize the economy in response to Western sanctions. Some RSPP members chose not to attend the March 2023 meeting or had left the organization; however, Mr. Melnichenko did attend.

[110] Mr. Melnichenko does not dispute his interactions with President Putin, including in small group settings. He acknowledged that his role within the RSPP, which dates back to at least 2007, required his engagement with the Russian government, including meetings with President Putin.

[111] The Minister's decision was also informed by her foreign policy expertise, Canada's broader approach to Russian sanctions, and the substantial evidence presented by GAC and Mr. Melnichenko.

[112] As the Minister noted in her letter of decision:

Canada's autonomous sanctions aim to denounce Russia's breach of international security and apply pressure on the Russian regime, including to limit Russia's ability to fund its war against Ukraine and shine a light on Russia's unlawful actions. These sanctions include listings that target individuals who the Government of Canada considers to have ties to the Russian regime. Maintaining your listing is consistent with Canada's foreign policy goals with regard to Russia and with Canada's approach to sanctions implementation.

[113] Mr. Melnichenko argues that the Minister cast aside as "irrelevant" his credible evidence that contradicts the Minister's finding that he is an "associate", including that he is not an oligarch, did not amass his wealth through state connections, has not lived in Russia for over 20 years, is not part of Putin's inner circle, and lacks a personal relationship with him. The Minister

stated that she considered these submissions but found that these factors were not relevant to the determination whether Mr. Melnichenko is an “associate” within paragraph 2(c) and that other undisputed facts were sufficient to so find.

[114] The Minister did not find—and did not need to find—that Mr. Melnichenko was a member of the “inner circle” or had a personal relationship with President Putin or others; evidence that he is not part of the inner circle or not in a position of influence does not detract from or contradict the Minister’s finding that he is an “associate”.

[115] Mr. Melnichenko’s reliance on a ruling from the European Union General Court in support of his submission that his attendance at the February 2022 meeting does not establish that he is an “associate” of President Putin does not assist him. SEMA and the Regulations are based on a different legal framework. Moreover, the Minister’s decision is not based solely on Mr. Melnichenko’s attendance at one meeting, but as noted above, on all the information gathered by GAC and on Mr. Melnichenko’s own submissions.

[116] Mr. Melnichenko takes issue with the Minister’s use of the term ‘irrelevant’ and submits that as a sophisticated decision-maker, the Minister should acknowledge the difference between relevance and the weight attributed to admissible evidence. The Court is of the view that the Minister’s use of the term “irrelevant” is not in error. The Minister found that this evidence did not tend to prove Mr. Melnichenko’s assertion that he is not an associate, in accordance with paragraph 2(c) of the Regulations.

[117] In conclusion, the Court finds that the Minister reasonably interpreted the term “associate”. In the context of SEMA and the *Regulations*, a broad meaning of “associate” to reflect the purpose of the sanctions is reasonable. As a general principle, the Minister’s interpretation is entitled to significant deference; but regardless, the Minister’s interpretation of “associate” as implying the existence of a relationship between two persons that amounts to more than a random or circumstantial connection is reasonable on its own and is not inconsistent with the dictionary definition in the context of the *Regulations*.

[118] The Court also finds that the Minister’s belief that there are not reasonable grounds to conclude that Mr. Melnichenko is not an “associate” and to not recommend to the Governor in Council that Mr. Melnichenko’s name be removed from Schedule 1 is reasonable; the evidence relied on by the Minister amply supports the Minister’s belief and her decision. The Minister’s decision is based on a clear rationale and is justified by the facts and the law, including the goals of SEMA and the *Regulations*. The Minister considered Mr. Melnichenko’s acknowledgement of his role in the RSPP and his several regular meetings with government officials and President Putin, in addition to his participation at the key meetings in February 2022 and March 2023. The Minister’s decision was also informed by extensive open-source information collected by GAC, including corporate websites and annual reports, photographs, reports from non-government organizations, and credible news sources.

JUDGMENT in file T-298-24

THIS COURT'S JUDGMENT is that:

1. The Application for Judicial Review is dismissed.
2. The Applicant shall pay the Respondent costs in the amount of \$5000 as agreed to by the parties.

"Catherine M. Kane"

Judge

ANNEX 1

The Special Economic Measures Act, SC 1992 c 17

3.1 The purpose of this Act is to enable the Government of Canada to take economic measures against certain persons in circumstances where an international organization of states or association of states of which Canada is a member calls on its members to do so, a grave breach of international peace and security has occurred, gross and systematic human rights violations have been committed in a foreign state or acts of significant corruption involving a national of a foreign state have been committed.

4 (1) The Governor in Council may, if the Governor in Council is of the opinion that any of the circumstances described in subsection (1.1) has occurred,

(a) make any orders or regulations with respect to the restriction or prohibition of any of the activities referred to in subsection (2) in relation to a foreign state that the Governor in Council considers necessary; and

(b) by order, cause to be seized or restrained in the manner set out in the order any property situated in Canada that is owned — or that is held or

3.1 La présente loi a pour objet de permettre au gouvernement du Canada de prendre des mesures économiques contre certaines personnes dans le cas où une organisation internationale d'États ou une association d'États dont le Canada est membre incite ses membres à prendre de telles mesures, une rupture sérieuse de la paix et de la sécurité internationales a eu lieu, des violations graves et systématiques des droits de la personne ont été commises dans un État étranger ou des actes de corruption à grande échelle impliquant un national d'un État étranger ont été commis.

4 (1) S'il juge que s'est produit l'un ou l'autre des faits prévus au paragraphe (1.1), le gouverneur en conseil peut :

a) prendre les décrets et règlements qu'il estime nécessaires concernant la restriction ou l'interdiction, à l'égard d'un État étranger, des activités énumérées au paragraphe (2);

b) par décret, faire saisir ou bloquer, de la façon prévue par le décret, tout bien qui se trouve au Canada et qui appartient à un État étranger ou

controlled, directly or indirectly — by a foreign state or a person who is identified in an order or regulation made under paragraph (1)(a).

à une personne visée par un décret ou un règlement pris en vertu de l'alinéa (1)a) ou tout bien qui est détenu ou contrôlé, même indirectement, par cet État ou cette personne.

(1.1) The circumstances referred to in subsection (1) are the following:

(1.1) Sont visés au paragraphe (1) les faits suivants :

(a) an international organization of states or association of states, of which Canada is a member, has made a decision or a recommendation or adopted a resolution calling on its members to take economic measures against a foreign state;

a) une organisation internationale d'États ou une association d'États, dont le Canada est membre, a pris une décision, adopté une résolution ou formulé une recommandation incitant ses membres à prendre des mesures économiques contre un État étranger;

(b) a grave breach of international peace and security has occurred that has resulted in or is likely to result in a serious international crisis;

b) une rupture sérieuse de la paix et de la sécurité internationales est susceptible d'entraîner ou a entraîné une grave crise internationale;

(c) gross and systematic human rights violations have been committed in a foreign state; or

c) des violations graves et systématiques des droits de la personne ont été commises dans un État étranger;

(d) a national of a foreign state who is either a foreign public official, within the meaning of section 2 of the Corruption of Foreign Public Officials Act, or an associate of such an official, is responsible for or complicit in ordering, controlling or otherwise directing acts of corruption — including bribery, the misappropriation of private or public assets for personal gain, the transfer of the proceeds of

d) un national d'un État étranger, qui est un agent public étranger, au sens de l'article 2 de la Loi sur la corruption d'agents publics étrangers ou une personne qui est associée à un tel agent, est responsable ou complice d'avoir ordonné, supervisé ou dirigé d'une façon quelconque des actes de corruption — notamment le versement de pots-de-vin, le détournement de biens publics ou privés pour

corruption to foreign states or any act of corruption related to expropriation, government contracts or the extraction of natural resources — which amount to acts of significant corruption when taking into consideration, among other things, their impact, the amounts involved, the foreign national's influence or position of authority or the complicity of the government of the foreign state in question in the acts.

son propre bénéfice, le transfert de produits de la corruption à l'extérieur de l'État étranger ou tout acte de corruption en matière d'expropriation ou visant des marchés publics ou l'extraction de ressources naturelles — qui constituent, compte tenu notamment de leurs effets, de l'importance des sommes en jeu, du degré d'influence ou de la position d'autorité du national ou du fait que le gouvernement de l'État étranger en cause en est complice, des actes de corruption à grande échelle.

(2) Orders and regulations may be made pursuant to paragraph (1)(a) with respect to the restriction or prohibition of any of the following activities, whether carried out in or outside Canada, in relation to a foreign state:

(2) Les activités qui peuvent être visées par les décrets et règlements d'application du présent article sont les suivantes, qu'elles se déroulent au Canada ou à l'étranger :

(a) any dealing by any person in Canada or Canadian outside Canada in any property, wherever situated, that is owned — or that is held or controlled, directly or indirectly — by that foreign state, any person in that foreign state, a national of that foreign state who does not ordinarily reside in Canada or a person outside Canada who is not Canadian;

a) toute opération effectuée par quiconque se trouvant au Canada ou par un Canadien se trouvant à l'étranger portant sur un bien, indépendamment de la situation de celui-ci, appartenant à l'État étranger visé, à une autre personne qui s'y trouve, à un de ses nationaux qui ne réside pas habituellement au Canada ou à une personne à l'étranger qui n'est pas un Canadien, ou détenu ou contrôlé, même indirectement, par lui;

(b) the exportation, sale, supply or shipment by any person in Canada or Canadian

b) toute opération, notamment exportation, vente, fourniture ou envoi, effectuée par

outside Canada of any goods wherever situated to that foreign state, any person in that foreign state or a person outside Canada who is not Canadian, or any other dealing by any person in Canada or Canadian outside Canada in any goods wherever situated destined for that foreign state, any person in that foreign state or a person outside Canada who is not Canadian;

quiconque se trouvant au Canada ou par un Canadien se trouvant à l'étranger portant sur des marchandises, indépendamment de leur situation, qui sont destinées à cet État, à une personne qui s'y trouve ou à une personne à l'étranger qui n'est pas un Canadien;

(c) the transfer, provision or communication by any person in Canada or Canadian outside Canada of any technical data to that foreign state, any person in that foreign state or a person outside Canada who is not Canadian;

c) le transfert, la fourniture ou la communication par quiconque se trouvant au Canada ou par un Canadien se trouvant à l'étranger de données techniques à cet État, à une personne qui s'y trouve ou à une personne à l'étranger qui n'est pas un Canadien;

(d) the importation, purchase, acquisition or shipment by any person in Canada or Canadian outside Canada of any goods that are exported, supplied or shipped from that foreign state after a date specified in the order or regulations, or any other dealing by any person in Canada or Canadian outside Canada in any such goods;

d) toute opération, notamment importation, achat, acquisition ou envoi, effectuée par quiconque se trouvant au Canada ou par un Canadien se trouvant à l'étranger portant sur des marchandises qui proviennent de cet État et qui en ont été exportées après la date que mentionne le décret ou le règlement;

(e) the provision or acquisition by any person in Canada or Canadian outside Canada of financial services or any other services to, from or for the benefit of or on the direction or order of that foreign state, any person in that foreign state or a person outside Canada who is not Canadian;

e) la prestation par quiconque se trouvant au Canada ou par un Canadien se trouvant à l'étranger de services, notamment de services financiers, envers cet État, une personne qui s'y trouve ou une personne à l'étranger qui n'est pas un Canadien, pour leur bénéfice ou en exécution d'une directive ou d'un ordre qu'ils

	ont donné ou l'acquisition de tels services auprès de ceux-ci;
(e.1) the transfer or provision by any person in Canada or Canadian outside Canada of property other than goods to that foreign state, any person in that foreign state, a national of that foreign state who does not ordinarily reside in Canada or a person outside Canada who is not Canadian;	e.1) le transfert ou la fourniture par quiconque se trouvant au Canada ou par un Canadien se trouvant à l'étranger de biens, autres que des marchandises, à cet État, à une personne qui s'y trouve, à un de ses nationaux qui ne réside pas habituellement au Canada ou à une personne à l'étranger qui n'est pas un Canadien;
(f) the docking in that foreign state of ships registered or licensed, or for which an identification number has been issued, pursuant to any Act of Parliament;	f) l'amarrage dans cet État étranger d'un navire immatriculé ou auquel un permis ou un numéro d'enregistrement a été accordé sous le régime d'une loi fédérale;
(g) the landing in that foreign state of aircraft registered in Canada or operated in connection with a Canadian air service licence;	g) l'atterrissage dans cet État étranger d'un aéronef immatriculé au Canada ou exploité au titre d'une licence canadienne de service aérien;
(h) the docking in or passage through Canada by ships registered in that foreign state or used, leased or chartered, in whole or in part, by or on behalf of or for the benefit of that foreign state, any person in that foreign state or a person outside Canada who is not Canadian; and	h) l'amarrage au Canada des navires immatriculés dans cet État étranger ou utilisés, affrétés ou loués, en totalité ou en partie, par lui, une personne qui s'y trouve ou une personne à l'étranger qui n'est pas un Canadien, en leur nom ou pour leur bénéfice, ainsi que le passage au Canada de ces navires;
(i) the landing in or flight over Canada by aircraft registered in that foreign state or used, leased or chartered, in whole or in part, by or on behalf of or for the benefit of that foreign	i) l'atterrissage au Canada des aéronefs immatriculés dans cet État étranger ou utilisés, affrétés ou loués, en totalité ou en partie, par lui, une personne qui s'y trouve ou une personne

state, any person in that foreign state or a person outside Canada who is not Canadian.

à l'étranger qui n'est pas un Canadien, en leur nom ou pour leur bénéfice, ainsi que le survol du Canada par ces aéronefs.

Special Economic Measures (Russia) Regulations, SOR/2014-58

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 who has 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 in Ukraine;

a) une personne s'étant livrée 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 à une telle violation ou tentative ou qui entravent le travail d'organisations internationales en Ukraine;

(a) a person who has 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 in Ukraine;

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);
(e) an entity owned, held or controlled, directly or indirectly, by a person referred to in any of paragraphs (a) to (d) or acting on behalf of or at the direction of such a person;	e) une entité appartenant à une personne visée à l'un des alinéas a) à d) ou détenue ou contrôlée, même indirectement, par elle ou pour son compte ou suivant ses instructions;
(f) an entity owned, held or controlled, directly or indirectly, by Russia or acting on behalf of or at the direction of Russia; or	f) une entité appartenant à la Russie ou détenue ou contrôlée, même indirectement, par elle ou pour son compte ou suivant ses instructions;
(g) a current or former senior official of an entity referred to in paragraph (a), (a.1), (e) or (f).	g) un cadre supérieur ou un ancien cadre supérieur d'une entité visée aux alinéas a), a.1), e) ou f).
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	b) de conclure, directement ou indirectement, une transaction relativement à une opération visée à l'alinéa a) ou d'en

referred to in paragraph (a);	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.

Section 8 of the Regulations sets out the process.

Application to no longer be listed

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 to the Governor in Council that the applicant's name be removed from Schedule 1, 2 or 3.

Decision

Demande de radiation

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) 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]

(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.

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-298-24

STYLE OF CAUSE: ANDREY IGOREVICH MELNICHENKO v THE
MINISTER OF FOREIGN AFFAIRS AND THE
ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

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JUDGMENT AND REASONS: KANE J.

DATED: JULY 3, 2025

APPEARANCES:

Scott Hutchison
Maya Borooah
Erik Arsenault

FOR THE APPLICANT

Marilyn Venney
Margaret Cormack

FOR THE RESPONDENTS

SOLICITORS OF RECORD:

HENEIN HUTCHISON
ROBITAILLE LLP
Barristers and Solicitors
Toronto, Ontario

FOR THE APPLICANT

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENTS