



Neutral Citation Number: [2026] EWHC 1188 (Admin)

Case No: AC-2024-LON-002593

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18 May 2026

Before :

THE HONOURABLE MR JUSTICE SAINI

Between :

SARVAR ISMAILOV (No.2)

Claimant

- and -

**SECRETARY OF STATE FOR FOREIGN,
COMMONWEALTH AND DEVELOPMENT
AFFAIRS**

Defendant

Hugo Keith KC and Rachel Scott KC (instructed by Gherson) for the Claimant
Jason Pobjoy KC, Tom Leary and Ava Mayer (instructed by Government Legal
Department) for the Defendant

Hearing dates: 6-7 May 2026

Approved Judgment

This judgment was handed down remotely at 5pm on 18 May 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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THE HONOURABLE MR JUSTICE SAINI

Mr Justice Saini:

This judgment is in 12 main parts as follows:

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V.	Ground 1: legality and proportionality of the criterion	paras. [78]-[101].
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I. Overview

1. This is a challenge to economic sanctions imposed by His Majesty's Government (HMG) on the Claimant, Sarvar Ismailov. These sanctions include an asset freeze with far-reaching financial and personal consequences for the Claimant and his family. It is common ground that these sanctions are of a draconian nature. Until shortly before the Claimant was designated for sanctions on 26 July 2022, the Claimant and his young family were resident in the UK, which was their permanent home. The Claimant has lived in the UK since he was 13 years of age and has developed strong and substantial personal and business connections with this country.
2. The Claimant became liable in 2022 to be designated for UK sanctions because he is the nephew of Alisher Usmanov ("Mr Usmanov"). Mr Usmanov is an Uzbek-Russian billionaire said to be closely associated with President Vladimir Putin. The legislative changes which brought the Claimant into the scope of the UK sanctions regime on the basis of such a family relationship are the focus of this case.
3. HMG's sanctions regime as regards Russia is a response to the illegal annexation by Russia of Crimea and Sevastopol in 2014, and the subsequent campaign of destabilising Ukraine and undermining Ukrainian sovereignty, including supporting separatist destabilisation in the Donbas and, in 2022, an illegal invasion of Ukraine. The sanctions are intended to increase pressure on Russia to stop its actions and change its policies by inflicting cost at scale, undermining Russia's war effort, and providing strategic support to Ukraine. The Claimant's uncle, Mr Usmanov, was himself designated for sanctions on 3 March 2022 as a person that HMG considers to have been involved in actions to destabilise Ukraine, in support of Russia. It is important that I record at the outset that there is no suggestion that the Claimant has been involved in such conduct.
4. This is my judgment on the Claimant's application for statutory review of the Secretary of State's decision to maintain his designation. The application is made pursuant to the Claimant's rights under section 38(1) of the [Sanctions and Anti-Money Laundering Act 2018](#) ("SAML A"). The Claimant was designated by an official acting under the authority of the Defendant, the Secretary of State for Foreign, Commonwealth and Development

Affairs (“the Secretary of State”), on 26 July 2022 under regulation 6(2)(d) of the Russia (Sanctions) (EU Exit) Regulations 2019 (“the Russia Regulations”). In the language of that legislation, the Claimant was designated on the basis that the Secretary of State had reasonable grounds to suspect that he was an “*involved person*”. An “*involved person*” includes, as far as presently relevant, a person “*associated with*” a person who is or has been involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine.

5. As I describe further below, by amendments to the Russia Regulations introduced on 18 July 2022, shortly before the Claimant’s designation, the meaning of “*associated with*” was amended to include “*being an immediate family member of that person*”: see regulation 6(6)(b) of the Russia Regulations, as amended. Additionally, regulation 6(7) was amended to provide that: “*“immediate family member” means—(a) a wife or husband; (b) a civil partner; (c) a parent or step-parent; (d) a child or step-child; (e) a sibling or step-sibling; (f) a niece or nephew; (g) an aunt or uncle; (h) a grandparent; (i) a grandchild*”. I will use the shorthand “the family designation criterion” as reference to these provisions below.
6. On 19 September 2023, following a request for review under section 23 of SAMLA, the Secretary of State decided to maintain the Claimant’s designation. It is important to underline at the outset that within the statutory scheme it is *only* this decision to maintain the designation and not the original designation decision which can be challenged.
7. The Claimant has challenged the maintenance decision under seven grounds. I will address each of those grounds below but have re-ordered them in what I consider to be a more logical structure, and to avoid repeating evidence. In particular, it appears to me to be appropriate to first deal with the grounds which concern challenges to the legislation which brought in the family association criterion, and then separately to address the merits of the decision to maintain the designation (on proportionality, rationality, arbitrariness and PSED grounds, which are more evidence-based).
8. Hugo Keith KC and Rachel Scott KC, for the Claimant, argued that the introduction of the family designation criterion in the Russia Regulations was in breach of the principle of legality and disproportionate (Ground 1), and was *ultra vires* (Ground 2). These are, as I said at the hearing, in effect forms of macro-challenges to the legislation, and do not concern the particular facts of the Claimant’s case. As for the decision to maintain his designation, it was argued that it was unlawful because it was not made by the Secretary of State personally (Ground 3), that it was disproportionate (Ground 4), that it was irrational (Ground 5), that it was arbitrary (Ground 6), and that it breached the Public Sector Equality Duty (“the PSED”) under section 149 of the Equality Act 2010 (Ground 7).
9. Jason Pobjoy KC, Tom Leary and Ava Mayer, for the Secretary of State, submitted in summary that the principle of legality is not a free-standing ground of review, nor are the family designation criteria disproportionate (Ground 1), and the Regulations as amended to include the family designation criterion are not *ultra vires* (Ground 2). They further argued that the Secretary of State was not required personally to take the designation decision and the Carltona principle applied (Ground 3), that on the facts the decision to maintain the Claimant’s designation was proportionate (Ground 4), rational (Ground 5) and not arbitrary (Ground 6). Finally, they say there was no breach of the PSED and the Claimant is in any event outside its territorial scope because he was outside the UK when the decisions to designate him and to maintain his designation were made (Ground 7).

10. All Counsel, silks and juniors, made excellent oral submissions and I will set out below how they divided the issues between themselves. I am very grateful for the assistance they gave me and for their concise and focussed oral presentations in a document heavy case, and with a large number of authorities.
11. On the subject of case law, there have been a number of decisions in relation to sanctions challenges and in particular, the interaction of the SAMLA regime with the obligations of the Secretary of State under the Human Rights Act 1998 (“the HRA 1998”). I will need to refer to some of these cases in detail and for convenience I will identify those decisions (and my shorthand references) at the outset. The cases are follows: Anzhelika Khan v Secretary of State for Foreign, Commonwealth and Development Affairs [2024] EWHC 361 (Admin) (“Khan HC”); Anzhelika Khan v Secretary of State for Foreign, Commonwealth and Development Affairs [2025] EWCA Civ 41 (“Khan CA”); Shvidler v Secretary of State for Foreign and Commonwealth Affairs [2025] UKSC 30 (“Shvidler”); Dana Astra IOOO v Secretary of State for Foreign, Commonwealth and Development Affairs [2025] EWHC 289 (Admin) (“Dana HC”); and Dana Astra IOOO v Secretary of State for Foreign, Commonwealth and Development Affairs [2026] EWCA Civ 160 (“Dana CA”).
12. The Shvidler case is a particularly important and recent decision, and I will summarise the main aspects of that decision which are relevant in **Section III** below, before addressing the facts, I will also provide hyperlinked references to the relevant legislation, as opposed to providing detailed quotations.

II. Legal Framework

SAMLA

13. Following the UK’s departure from the EU, sanctions were given effect in domestic law by [SAMLA](#) and regulations made pursuant to it. Section 1(1) of SAMLA confers on the Secretary of State the power to “*make sanctions regulations*” for the purposes prescribed in section 1(2). At the risk of stating the obvious, SAMLA is not concerned only with sanctions in relation to Russia: it covers sanctions which advance a wide range of identified UK national and international policy purposes, and is not confined to sanctions relating to any particular country. Those purposes include, by section 1(2)(c), “*the interests of international peace and security*” and, by section 1(2)(d), the furtherance of “*a foreign policy objective of the government of the United Kingdom*”. Section 1(3) provides that regulations under this section must state the purpose of the regulations, and any purpose stated must be: (a) compliance with a UN obligation or other international obligation, or (b) a particular purpose that is within subsection 1(2).
14. Section 11 of SAMLA applies to regulations made under section 1 which authorise the Secretary of State to designate persons by name (section 11(1)). The regulations must provide that under what is called the “*standard procedure*” the Secretary of State cannot designate a person by name unless the Secretary of State “*has reasonable grounds to suspect*” that the person is an “*involved person*” (s.11(2)-(2A)). Section 11(3) of SAMLA requires the relevant regulations to define “*an involved person*” in accordance with the definition of that term in this section. That definition includes a person who “*is a member of, or associated with, a person who is or has been so involved*” (s.11(3)(d)). Section 11(6)(b) provides that regulations may make provision, amongst other things, as to the meaning of being so “*associated*”. Regulations must also require that, on designation under

the standard procedure, the designated person is given “*a brief statement of the matters that [the Secretary of State] knows, or has reasonable grounds to suspect, in relation to that person*” which have led to the designation (ss.11(7)-11(8)).

15. Section 22 of SAMLA gives the Secretary of State power to vary or revoke a designation made under regulations. Section 23(1) gives a person a right to ask the Secretary of State to vary or revoke a designation. This is the right which was invoked by the Claimant in the present case and the Secretary of State’s refusal to revoke the designation is the subject of the review before me under section 38(1) of SAMLA: see [24] below.
16. Section 45 provides that Section 1 includes a power, by further regulations under that section (“new regulations”) to: (a) revoke any regulations under that section, or (b) to amend any regulations under that section where the condition in subsection (2) below is met. That condition is that the Secretary of State in making the new regulations considers that the regulations being amended will, as amended, “*be sanctions regulations within the meaning given by section 1(5) that are appropriate for the purpose stated in them under section 1(3)*” (my underlined emphasis). I have set out the purposes at [13] above. This provision (and in particular the issue of appropriateness) and what the Secretary of State was entitled to do under section 45(2)(a) as a matter of *vires* is the subject of Ground 2.

The Russia Regulations

17. [The Russia Regulations](#) (as amended) are the central legislative instrument for the purposes of this case. They were made under Section 1 of SAMLA on 10 April 2019, laid before Parliament on 11 April 2019, and they came into force on 31 December 2020. Regulation 4 describes the purpose of the regulations as “*encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine*”. At the time the Russia Regulations were made, sections 1(4) and 2(4) of SAMLA required the Minister making the regulations to lay before Parliament a report explaining: why the purposes of the regulations met the conditions in section 1(2) SAMLA; why there were good reasons to pursue that purpose; and why sanctions were a reasonable course of action for that purpose.
18. Pursuant to those provisions, a report accompanying the Russia Regulations was laid before Parliament on 11 April 2019 (the “Statutory Report”). I was referred by Counsel to various parts of the Statutory Report:
 - (1) The Minister declared that the UK would “*continue to be a global leader on sanctions, based on the smart, targeted use of sanctions, as part of wider political and diplomatic strategies*” and would “*enhance its leadership role in developing robust evidence to support sanctions regimes and designations*” (§2).
 - (2) The Russia Regulations were “*intended to substantially deliver the same policy effects as the existing EU sanctions regime*” (§4).
 - (3) The Russia Regulations permit sanctions to be imposed not only on those directly involved in destabilising Ukraine but also on those who are “*associated*” with such a person (§5).
 - (4) The purpose of the regulations, specified in regulation 4, is “*to encourage Russia to cease actions destabilising Ukraine or undermining or threatening*

the territorial integrity, sovereignty and independence of Ukraine". That purpose satisfies the conditions in section 1(2) SAMLA, being in the interests of international peace and security (s.1(2)(c) SAMLA) and furthering a foreign policy objective of the UK Government (s.1(2)(d) SAMLA) (§7).

- (5) There are good reasons to pursue that purpose as follows: (i) "*changing borders illegally and by force is geopolitically destabilising*"; (ii) Russia's actions constitute a violation of a number of its international commitments; and (iii) to "*hold Russia to account for its actions in Ukraine, and to encourage a change in Russian behaviour towards Ukraine*" (§8).
- (6) Sanctions are a reasonable course of action because they are "*vital to put pressure on Russia to change its behaviour and policy toward Ukraine*"; "*can be used to change behaviour; constrain damaging action; or send a signal of condemnation*"; and will "*send a clear political signal intended to drive behavioural change by the Russian state as a whole towards Ukraine*" (§§9-12).
- (7) As to the purpose behind the imposition of financial and immigration sanctions on designated persons: "*These restrictions consist of an asset freeze (including a restriction on providing funds and economic resources) and a travel ban. These restrictions can only be imposed upon specified individuals and entities who meet the criteria set out in the Regulations, and at paragraph 5 above. This is in order to ensure that the sanctions are clearly targeted at those who are or have been involved in the destabilisation of Ukraine etc., and therefore fulfil the stated purpose of the sanctions. The intention is to apply pressure in order that the Government of Russia changes its behaviour, and to send a strong message that actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine will not be tolerated. Applying these restrictions to individuals involved in this destabilising activity is intended to both directly and indirectly bring about behaviour change in the Government of Russia*" (§13(a)).
- (8) The sanctions are not an end in themselves but one element of a broader strategy – alongside, *inter alia*, diplomatic measures, bilateral lobbying and lobbying through international frameworks – to achieve the UK's foreign policy goals to change the Russian Government's policy towards Ukraine (§14).

19.Regulation 5 of the Russia Regulations conferred a power on the Secretary of State to designate persons by name for the purposes of imposing sanctions. As at the time of the Claimant's original designation (on 26 July 2022) and the decision to maintain that designation (on 3 May 2024), regulation 6 defined the designation criteria.

20.Insofar as material, regulation 6 provided that:

- (1) The Secretary of State may not designate a person under regulation 5 unless the Secretary of State has "*reasonable grounds to suspect that the person is an involved person*" (reg 6(1)(a)).
- (2) An "*involved person*" means: (i) a person who is or has been involved in "*destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine*" (reg 6(2)(a)(i)); (ii) a person who is or has been involved in "*obtaining a benefit from or supporting the Government of Russia*" (reg 6(2)(a)(ii)), as further defined in reg 6(4); or (iii) a person who

- is “associated with, a person who is or has been so involved” (reg 6(2)(d)) (underlined emphasis added).
- (3) Being “*associated with*” a person includes “*being an immediate family member of that person*” (reg 6(6)(b)). By regulation 6(7), an “*immediate family member*” includes being “*a niece or nephew*”. This is the family association criterion which had the effect of bringing the Claimant within the scope of designation: Mr Usmanov is an “*involved person*” and the Claimant is “*associated with*” him by reason of being his nephew. This specific amendment to the Russian Regulations was introduced by the 13th Amendment Regulations which I set out in the next section below.
- (4) Being “*associated with*” a person also however includes “*obtaining a financial benefit or other material benefit from that person*” (reg 6(6)(a)). This was not the basis for the Claimant’s designation but I refer to it because it was relevant to Mrs Khan’s position in Khan CA, which I consider further at [90] below)

The mechanism for introducing the family designation criterion: the 13th Amendment Regulations and the widening of the pool of potential designees

21. This family association criterion for designation (the target of this claim) as set out in regulations 6(6)(b) and 6(7) of the Russia Regulations and which I have described above, was introduced into the Russia Regulations by way of amendment by the Russia (Sanctions) (EU Exit) (Amendment) (No.13) Regulations 2022 (“the [13th Amendment Regulations](#)”), which took effect from 18 July 2022.
22. The following was recorded on the face of these regulations: “*The Secretary of State, considering that the condition in section 45(2) of the Sanctions and Anti-Money Laundering Act 2018 is met, makes the following Regulations in exercise of the powers conferred by sections 1, 6(1) and (6), 7(1) and (8), 11(5), 11(6)(b), 15(2)(a), 16(1)(a) to (c) and (e), 45, 62(4) and (5) of that Act*” (footnotes omitted). As will be recalled, section 45(2) includes the condition that the amended regulations are “*appropriate*” for the purpose stated in them under section 1(3) of SAMLA.
23. The Explanatory Memorandum to the 13th Amendment Regulations included the following (with my underlined emphasis) that:

“7. Policy background

What is being done and why?

7.1 This instrument amends the 2019 Regulations to: broaden the designation criteria for which a person can be designated; introduce a humanitarian exception from trade sanction measures in the non-government controlled areas of Donetsk and Luhansk; expand upon the definition of “owned” in relations to ships and aircraft; and resolve issues arising from the 2019 Regulations and amendments made to them, including the correction of errors and omissions.

7.2 Following its illegal annexation of Crimea in 2014, Russia continued a pattern of aggressive action towards Ukraine until 24 February 2022 when it invaded Ukraine’s sovereign territory, announced by President Putin as a “special military operation”, and recognised the ‘Donetsk People’s Republic’ and ‘Luhansk People’s Republic’ as independent states and deployed Russian military to those regions.

7.3 The UK has called on Russia to cease its military activity, withdraw its forces from Ukraine and Crimea, end its support for the separatists, and fulfil its international commitments including under the 1975 Helsinki Final Act, the 2014 and 2015 Minsk Protocols and the 1994 Budapest memorandum. UK policy remains focused on ending the crisis in Ukraine and on assisting Ukraine to secure its borders against Russia's aggressive actions, ensuring a stable, prosperous and democratic future for all its citizens. The UK has been unwavering in its support for the country's territorial integrity and sovereignty.

7.4 These sanctions are part of a broader policy of measures which includes: diplomatic pressure; trade sanctions; economic and financial sanctions; and designations. Change will therefore be sought through diplomatic pressure, and other measures, supported by implementing sanctions in respect of actions undermining the territorial integrity, sovereignty and independence of Ukraine.

7.5 Part 2 of this instrument amends regulation 6 (designation criteria) of the 2019 regulations to (i) include additional activities for which a person may be designated, (ii) expand the scope of those involved in obtaining a benefit from or supporting the Government of Russia, and (iii) broaden the definition of 'associated with' to include specified immediate family members. "

The right to a court review: section 38(1) of SAML A

24. As I have noted above, a person who has been designated under a power contained in regulations made under [Section 1](#) of SAML A has a right to request that the designation be varied or revoked under section 23. Section 38(1) of SAML A provides a right to a Court review of the decision made following a request that the designation be varied or revoked under section 23 of SAML A. In determining such an application, the Court is to apply the principles applicable on an application for judicial review (section 38(4) of SAML A), and the Court may make any order or give any relief as it could in judicial review proceedings, subject to sections 39(1)-(4) of SAML A.
25. The Claimant relies upon [Section 7\(1\)](#) of the [HRA 1998](#). This provides, insofar as material, that a person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may rely on the European Convention on Human Rights ("ECHR") in any legal proceedings, provided he is (or would be) a "victim" of the unlawful acts. It is not in issue that the Claimant's designation interferes with his rights under Article [8 ECHR](#) (right to respect for private and family life), and [Article 1 of the First Protocol](#) (protection of property).
26. It is important to emphasise that a decision by the Secretary of State that there are reasonable grounds for concluding that a person is an "*involved person*" does not amount to a designation for sanctions. That is merely the first stage of a process which brings such a person within the *scope* of the sanctions regime as a *possible* candidate who may be designated. If the person is to be designated, a further stage must be undertaken by the Secretary of State in deciding whether on the facts concerning that particular person they are to be designated. The pool of "*involved*" persons is likely to be a substantial group and those who are in fact selected for designation will be a subset of that wider pool. That selection process and any decision by the Secretary of State to designate must satisfy a number of mandatory common law and legislative requirements, including HRA 1998 compliance.

III. Shvidler in the Supreme Court

27. I refer to Shvidler at this stage because the Supreme Court in that appeal set out the principles governing court review of designations made under SAMLA, including in particular the assessment of the proportionality of interferences with ECHR rights as they apply through the medium of the HRA 1998. I draw the following five propositions from the judgment of Lord Sales and Lady Rose (with whom Lord Reed and Lord Richards agreed).
28. First, in assessing the proportionality of sanctions measures, the court “*has to make its own assessment whether a measure is proportionate to a legitimate aim*”: [120]. The court’s function is “*not the conventional one in public law of reviewing the process by which a public authority reached its decision*” (*id*). However, “*in a challenge based on Convention rights under the HRA to action by a public authority, it is not accurate to say that the court becomes the primary decision-maker in the full sense of that term*”: [121]. The public authority “*decides on the action it will take, and hence is the primary decision-maker; but the court makes its own assessment whether such action is proportionate*” (*id*).
29. Second, this account “*explains how it is that, in the context of the proportionality assessment to be carried out by the court, there is room for appropriate respect and weight to be given to the views of the executive or the legislature as to how the balance between the interests of the individual and of the general community should be struck, depending on the nature of those respective interests*” [123].
30. Third, the Secretary of State has “*special constitutional responsibilities*” and “*superior institutional competence*” in relation to the conduct of foreign relations, including in respect of the imposition of sanctions: [127]. “*It is the executive government, as represented by the relevant Ministers, which has the democratic authority to take decisions in these areas, because it is important that those doing so should be responsible to the public for the effective protection of national security and for upholding the interests of the country in the conduct of international affairs*” [128].
31. Fourth, the executive also “*has superior institutional competence to make the relevant judgments regarding the possible impact of sanctions such as those in issue in these cases, since the Government has access to relevant experts and a wide range of information, some of which may be secret*” [129].
32. Fifth, for those reasons, the Secretary of State “*should be accorded a wide margin of appreciation*” in respect of her judgements about whether the objectives of sanctions measures are sufficiently important to justify the limitation of a fundamental right; whether there is a rational connection between the measures and those objectives; whether a less intrusive measure could have been used; and whether a fair balance has been struck between the relevant Convention rights of the individuals and others concerned and the interests of the community: [130].
33. Applying these principles to the facts before it, the Supreme Court held that the designation of Mr Shvidler (a British citizen who had been designated on the grounds of his association with Mr Roman Abramovich and his directorship of Evraz plc, a company operating in a sector of strategic significance to the Government of Russia) was proportionate: [224]. It also held to be proportionate, the Transport Secretary’s decision to detain a Russian- owned luxury yacht: [223].

34. As further explained by the Vice President of the Court of Appeal (Civil Division), Bean LJ recently in Dana CA at [107]:

"The facts of Shvidler are particularly striking. Mr Shvidler was a British citizen. The sanctions against him, including a worldwide freezing of his assets, were described by the Supreme Court (at [210]) as "severe and open-ended" and "obviously very drastic". Nevertheless the Court, by a majority of four to one, held that his designation was proportionate and lawful. They rejected an argument based on the supposed arbitrariness of designating Mr Shvidler but not other wealthy business persons connected with Russia; and also an argument in the Dalston Properties appeal that there was no rational connection between the detention of Mr Naumenko's yacht and the UK Government's aim of putting pressure on Russia...".

IV. The Facts

35. I will divide my summary of the facts below into four broad sections: (1) personal facts concerning the Claimant; (2) Alisher Usmanov's designation; (3) the Claimant's designation and (4) the Ministerial review. My summary is based on the written evidence and documents before me and what appears, on the skeletons at least, to be common ground. I will begin by describing the sources on which I base my summary.

36. The Claimant has provided statements dated 12 October 2023 ("Ismailov 1") and 18 December 2024 ("Ismailov 2"), in which he describes his personal history, the serious impact which the sanctions have had on him, and his family, both in the UK and in terms of the effect on them in their lives in Dubai. None of this is in dispute. Ismailov 1 was provided to the Secretary of State in relation to the Claimant's request for a review of his designation, and Ismailov 2 was served in support of the application before me (and in response to evidence on behalf of the Secretary of State).

37. The Claimant also relies on two expert reports from Dr Richard Connolly ("Dr Connolly"), dated 6 October 2023, and 10 December 2024, respectively. Dr Connolly is an expert in the Russian economy, business-state, relations, the financial, energy, and defence sectors, and the impact of sanctions on Russia. Although the Claimant has not obtained permission to rely on these reports as expert evidence within CPR 35.4, no objection has been taken to their admission. That may be because (at least as regards the first report) this evidence was part of the material before the Secretary of State in the request for a review of the designation. I have taken the evidence into account and I will provide a summary below.

38. The purpose of the reports is to support the submission made on behalf of the Claimant by Mr Keith KC that there is little evidence that the sanctions regime, or any specific components, such as sanctions on individuals, have encouraged President Putin or the Russian Government to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine. On the contrary, it is said by Dr Connolly that sanctions have, in fact, served to further confirm the general point that private business does not exert any significant influence over the Russian leadership.

39. On behalf of the Secretary of State, evidence has been served in the form of a witness statement dated 24 October 2024 from Esther Phoebe Blythe ("Blythe 1"). Ms Blythe is Deputy Director of the Sanctions Directorate and responsible for the development and delivery of the FCDO's sanctions policy including the review of designations, with a particular focus on sanctions related to Russia and Belarus. She has many years of

experience working on the diplomatic relationship between the United Kingdom and Russia, including through a posting as Second Secretary (Political) at the British Embassy in Moscow (2002-2006) and most recently, as Deputy Director Russia Policy (2019-2023) at the FCDO. Ms Blythe describes the basis for the designation, the review and maintenance of the designation and the FCDO's proportionality assessment and facts relied upon. Ms Blythe's evidence is based not only on her own knowledge but draws also upon information given to her by officials in the FCDO Sanctions Directorate and Eastern Europe and Central Asia Directorate.

40. The designation and review process involved a substantial amount of documentation (most of which is in the supplementary bundle) and I was taken to parts of it in the oral submissions of Mr Pobjoy KC. I will provide cross-references to the main documents, without detailed citation of text.

(1) The Claimant: personal

41. The Claimant was born in Tashkent, Uzbekistan, on 14 March 1995 (and is now aged 31). He has Uzbek, Cypriot and Russian nationality. He moved to the UK aged 13 and attended secondary school in Reading. He graduated in law from City University in 2017. The same year, he married, and set up home with his wife in London, applying for settled status (as a Cypriot national) on 13 August 2020. He purchased and renovated a residential property in the City. The couple have two children, born in 2018 and 2022. The Claimant is a longstanding supporter of Great Ormond Street Hospital, after his son had to undergo brain surgery there as a baby.

42. In January 2019, the Claimant began working as a Global Partnership Consultant with Everton Football Club. On 8 March 2020, he was promoted to the position of Sporting and Commercial Director of Everton Women's Team. During his tenure, the team reached the FA Cup Final and secured a record number of commercial deals. In July 2021, the Claimant was appointed to the board of directors of Everton FC, but was forced to step down from that role in November 2021, due to criminal charges which were brought against him. These charges were rapidly dismissed for lack of evidence.

43. The Claimant has never been resident in Russia and as an adult his home was in the UK. The Claimant says he has always regarded himself as a "*London boy*". It is common ground that he has no political profile or political connections in Russia, nor any personal or other relationship with, or close access to, President Putin or any other decision-makers within the Russian Government.

44. When the Claimant, along with 35 other persons, was designated on 26 July 2022, the then Foreign Secretary, Rt Hon Liz Truss MP, announced "*We will continue to impose harsh sanctions on those who are trying to legitimise Putin's illegal invasion until Ukraine prevails*". It is right that I identify however that there is no evidence before me that the Claimant has ever expressed any support for the Russian Government, or for its war in Ukraine. I am also not willing to infer such support from his silence on the latter subject. Mr Keith KC was right to submit that it would be unfair to draw adverse inferences against individuals who choose not to publicly denounce the war when doing so risks both exposing them to criminal sanctions under draconian Russian laws specifically aimed at silencing dissent and protest and/or placing them in physical danger.

45. As a result of the climate of anti-Russian hostility in early 2022 (to which the Claimant says he and his family were subject in London), and the increasing difficulties in getting access to funds to maintain their lives in the UK, the Claimant and his wife felt compelled to leave the UK in March 2022 on a temporary basis. The impact of his designation and the difficulties it has caused to the Claimant and his family have rendered their departure more permanent. They have not returned to the UK and have no immediate plans to come back.
46. I also accept that the Claimant and his family have suffered from the sanctions in the way the higher courts have recognised in a number of decisions. Indeed, Mr Pobjoy KC does not shirk from the fact that sanctions regimes of the type under which the Claimant has been designated are, in general terms, self-avowedly draconian and oppressive. He submitted that is the intention of such measures. The asset freezing provisions have been said in similar schemes to render individuals “*effectively prisoners of the state*”, with the impact of them being described as “*remorseless and devastating*”: Ahmed and others v Her Majesty’s Treasury (Justice intervening) (Nos 1 and 2) [2010] 2 A.C. 534 at [47] and [38]. As was recognised in Shvidler “[t]he people who can be subject to sanctions are not alleged to have committed any criminal offences or to have otherwise engaged in any wrongdoing either here or overseas”, yet the imposition of sanctions which are “*severe and open-ended*” can “*have a prolonged and potentially devastating effect on the individuals and their families*” (at [1] and [210]).

(2) Designation of Alisher Usmanov

47. The Claimant's uncle, Mr Usmanov, is a prominent Russian and Uzbek businessman and investor. It is not in issue that Mr Usmanov is an “*involved person*” within the meaning of regulation 6(2)(a)(ii) of the Russia Regulations for the reasons set out in Blythe 1, [59]-[61]. None of this is in dispute and I proceed on the basis that he has been lawfully designated. In summary, Mr Usmanov has the largest shareholding in a company USM Holdings, and he also owns the Kommersant publishing house. USM Holdings via another company, Metalloinvest, has been a prominent entity in the Russian extractives industry since 1999. His designation is intended to deter other entities, like USM, from continuing to operate and invest in a sector of strategic significance to the Government of Russia. As Ms Blythe explains, in time, this may degrade investment in Russia’s extractives sector. Kommersant has occupied a prominent role in the Russian information, communication and digital technologies sector since 1989. Mr Usmanov acquired Kommersant in 2006. The Secretary of State considers the deterrence effect of sanctions is particularly relevant in the case of Kommersant due to the importance to the Russian state of the information, communication and digital technologies services sector, where the Government of Russia has clearly indicated its strategic interest in each of the three dimensions of the sector.

(3) Designation of the Claimant

48. The designation selection process commenced some months before the 13th Amendment Regulations provided a legal basis for the Claimant’s designation. On 31 March 2022, an FCDO email headed “*Oligarchs working group meeting*” was circulated with a ‘*list of targets*’ that was being worked on. The list included the Claimant, who was wrongly described as “*USMANOV cousin*”. On 1 April 2022 a further email appears to have wrongly described him as “*Usmanov’s sister*”. In a document dated 4 April 2022, the Claimant was named, and linked to Everton FC, under a heading ‘*EU Published Rationale for Sanctioning*’, although I understand that he has never in fact been sanctioned at the EU level.

49. On 9 May 2022, a public body emailed Daniel Drake (Head of the FCDO Sanctions Taskforce, Russia/Ukraine) with the subject “*Further proposals for UK sanctions*”. The public body made a “*proposal*” that the Claimant (and his brother) be sanctioned as “*the nephews of Alisher USMANOV and sons of Gulbakhor ISMAILOVA (also UK sanctioned)*”. It further contended that it would be “*impactive*” to “*coordinate further UK designations with*” announcements by an undisclosed “*partner*”. It attached what was described as a “*proposal*” and supporting “*evidence pack*”, comprising (i) the EU's published rationale for sanctioning Mr Usmanov and (ii) a summary of an article on the BBC website and an entry on the website of Everton Football Club, prefaced with the following introduction: “*Sarvar Ismailov may have benefited from USMANOV's wealth and influence in the UK. ISMAILOV is a director at EVERTON F.C. which USMANOV was widely reported as a significant financier and sponsor for the club. Sarvar ISMAILOV is a son of Gulbakhor ISMAILOVA.*”
50. I dealt with a disclosure application earlier in these proceedings in relation to this public body: see [72] below.
51. On 23 June 2022, a policy officer of the Defendant commented by internal email that the “*evidence pack*” submitted by the public body was “*limited, and limited information as to how he is connected to his uncle*”. The sender expressed the view that “*We would need to make these cases based on association with Usmanov, and I don't think simply them being his nephews is sufficient. We should ask the [‘public body’] for more information, both as to why they are interested in these two and more open source material. I will also ask [‘partner’]”*. The square brackets are redacted names.
52. On 6 July 2022 the Claimant's name was included on the “*reserves*” for a “*current long list*” of proposed Russia designations. He was described as the “*nephew of Alisher Usmanov and the son of Gulbakhor Ismailova, both designated*”. By 7 July 2022 the FCDO had decided to “*move Sarvar Ismailov up the prioritization for the next tranche*”. In an email dated 8 July 2022, the FCDO stated “*We'll bump up [redacted] other targets to our 26 July tranche. These are: ... Sarvar Ismailov, nephew of Alisher Usmanov and son of Gulbakhor Ismailova – both already designated*”. Emails between 11 July 2022 and 14 July 2022 in which the Claimant was referred to were headed “*25 July batch names*” .
53. On 18 July 2022, an FCDO email with the subject “*Lines on family links/oligarch associations*” was sent, referring to “*individuals mentioned in our meeting earlier*”. The message noted that the Claimant was to be “*designated under the new criteria – family relations of an involved person – should be coming into force later today*”.
54. This was a reference to the 13th Amendment Regulations which were indeed promulgated on 18 July 2022 and which, as I have described, widened the meaning of ‘*associated with*’ under regulation 6(2)(d) to include the family association criterion.
55. The 18 July 2022 email also made specific reference to the Claimant's “*public profile*” as being “*previously a director at Everton Football Club*”. That this was seen as important to the FCDO is underlined by other emails referring to the likely public and media interest, including a ‘*pen profile*’ apparently prepared for the press which tracked the wording of the 18 July email; and a “*media round up*” email, circulated two days after the Claimant's designation, which described as one of the “*key highlights*” the fact that “[*t*]he *Independent and Liverpool Echo made the link between the nephew and Everton Football Club*”.
56. The Claimant was designated under the standard procedure on 26 July 2022 by an official acting under the authority of the Secretary of State. A statement of reasons in relation to

his designation was published in the Consolidated List of Financial Sanctions Targets in the UK on the same day and the UK Sanctions List (the “Statement of Reasons”), which explained the basis for his designation as follows (I note the incorrect spelling of his first name):

“Savar ISMAILOV is an involved person under the Russia (Sanctions) (EU Exit) Regulations 2019 because ISMAILOV is related to an involved person. Specifically, ISMAILOV is the nephew of Alisher Usmanov, who was designated by the UK Government on 3 March 2022”.

57. The decision-making documents related to the designation on 22 July 2026 included a Sanctions Designation Form (“SDF”) and a Sanctions Designation Form Evidence Pack (“SDFE”), to which I was taken in submissions.

58. Ms Blythe explains in some detail through her evidence both the process of designation generally and as applied to the Claimant's case. I will provide a summary. The FCDO adopts a process under which a Minister approves a course of action before the final decision is taken by an official. This approach has been set up to ensure both that there is ministerial engagement, and that the final decision-maker can read and properly consider all of the documents relevant to the proposed designation. As Ms Blythe sets out, a Minister may not be able to consider all the documents relating to every designation under consideration, given the number of decisions that need to be taken and the time needed to review the supporting material including the original SDFs and SDFEs. Given the detail in the material before me, I am satisfied that this is plainly the only practical approach that can be taken. The Minister is provided with a summary of the proposed designation, including the rationale and the risks, so that the Minister can form a view on whether they agree with the FCDO officials’ recommendation that a person should be designated. If the Minister agrees with the recommendation, the matter proceeds to an official level decision. The final decision-maker receives copies of all relevant documents (including the SDF and SDFE), reviews and considers the underlying documents, and makes the final decision, which is recorded in email correspondence.

59. For completeness, I should record that the Claimant was also made subject to trust services sanctions, following a decision to vary his designation for this purpose on 21 March 2023. “Trust services” sanctions aim to prevent UK-based trust and company service providers offering their services to persons to enable them to reduce the impact of sanctions in the event that they become subject to them. In the context of the Russia regime, “trust services” is defined in regulation 18C(7) of the Russia Regulations. Regulation 18C of the Russia Regulations prohibit a person providing trust services to or for the benefit of a designated person. Trust services sanctions were applied to all persons designated for an asset freeze under the 2019 Regulations on 21 March 2023. The Defendant's evidence is that the imposition of trust services sanctions was considered necessary to ensure effective implementation of asset freezes and close a gap in the existing asset freeze regime that may have permitted UK trust services providers to provide trust services to designated persons in certain circumstances.

(4) Ministerial review

60. On 16 October 2023, the Claimant requested the revocation of his designation by way of Ministerial review under section 23(1)(b) of SAMLA. The request was accompanied by detailed supporting material, including Ismailov 1, and the first expert report dated 6 October 2023 prepared by Dr Connolly (to which I have made reference above). The

Claimant also provided additional documents relating to the impact of designation and a bundle of relevant media materials.

61. During the subsequent Ministerial review, officials from FCDO reviewed the bundle provided on behalf of the Claimant in support of his request for the revocation. They also reviewed the reasoning and evidence set out in the original SDF and accompanying SDFE. Research was conducted to ascertain whether any further evidence existed that might either support or undermine the decision to designate the Claimant: Blythe 1 at [45].

62. As a result of the FCDO's consideration of this material, as well as independent additional evidence-gathering by FCDO officials, the SDF and SDFE documents were amended. Officials produced an Administrative Review Form ("ARF") with substantial exhibits, summarising the details of the application, the grounds on which the Claimant requested the revocation of his designation, and officials' recommendations in relation to that request.

63. The ARF recorded that there were "business ties" between the Claimant and his uncle: *"Business related ties between USMANOV and ISMAILOV Usmanov underlined his desire to share his wealth and financially benefit his family in an interview with the Financial Times in 2020 when pressed on his USM empire succession plans (Exhibit 32): "I want to help my family and my management by giving them my shares... fifty per cent to family, fifty per cent to management, who deserve this, in my view... Everybody who today is in a high level of my management will participate". It is reasonable to suspect that there are close ties between ISMAILOV and USMANOV which include business relationships, given ISMAILOV's involvement with companies connected to USMANOV"*.

64. The ARF said that the objective of the designation of both the Claimant and Mr Usmanov was *"...encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial sovereignty or independence of Ukraine"*. The ARF set out in some detail the ways in which Mr Usmanov's designation was rationally connected to this objective. There is no issue in relation to that matter and indeed there is ample evidence that Mr Usmanov carries out a business of strategic importance to Russia and that he has close ties to President Putin.

65. As to how the designation of the Claimant as a family member of Mr Usmanov would further this objective, the ARF explained:

"Why ISMAILOV's designation is necessary to achieve the Section 1 objective: a. Designating ISMAILOV on this basis of his association with USMANOV will send a signal to ISMAILOV, others in his position and the wider international community that there are negative consequences to receiving a financial or other material benefit from persons involved in obtaining a benefit or supporting the Government of Russia. It also signals that associated persons bear some personal responsibility for the consequences of activities which have provided them (whether directly or indirectly) with financial or other material benefit. b. This will disincentivise ISMAILOV, from maintaining relationships with individuals who have carried on business in sectors of strategic significance to the Government of Russia, including USMANOV. c. The designation will disincentivise others from associating themselves in the future with USMANOV and other individuals who have or have had a prominent role in an entity carrying on business in sectors of strategic significance to the Government of Russia, in particular the extractives and information, communications and digital technologies sector. d. The

designation of ISMAILOV may encourage ISMAILOV to put pressure on USMANOV to oppose (publicly and/or as is more likely, in private) Russia's invasion of Ukraine. This may, in turn, encourage others to take a similar position. USMANOV has longstanding ties to the current Russian President Vladimir Putin and former Russian Prime Minister Dmitry Medvedev. USMANOV has been described as Putin's "favourite oligarch" (Exhibit 18). It is reasonable to assume USMANOV could hold influence with elites in Russia and be in a position to put pressure on the Government to Russia to cease its actions in respect of Ukraine. For example, in 2023, USMANOV and other Russian shareholders filed a court claim to remove foreign investors from USM (Exhibits 64 and 70). Following the court's decision, President Putin signed a decree to allow the action to move forward (Exhibits 65- 66, and 68). In July 2023, in a tacit approval of the activity of the Government of Russia, Metalloinvest announced they would be allocating a substantial sum of money (400 million rubles or roughly £3.4million as of April 2024) to restore areas of Belgorod that had been damaged due to the war (Exhibit 67). e. It will ensure that the asset freeze and trust services sanctions imposed on USMANOV have their intended effect and is therefore more likely to have the intended results set out above. USMANOV has a demonstrated history of moving assets from his name into trust structures in the name of family members, such as ISMAILOV's mother (Exhibits 7-8, 10, 45). There would therefore be a risk of sanctions circumvention (whether intended or unintended by USMANOV and/or ISMAILOV), which could mitigate the intended effect of the asset freeze and trust services sanctions imposed on USMANOV if ISMAILOV were not also subject to the same measures. f. The designation will encourage ISMAILOV to put pressure on Usmanov to distance himself from sectors of strategic significance to the Government of Russia. This will deter current and future activity and investment in sectors of strategic significance to the Government of Russia, thus depriving those sectors of capital. This deterrent effect is particularly relevant in the case of USMANOV given the sectors that is continuing business in. It is reasonable to assume that ISMAILOV is able to place pressure on USMANOV in the ways set out above given the extent of their relationship, which goes beyond kinship. Further, it is reasonable to suspect that ISMAILOV has benefitted from familial ties to USMANOV in recent years. Biographies in local media (Liverpool Echo and Liverpool World), published in 2021 when ISMAILOV was appointed to and stepped down from the Everton Board of Directors respectively show that, in or around 2017, ISMAILOV worked for My.com, and, in or around 2019, ISMAILOV worked for Metalloinvest (Exhibits 11-12). At the time ISMAILOV worked for either My.com or Metalloinvest, they were owned (either directly or indirectly) by USM (Exhibits 5, 14, 17, 20-21, 27, 29, 30, 33-36, and 69). Alongside his role at Metalloinvest, ISMAILOV worked as a global partnerships consultant at Everton Football Club for which USM, or companies owned by USM, were the largest sponsor (Exhibits 5-6, 12-13, 15, and 32-33). In 2020, ISMAILOV was promoted to be the Sporting and Commercial Director of Everton Women's Team and, in 2021, ISMAILOV was appointed to the Everton Football Club's Board of Directors as the Owner's Executive Representative (Exhibits 11-12 . Liverpool Echo quotes his colleagues at Everton FC commenting on ISMAILOV's 'extensive contacts across Europe' (Exhibit 11). ISMAILOV stepped down from both roles due to unrelated criminal allegations which have since been discontinued (Exhibits 1-2 and 72). We underscore that the criminal allegations do not form part of FCDO's consideration in this matter. These sources are relied upon merely to prove a familial relationship. Companies owned or controlled by USMANOV have been major corporate sponsors of Everton Football Club (Exhibits 5-6, 12-13, 15, and 32-33). This points to USMANOV having a connection to Everton Football Club, both before and after ISMAILOV took up his roles in either the Women's Team or Everton

FC. For these reasons and more broadly, the designation of ISMAILOV will amplify incentives the incentives on USMANOV and the impact of that designation”.

66. In relation to the submission for the Claimant that it had not been suggested that any transfers of assets had been made to the Claimant by Mr Usmanov, the ARF said:

"This is not relevant to the basis of ISMAILOV's designation but has been considered in relation to the proportionality of his designation. The FCDO has conducted a full proportionality assessment as set out in the amended SDF and considers that continued designation is proportionate. The FCDO notes that there are overlaps in ISMAILOV and USMANOV'S business interests. USM had significant sponsorship deals with Everton including when ISMAILOV was employed there. There are several reports questioning the extent of USMANOV'S involvement in Everton. ISMAILOV has acted as an advisor at USMANOV'S company Metalloinvest".

67. The ARF recommended that: (i) the existing designation be maintained; (ii) the additional measure of transport sanctions be imposed, and that the SDF be updated to reflect the imposition of trust services sanctions on 21 March 2023; and (iii) the Statement of Reasons and the SDF be amended for clarity, and be updated to reflect the additional evidence of the impact of the designation. A case closure meeting was held on 29 April 2024 to discuss the administrative review and its conclusions. At this meeting, it was agreed that officials would recommend to Ministers that the designation should be maintained (as varied). A submission reflecting that recommendation was provided to the relevant Ministers on 30 April 2024.

68. On 3 May 2024, that recommendation was endorsed by the relevant Ministers, subject to one additional clarificatory amendment making clear that the Claimant is the nephew of Mr Usmanov. The final decision to maintain the Claimant's designation as varied, and to impose the additional transport sanctions, was made by an FCDO official that same day.

69. The Statement of Reasons was updated to explain the basis for Mr Ismailov's designation and provided as follows (again misspelling his first name):

“Savar ISMAILOV (hereafter ISMAILOV) is an involved person under the Russia (Sanctions) (EU Exit) Regulations 2019 on the basis of the following ground: ISMAILOV is associated with a person who is or has been carrying on business in sectors of strategic significance to the Government of Russia, namely Alisher Burkhanovich Usmanov. ISMAILOV is the nephew of Alisher Burkhanovich Usmanov”.

70. There is rightly no complaint made on behalf of the Claimant about the procedural fairness of this review process, nor any suggestion that the officials engaged in it were acting in anything other than good faith, or for improper purposes. I have provided only a summary above, and that cannot do justice to the detail in the documents before me. Having been addressed in some detail on the documents by Mr Pobjoy KC, I am satisfied that the exercise was carefully conducted, with a high degree of professionalism, and with an open mind to the detailed submissions that had been advanced on the Claimant's behalf by his solicitor, Roger Gherson, who is an expert in the sanctions field. Detailed consideration was given to the impact of the designation on the Claimant and his family and in particular on ECHR rights. The process was anything but "capricious", as argued on the Claimant's behalf.

Proceedings are issued and the disclosure application

71. On 30 July 2024, the Claimant issued the present claim for review. By an Application Notice dated 7 November 2024, the Claimant sought an order under CPR r.79.11(5) and CPR 79.23 requiring the Secretary of State to file and serve further information regarding the grounds for contesting his claim, relating to the identity of the unidentified "*public body*" that had in May 2022 proposed to the FCDO that the Claimant be sanctioned (see [49] above).
72. I dismissed that application in a judgment dated 9 April 2025: [2025] EWHC 863 (Admin) ("[the Disclosure Judgment](#)"). I decided that neither of these procedural rules entitled the Claimant to the information sought. However, I also decided that the communication from the public body in question did not form any part of the decision-making process giving rise to the designation see: Disclosure Judgment at [26]. I proceed on that basis for the purposes of the hearing before me now and indeed nothing I have seen in the materials suggests my conclusion was wrong. As I said in the Disclosure Judgment, respective sanctions bodies of states regularly communicate with each other and with other public authorities to ensure sanctions can be most effective. There is nothing surprising or troubling in this. It is what one would expect.
73. The Claimant served an amended Statement of Facts and Grounds on 16 December 2025 and the Defendant served Amended Grounds of Response on 9 January 2026.
74. Before I turn to the first of the grounds, I will briefly summarise Dr Connolly's evidence, make some preliminary observations as to the utility of such evidence, and summarise what Ms Blythe says on behalf of the Defendant in relation to this evidence.

Dr Connolly's evidence

75. Dr Connolly's evidence in relation to the efficacy of sanctions is to the following effect:
- (a) There is some evidence that sanctions targeting Russia's trade and financial links with the outside world have exerted an observable impact on the performance of the economy. Where Western sanctions have achieved tangible if modest results, it has been due to the trade and finance restrictions placed on strategic sectors of the Russian economy.
 - (b) However, the strong fiscal stimulus, the imposition of capital controls, the shoring up of the banking sector and, above all, the rapid reorientation of trade to non-Western countries have meant that the Russian economy is suffering no immediate financial constraints as a result of sanctions.
 - (c) The single most important factor supporting the Russian authorities' efforts to stabilize the economy has been the huge growth in the surpluses on the trade and current accounts. Federal government revenues are at an all-time high, and military expenditure has ballooned. While sanctions at best can be said to have caused some short-term disruption to Russia's growth trajectory in 2022, and may potentially suppress growth rates in the future, the economy continues to function in a reasonably normal fashion.

- (d) Sanctions have had only a modest impact on the system of political economy in Russia and the key individuals within it. The system is not under threat from sanctions and remains intact.
- (e) There is little evidence that Mr Usmanov is politically influential, especially in the realm of foreign and security policy. While some degree of interaction with politicians is normal for any successful business figure in Russia, there is no evidence that he has shaped policy or is part of Putin's inner circle. There is nothing to suggest he was involved in policymaking towards Ukraine, whether before 2014, after 2014, or in relation to the invasion in February 2022. It is notable that Mr Usmanov is not mentioned in any of the major studies published in the last two decades that document the activities of the inner circle surrounding Putin.
- (f) There is no evidence that sanctions imposed on wealthy Russian individuals generally has or will cause President Putin to reverse his decision to go to war in Ukraine. Sanctions have, in fact, served to further confirm the general point that private business does not exert any significant influence over the Russian leadership. The State and individuals close to Putin, as before the war, remain preeminent in the economy. Indeed, sanctions targeting rich individuals were welcomed by the Kremlin.
- (g) By targeting individuals who may hold views inimical to those of the Kremlin, and who benefited from engagement with the global economy, Western sanctions have critically weakened one potential source of opposition to the war.
- (h) There is therefore little evidence that the sanctions regime "writ large", or any specific components, such as sanctions on individuals, have encouraged Putin or the Russian Government to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine. If anything, the imposition of sanctions has resulted in a strengthening 'rally round the flag' effect.
- (i) It is extremely unlikely that the designation of the Claimant will encourage individuals to distance themselves from family members that are allegedly complicit in supporting or benefiting from the Government of Russia. Designation is also unlikely to provide an incentive for Mr Usmanov to speak out against the Russian invasion of Ukraine, and also to influence the Kremlin to change its current approach. Not only is Mr Usmanov unlikely to have the ability to exercise such influence, but the act of 'speaking out' against the war carries substantial risk to his life and property. The same applies to the Claimant.
- (j) By contrast, the delisting of the Claimant would undermine one of the Kremlin's key arguments: that the West is at war with all of Russia. Instead, it would show that sanctions only target those with a material involvement in the war. As well as having the virtue of being more nuanced and fairer than the existing regime, such a strategy would open up the possibility of creating fissures between the regime and forces located outside the regime. Such a strategy might also incentivise others to explicitly oppose the war. Under the current regime, there is no such incentive because the majority of wealthy Russians are treated in the same way, regardless of the real strength of their purported links with the Kremlin.

- (k) Rather than sending a ‘strong political message’ to the real decisionmakers in Russia, the current sanctions regime inadvertently strengthens them by silencing one of the few sources of potential opposition and further increasing the State’s control over the economy. Finally, a blanket approach of the sort currently in place makes it easier for Putin to claim that the West’s sanctions are arbitrary, unjust, and designed solely to weaken Russia rather than only targeting those who are actively involved in, or support, the regime.

76. Dr Connolly’s reports are interesting and informative. I also accept that he is a person of undoubted expertise in his field. I was not however persuaded that they provided much assistance in determining the issues before me. Underlying Dr Connolly’s views is a threshold disagreement with UK policy (and indeed the policy of many states and institutions such as the EU) which seeks to pressurise Russia to change its behaviour in relation to Ukraine through the use of financial sanctions, including those imposed on individuals. Putting matters more crudely than Dr Connolly does, it seems to me that the substance of his reports is that sanctioning wealthy individuals associated with President Putin does not work as a lever. Whether that is right is classically a matter of diplomatic and foreign policy judgments, where many states (not just the UK) take a different view to Dr Connolly. That is why I was not attracted by Mr Keith KC’s submission that the expert evidence was in this case “uncontradicted”. This is not a matter for a binary approach but an area where a number of differing, equally legitimate, views can be taken as to how to deal through foreign and domestic policy, with Russia’s unlawful war of aggression against Ukraine.

77. In response to Dr Connolly’s reports, the Secretary of State says that the UK’s Russian sanctions regime is a fundamental component of its ongoing support for Ukraine and to deter and disrupt Russia’s illegal invasion. It is said that this regime is one part of the UK’s overall strategy of utilising non-military means as part of a global response, supported by partner and ally states, to impose pressure upon Russia to cease and desist with its continued invasion and annexation of Ukraine. Ms Blythe says in her statement that “... [i]t is the FCDO’s foreign policy assessment that the UK and global sanctions regimes are necessary and effective tools in hampering Russian aggression.” She also states that economists within the FCDO have advised that the UK is already seeing various effects upon Russia as a result of the global sanctions efforts thus far. This is said to include a reduction in Russia’s tax revenues from oil exports which is down 30% in 2023 in dollar terms based on data from the Russian Ministry of Finance. In July 2024, the IMF forecast that Russia’s growth is expected to lag behind other comparative states, growing at half the average growth of its emerging market peers in 2025. Further, Ms Blythe refers to the fact that President Putin at a meeting with the leadership of the Russian Ministry of Foreign Affairs in June 2024 stated that the removal of all Western sanctions was one of his pre-conditions for concluding a ceasefire with Ukraine. Reliance is placed on this fact in support of the Secretary of State’s case that the sanctions are viewed negatively by the regime and are having a negative effect. I will need to consider the Secretary of State’s evidence further below under the proportionality and rationality challenges, in relation to her reasons for designating the Claimant. I turn to the first of the grounds.

V. Ground 1: legality and proportionality of the family association criterion

78. Mr Keith KC made a wide-ranging and powerful set of arguments under this ground. His submissions were targeted at the creation of a new category of “*involved person*” in the

promulgation of the family association criterion by the 13th Amendment Regulations. Mr Keith KC's arguments had a number of distinct strands, and which invoke distinct public law principles. I will provide a broad overview (using the ordering Mr Keith KC and Ms Scott KC adopted in their written submissions) but with a focus on the particular points emphasised by Mr Keith KC in his oral submissions. Although the strands of the arguments are distinct there is a substantial overlap between the complaints.

79. First, Mr Keith KC submitted that rendering a person liable to designation because by “pure accident of birth” they happen to be an immediate family member of an “*involved person*”, offends the principle of “legality”. He forcefully argued that this was because it is liable to produce arbitrary and capricious outcomes and was a violation of legal certainty principles. Secondly, he submitted that this approach is disproportionate to the purpose sought to be achieved by the Secretary of State. In support of these twin submissions, Mr Keith KC relied on what he said was a well-established common law principle that subordinate legislation can be challenged in judicial review proceedings on any of the conventional grounds: R (Javed) v Secretary of State for the Home Department [2002] QB 129 (CA) (“Javed”), per Lord Phillips MR at [33]–[37]; [47]–[51]. He also relied on the principle that such legislation can be challenged on the basis that any interference with the ECHR does not meet the requirements of being “in accordance with the law,” necessary for some legitimate purpose and a proportionate means of achieving that purpose: In re Gallagher, R (P) v Secretary of State for Justice [2019] UKSC 3, [2020] AC 185 (“Gallagher”). Thirdly, he submitted that the approaches to legal certainty at common law and under the ECHR are materially similar in that laws should be sufficiently certain that a person can reasonably know, if necessary after taking advice, what they must do in regulating their affairs so as to comply with them: R (Pitt and Tyas) v General Pharmaceutical Council [2017] EWHC 809 (Admin), per Singh J at [49]–[50]. In this regard, Mr Keith KC focussed on the point that a measure must not confer a discretion so broad that its scope is in practice dependent on the will of those who apply it, rather than on the law itself; nor he argued should it be couched in terms so vague or so general as to produce substantially the same effect in practice. In particular, he submitted that a power whose exercise is dependent on the judgment of an official as to when, in what circumstances or against whom to apply it, must be sufficiently constrained by some legal rule governing the principles on which that decision is to be made: Gallagher at [17], and R (Bridges) v Chief Constable of South Wales Police [2020] EWCA Civ 1058 at [55]. He argued that if the measure does not have the “quality of law”, it will be incompatible with the ECHR right at issue, however legitimate its purpose.
80. In support of each of these various ways of putting Ground 1, in his oral submissions, Mr Keith KC emphasised that the vice lies in the breadth and nature of the family association criterion itself: that is because all family members satisfy it, yet there is no indication as to how the Secretary of State will select which individuals are to be designated in any given case. For that reason, he argued the scheme lacks any meaningful limiting principle. He underlined that the factors that will be taken into account when deciding *which* family members to designate under the scheme and which to spare, are entirely unforeseeable, inaccessible, unclear and uncertain. He originally relied on the fact that the Secretary of State has published no policy to explain how this general statutory discretion might be exercised but he properly withdrew that submission in the light of Shvidler (see [92] below).
81. Mr Keith KC said that given the family designation scheme operates without any requirement to demonstrate individual involvement or connection of the kind ordinarily associated with targeted sanctions measures, the family designation scheme fails the “*ab*

ante” test for proportionality, in that it is likely to give rise to an unjustified interference with Article 8 ECHR in all, or almost all, cases.

82. In his well-structured and measured submissions, Mr Pobjoy KC argued that the points made under Ground 1 conflate a number of distinct legal questions and are wrong in law. First, he submitted that insofar as the Claimant contends that the Russian Regulations offend the “principle of legality”, that does not provide a freestanding ground of judicial review: he said it is a principle of construction, which has no application where the statutory language is unambiguous and the statutory scheme incorporates several safeguards against arbitrariness. As I said in a note I sent to counsel in advance of the hearing, I was not sure that Mr Keith KC was invoking the public law legality principle under Ground 1, and I thought he was using the term “legality” in a different sense concerned with legal certainty in ECHR terms. Mr Keith KC confirmed this to be the case at the hearing.

83. Secondly, Mr Pobjoy KC argued that the “legality” complaint in this form was rejected in Khan CA and I am bound by that decision, which dealt with essentially the same argument now made by Mr Keith KC. As to the proportionality complaint, he also relied on this case as dispositive of the issue. He argued that, in any event, insofar as it is being alleged that the legislation gives rise to an unjustified Article 8 ECHR interference in all, or almost all cases, that is without merit, given the significant safeguards built into the scheme.

Analysis and conclusions on Ground 1

84. As I have said above, although presented under a single ground, I consider there to be in fact a number of distinct public law complaints underlying this ground which is a macro challenge to the lawfulness of the family association criterion *independently* of how it was applied in the Claimant's designation. I will separate the complaints out into the two categories I suggested to Mr Keith KC in the course of his reply submissions: (1) legality, and (2) proportionality of the family association criterion. He confirmed that he made no separate irrationality complaint but said the irrationality of the scheme would flow from his success on the other two arguments.

85. I begin by clarifying what I consider Mr Keith KC was not arguing in relation to the principle of legality. As I have said above, he was not relying on the principle of legality in the public law sense referred to in Mr Pobjoy KC's submissions (as a principle of construction) but what is sometimes called “legality” in the ECHR sense when describing the necessary “*quality*” of law in terms of legal certainty. For completeness, I will briefly address “public law legality” and will then consider “ECHR legality” in more detail.

Public law legality: a narrow principle of construction and no more

86. The public law principle of legality does not provide an independent ground for challenging subordinate legislation as unlawful. In relation to the scope of this principle and prior to the hearing, I drew to the attention of the parties the text of a speech given by Lord Sales to High Court Judges on 18 November 2025 ([linked here](#)). In the speech, Lord Sales provides a helpful summary of the scope and application of the public law principle of legality. As he explains, the ultimate justification for the principle of legality is that it is a “tool” for determining and properly following the intention of Parliament. I also referred Counsel to the illuminating discussion of the principle of legality by Singh LJ at [35]-[52] in his Public Law lecture, given at the London School of Economics on 11 March 2026 on [Substantive](#)

Principles of Administrative Law: Developments since 1987. As Singh LJ explains, it is a principle of statutory interpretation that general words in primary legislation will not be construed to confer power on the executive to infringe basic rights protected by the common law. So, the principle of legality in the public law sense is directed at seeking to ascertain the true intention of Parliament, as the basis for the interpretation of legislation. In short, it operates as a rule of construction under which general or ambiguous statutory language may be construed in a manner that preserves fundamental rights. The principle means not only that Parliament cannot itself override fundamental rights by general or ambiguous words, but also that it cannot confer on another body, by general or ambiguous words, the power to do so.

87. The only rights capable of engaging the principle of legality in this sense in this case are Article 8 ECHR and A1P1 ECHR. But even if the public law principle of legality was engaged it is of no assistance given the clear and unambiguous terms of the statutory scheme. Parliament has squarely confronted the possibility that designation might be made solely on grounds of association, but has expressly required subordinate legislation to provide for designation on that basis, and permitted subordinate legislation to further specify the scope of such association.

ECHR legality

88. In Gallagher at [14], Lord Sumption used the term “*legality*” not to describe the public law principle of construction I have referred to above, but rather to identify what it means for a provision to be “*in accordance with the law*” or to have the “*quality of law*” for ECHR purposes. See also Singh LJ’s observations at [96]-[98] in Khan CA where he underlined by reference to Gallagher that such a complaint relates to the “*characteristics*” of the legislation itself, and raises a binary question: either legislation has the “*quality of law*” or it does not - it is not a matter of degree. To answer that question, the court asks whether the relevant legislation satisfies certain minimum conditions of accessibility and foreseeability of consequences, essentially the requirement of legal certainty.

89. As I have summarised above, Mr Keith KC submitted that Regulations 6(2)(d), 6(6) and 6(7) are impermissibly unclear because they expose a person to designation solely on the basis of their association with an involved person, rather than individual conduct. That was said to have the consequence that no individual subject to the regulations can know how to regulate their affairs so as to avoid designation. This submission conflates two analytically distinct questions: first, whether the legislation is sufficiently clear and accessible for a person to know whether they fall within scope; and secondly, whether it is desirable to designate solely on the basis of association (including familial association), rather than individual conduct. The principle of legality in the ECHR sense speaks only to the first of these two questions.

90. As I have said above, Mr Pobjoy KC argues that this form of legality complaint was dismissed in Khan CA at [96]-[103], and he says I am bound by that case. Mr Keith KC seeks to distinguish Khan CA. He submits that the Court of Appeal in that case ruled that regulation 6(2)(d) met the legality and proportionality tests, but that judgment is not determinative of this ground of review in the form he puts his arguments before me. He said that Ms Khan was not sanctioned by application of the family designation criterion, which was not in force at the time of her designation. She was sanctioned as an “*associated person*” because she was said, in her capacity as German Khan’s wife, to have obtained a financial or other material benefit from him. He said she was not deemed to meet the

“*associated person*” test under regulation 6(2)(d) simply by virtue of being his wife. In any event, he said that the Claimant seeks a ruling on this ground, in order to preserve his position for the purposes of any appeal. I will approach matters by first considering whether there is merit in the argument on legality as a matter of principle, and will then address what was determined by Khan CA, and whether it binds me.

91. I have no hesitation in rejecting the submissions that Regulations 6(2)(d), 6(6)(b) or 6(7) are unclear or ambiguous such as to violate the principle of legality. The regulations plainly operate in a foreseeable manner and do not give the Secretary of State an unfettered discretion. So, they prescribe the specific circumstances in which a person may be designated on the basis of the family association criterion, and their scope and effect is clear. The fact that the “trigger” for designation is one of family association, rather than individual conduct, does not render the regulations obscure or unforeseeable: a person either is, or is not, the immediate family member of an involved person. In short, using the family association criterion is to act “*in accordance with the law*” and the impugned regulations do not fall foul of the requirement that they have the necessary “*quality of law*” to which Lord Sumption made reference in Gallagher at [17].

92. I also do not accept the original submission in writing for the Claimant (now withdrawn) that the Regulations are uncertain for want of published guidance or policy. I note that similar arguments have been rejected in a series of sanctions decisions. So, the Supreme Court in Shvidler at [222] held that the absence of a published policy on designation was “*a marker of a proportionate and tailored response, not the opposite*”. In Dana CA, it was similarly held at [64] that the argument “*goes nowhere*”, as there is no public law duty to have a policy.

93. Although I have rejected the legality argument on its merits, I consider Mr Pobjoy KC was right to submit that this legality complaint has been conclusively determined by the Court of Appeal in Khan CA. I am bound by the reasoning in that decision. I refer (without detailed citation) to the comprehensive rejection by Singh LJ of the submission in that appeal of what was called “Ground 2(a)” at [95]. That was a complaint that the discretion under rule 6(2)(d) of the Russian Regulations to designate a person merely “*associated with*” a designated person failed to meet the ECHR test of being “*in accordance with law*”.

94. Singh LJ at [100]-[102] rejected these submissions and approved the approach taken by Johnson J in Phillips v Secretary of State for Foreign and Commonwealth Affairs [2024] EWHC (Admin) 32 (“Phillips”). Johnson J said at [141]:

“The 2019 Regulations are published and thus readily accessible. They operate in a foreseeable manner. They do not give the Secretary of State anything remotely approaching an unfettered discretion. A person may not be designated unless the Secretary of State reasonably suspects that the person is an ‘involved person’: regulation 6(1). The test for being an ‘involved person’ is tightly defined. The circumstances in which the power of designation might be exercised are foreseeable to a degree that is reasonable. It is, in particular, foreseeable that a person who positively supports Russia’s propaganda war against Ukraine (for example, by parroting Russia’s propaganda narrative), rather than simply expressing an independent view which happens to align with Russia’s interests, might be subject to designation”.

95. In my judgment, this compelling reasoning of Johnson J, which has the endorsement of the Court of Appeal, applies with equal force to Mr Keith KC’s legality submission in relation

to the changes made by the 13th Amendment Regulations and the introduction of the family association criterion.

96.I also refer to the instructive analysis of Cockerill J in Khan HC at [109]-[116], which I respectfully adopt. In those paragraphs, Cockerill J addressed the complaint that the number of persons who may become “*involved persons*” (and thus liable to designation) was potentially vast when one considers not only those who are directly or indirectly involved in destabilising Ukraine or obtaining a benefit from providing support to the Government of Russia, but also those “*associated*” with such people. As in the case before me, this scheme was said to fall foul of the dictum of Lord Sumption at [17] in Gallagher. Cockerill J rejected that submission for reasons reflecting those given by Johnson J in Phillips.

97.As Singh LJ recognised in Khan CA at [101]-[103], and Cockerill J in Khan HC at [116], there are several safeguards in the applicable legislative scheme that guard against arbitrariness. Each of these points apply to the case before me. In particular: (a) the purpose of the Russia Regulations is explicitly prescribed, in clear and narrow terms: “*encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine*” (regulation 4(a)); (b) the power to designate a person may only be exercised for the narrowly drawn statutory purpose: Padfield [1968] AC 997 at 1030C (per Lord Reid); (c) the Russia Regulations were subject to the affirmative procedure, and, for the first three years of their operation, the Secretary of State was required to provide annual reports to Parliament on their operation: s.30 SAMLA; (d) a designation must be publicised, together with a statement of reasons: regulations 8(2)(b) and 8(6)(a)(ii); (e) the Secretary of State is obliged to withdraw a designation when it no longer fulfils its statutory purpose: section 22(3) SAMLA; (f) there is a system of exceptions (e.g., to allow payments to be made into a frozen account) under regulations 58-63 and a system of licences, whereby a designated person may seek authority to do anything which would otherwise be prohibited by a sanction, under regulations 64-68; (g) there is a right to request an administrative review of a designation under section 23 of SAMLA; (h) there is a right to challenge a designation before the court under section 38 SAMLA; (i) in making a designation decision, the Secretary of State owes a statutory duty not to act incompatibly with ECHR rights; and (j) it follows that any decision under the Regulations that interferes with qualified ECHR rights must be justified; in particular, the stringent four-part proportionality test must be satisfied before a person can be designated: Bank Mellat [2014] AC 700 at [74].

98.I return to Mr Keith KC's submission that Khan (CA) is not binding on me because Ms Khan was not sanctioned by application of the family designation criterion. As Mr Pobjoy KC correctly identified, Ms Khan was sanctioned not only on the “*benefit*” ground but also as an immediate family member: see Singh LJ at [24]. The fact that she was sanctioned on more than one ground (family relationship and benefit) was not essential to the dispositive reasoning of Singh LJ. I will need to return to Khan CA again below in relation to the proportionality challenge, which is the next subject.

Proportionality

99.Proportionality does not constitute a freestanding domestic basis for challenging subordinate legislation as unlawful: R (Keyu) v Secretary of State for Foreign and Commonwealth Affairs [2016] AC 1355. As fairly recognised by Mr Keith KC, the only route by which the Claimant can succeed on this sub-ground is by demonstrating that the Russia Regulations fail the so-called *ab ante* test for proportionality: that is, they are likely

to give rise to an unjustified interference with Article 8 ECHR in all, or almost all, cases. As Lord Reed explained in Christian Institute v Lord Advocate [2016] UKSC 51 at [88], a challenge to the validity of legislation on the basis of a lack of proportionality faces a high hurdle: “*if a legislative provision is capable of being operated in a manner which is compatible with Convention rights in that it will not give rise to an unjustified interference with Art 8 rights in all or almost all cases, the legislation itself will not be incompatible with Convention rights*”.

100. In my judgment, the proportionality challenge advanced by the Claimant under Ground 1 cannot overcome this hurdle. The Claimant’s basic case is contrary to the decision in Khan CA at [109]-[110]. Singh LJ’s conclusion was that regulation 6(2)(d), being the power to designate a person ‘associated with’ an involved person, was not in itself disproportionate. That conclusion was directed at the provision as a whole, rather than any particular species of association or the specific facts of Ms Khan’s case. In my judgment, obtaining a financial benefit (regulation 6(6)(a)) and being an immediate family member (regulation 6(6)(b)) are both simply particular instances of the same statutory concept. In any event, as I have said earlier, any exercise of the power to designate on the basis of familial association is subject to the safeguards, such that the regulations are plainly capable of being operated compatibly with Article 8 ECHR in all or almost all cases.

101. For these reasons, I reject Ground 1 in the various ways it is put.

VI. Ground 2: *ultra vires*

102. In its final form, as I understood Mr Keith KC’s submissions, there were two limbs to this Ground. The first limb is about a failure to meet a statutory precondition in section 45(2)(a) of SAMLA: I will call this “the appropriateness point”, and will describe it further below. The second limb is a novel form of *vires* argument on the following lines: because SAMLA was intended to replicate in UK law the state of EU law on Russian sanctions in the post-Brexit world, the 13th Amendment Regulation’s expansion of the term “*associated with*” to include familial connection was contrary to the purpose (and therefore scope) of the regulation making power under sections 11(3) and 11(6) of SAMLA. That is because EU law did not have such a wide meaning of “*associated with*”. I will call this “the EU constraint point”.

103. I should record that the second of these points does not appear in the Claimant’s Statement of Facts and Grounds (as amended) in support of the application before me.

The “appropriateness” point

104. Under the first limb, Mr Keith KC argued that the 13th Amendment Regulations are *ultra vires* because the legislative condition for the Minister’s exercise of power when approving them (as laid down by section 45(2)(a) of SAMLA) was not met because the Minister did not consider the “appropriateness” of the regulations for the purposes stated in them under section 1(3). Given they heralded what he called “a sea change” in the legislative landscape, there was said to be an even greater need for Ministers to consider the appropriateness of the amendments, but they failed to do so and have not evidenced such consideration. In this regard, Mr Keith KC pointed to the fact that they were approved by the relevant Minister, Rehman Chishti MP, pursuant to a submission prepared by the Sanctions Taskforce on 14 July 2022. The submission requested approval and signature the same day and the submission stated that no impact assessment had been produced (at [9]). Moreover, [7]-[8]

noted that the “appropriate” test was considered to be met when the Russia Regulations were first made on 10 April 2019. The submission went on to state: “The changes which will be made by the No. 13 Amendment Regulations are additional sanctions measures which aim to achieve the same purposes as the existing sanctions regime. Officials therefore consider that the 2019 Regulations will remain appropriate for their specified purposes, once amended, and recommend that the Minister considers this test to be met” (at [8]).

105. Mr Keith KC argued that this advice to the Minister impermissibly conflated the appropriateness of the (unchanged) purpose of the Russia Regulations with the (significantly changed) means by which that purpose was to be achieved, as introduced by the 13th Amendment Regulations and the family association criterion. He said, had the test of appropriateness properly been considered and applied, it seems unlikely the Minister could have been advised to find that it was met. That is because the submission went on to note (at [15]) that the amendments had been “*prepared at significant pace without time for the usual consideration*”. It further recorded that “[t]here is a significant risk that errors will have been made, despite every effort to avoid this, and/or that the Regulations may not achieve the desired policy effect. This could have serious adverse consequences given the nature of the powers involved”.

106. Mr Pobjoy KC's concise response to this first limb was that the legislative conditions for the Minister's exercise of power when approving the 13th Amendment Regulations, as provided by section 45(2)(a) SAMLA, were plainly satisfied when they were made. He relied on the records before me and what was recorded on the face of these regulations.

Analysis and conclusions on the appropriateness point

107. Section 45(2)(a) of SAMLA requires that, when amending regulations made under section 1, the appropriate Minister making the new regulations must “*consider[] that the regulations being amended will, as amended, be sanctions regulations within the meaning given by section 1(5) that are appropriate for the purpose stated in them under section 1(3)*”. So, applied to this case, the Minister had to be satisfied that the Russia Regulations as amended by the 13th Amendment Regulations: (i) remained “*sanctions regulations*” imposing the categories of sanctions set out in section 1(5) of SAMLA; and (ii) were appropriate for the purpose stated in regulation 4, namely, “*encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine*”. As I understood the submissions of Mr Keith KC, there is no dispute that the first of those conditions was met.

108. In my judgment, the second condition was also plainly met for the reasons given by Mr Pobjoy KC. The ministerial submission accompanying the draft 13th Amendment Regulations stated in express terms that the amendments: (i) were being made “*in response to Russia's invasion of Ukraine, announced by President Putin on 24 February 2022 as a “special military operation”*” ([5]); (ii) would “*broaden the definition of ‘associated with’ to include specified family members*” ([6]); and (iii) “*aim to achieve the same purposes as the existing sanctions regime*” ([8]). Accordingly, “*Officials therefore consider that the 2019 Regulations will remain appropriate for their specified purposes, once amended, and recommend that the Minister considers this test to be met*” (id.). The evidence before me is that the submission also enclosed (as Annex B) an explanatory memorandum which provided further information about the proposed amendment. This identified the amendments to the definition of “*association*” (at [7.5]) and noted that the amendments formed “*part of a broader policy of measures*” designed to encourage Russia to cease its

military activity in Ukraine (at [7.3]-[7.4]). Having been so advised, the Minister considered the 13th Amendment Regulations were appropriate for the purpose stated in regulation 4 of the Russia Regulations, as set out in the statutory instrument itself, which states on its face that: “*The Secretary of State, considering that the condition in section 45(2) of the Sanctions and Anti-Money Laundering Act 2018 is met, makes the following Regulations [...]*”.

109. Mr Keith KC’s criticism that the Defendant failed adequately to consider whether broadening the definition of “*associated with*” to include specified immediate family members was appropriate is based on a misunderstanding of the requirements of section 45(2)(a) SAMLA. The relevant question for the Minister was not whether the specific amendment proposed was appropriate for the relevant purpose, but whether the Russia Regulations as a whole, once amended, were so appropriate. As I have set out, the evidence is that the Minister received specific advice on that matter, and concluded that the amendments were appropriate for that stated purpose. I also do not accept the submission that the 13th Amendment Regulations are *ultra vires* because they were “rushed through” without apparent consideration of legality or proportionality, and without an impact assessment. Section 45(2)(a) imposes no such requirement: the statutory condition is simply that the Minister considers the amended regulations to be appropriate for their stated purpose. That condition was plainly satisfied. Limb 1 of Ground 2 fails.

The EU constraint point

110. The second limb of Ground 2 was as follows, but I record at the outset that I found it hard to follow this submission because, as expressed orally, it did not match what was said in the skeleton for the Claimant (where the focus was not on this form of *vires* argument but the appropriateness point I have addressed above). Indeed, the argument made at the hearing appeared in fact to have been disavowed (for now) in a footnote to Mr Keith KC’s skeleton argument which said: “*The Claimant reserves for argument at a later stage if applicable whether the 13th Amendment Regulations were ultra vires s.11(6)(d) of SAMLA, on the basis that the meaning of association in the statutory language which empowered the making of the 13th Amendment Regulations must be construed in a manner consistent with the CJEU case law cited above*”.

111. The way I describe this submission is based on how it was put by Mr Keith KC in his oral reply. He argued that Parliament’s intention as expressed in section 11(6) of SAMLA was that the words “*associated with*” were confined (at least as regards Russian sanctions) to what that term included under EU law at the time SAMLA was enacted. He said those words were drawn directly from the EU Council Decision 2014/145/CFSP and Council Regulation (EU) No 269/2014. The *vires* argument was based on the submission that the 13th Amendment Regulations represented a stark departure from the principle, said by Mr Keith KC to be firmly established in the jurisprudence of the Court of Justice of the European Union (“CJEU”), that there must be a “*sufficient link*” between the persons concerned by the restrictive measures and the country targeted. He relied on this regard on the decision in Pye Phyoy Tay Za v EU Council (C-376/10P, judgment 13 March 2012) at [63]-[67], and in particular [66] where the CJEU explained: “*The application of such measures to natural persons on the sole ground of their family connection with persons associated with the leaders of the third country concerned, irrespective of the personal conduct of such natural persons, is at variance with the Court’s case-law on Articles 60 EC and 301 EC*”. Mr Keith KC relied also (with regard specifically to the EU Russia Regulations) on Timchenko v EU Council (C-703/23) as the leading case on “*associated*

persons” in relation to immediate family members. The CJEU held that in order to be classified as “associated”, the person must “*have a link going beyond a mere family relationship*” [28], and it is necessary to establish “*the objective existence of two interrelated common interests*” [39].

112. Mr Keith KC added that were any further support needed to make his submissions on vires good, it is found in PJSC National Bank Trust and another v Mints and others [2023] EWCA Civ 1132 (“Mints”) at [189] where it was said that SAML A and the regulations made under it “*were intended by Parliament and the Government to continue the EU sanctions regime without any substantive change*”. He submitted that, although the UK Regulations as enacted do not simply replicate the EU regime but differ from it in terms of their language and complexity, “*the differences are to be explained as putting the same thing differently*” (Mints at [189]). His overall submission was that in their impact, the 13th Amendment Regulations were plainly at odds with the “*clear intention that the post-Brexit UK sanctions regime should maintain continuity with the 2014 EU Regulation and should not effect any substantive change*” (citing part of Mints at [193]). Mr Keith KC argued that Mints is binding authority for the proposition that in doing so Parliament did not intend to depart significantly from what had hitherto been the position in EU law that the terms “associated with” cannot apply to mere familial relationships.

113. Similarly, Mr Keith KC relied on the fact that the Explanatory Notes to the 13th Amendment Regulations record at [4] that the Russia Regulations “*replaced, with substantially the same effect, the previous EU Russia- and Ukraine-related sanctions regimes*”. For these reasons, Mr Keith KC argued that the Government should have amended section 11(6) of SAML A but in its eagerness to “get” the Claimant it overlooked the vital issue of the vires for the 13th Amendment Regulations.

114. Mr Pobjoy KC's answer to the EU constraint point was a simple one. He submitted that the fact that SAML A and the Russia Regulations were originally made in April 2019 to replicate the EU sanctions regime then in force does not mean that subsequent amendments must also conform to that regime.

Analysis and conclusions on the EU constraint point

115. In my judgment, Mr Pobjoy KC is plainly correct. Parliament enacted SAML A so that the United Kingdom could develop and maintain an independent sanctions policy, responsive to its own foreign policy objectives and the evolving international situation. It is correct that the immediate aim was to achieve continuity between the EU and UK regimes when the UK left the EU, but once that transposition was achieved, SAML A and the Russia Regulations constituted a freestanding domestic scheme. In my judgment, there is no basis for any requirement in law that later amendments to the regulations continue to mirror EU law, or are constrained thereby. Parliament's intention appears in the words it used in section 45(3) and no constraint appears in those words expressly or by way of necessary implication. I also do not consider that anything decided in the Mints case identifies such a constraint. That case was not dealing with the regulation making power under this section but a wholly unrelated issue of construction; and nothing in that case decided that the Minister's regulation making power under section 45(3), as regards Russian sanctions, was effectively preserved in aspic in the form of the relevant EU law as to the meaning of “associated with” at the time we left the EU.

116. Finally, there is an obvious oddity to the submission concerning a constraint. SAMLA is not confined to making sanctions concerning Russia but applies to sanction schemes generally such as that concerning Belarus and considered in Dana HC at [3]. The power to make and amend regulations defining "association" under section 11 of SAMLA cannot mean one thing for "Russian" cases and something else for sanctions concerning other countries.

117. It follows that I dismiss Ground 2 under both limbs.

VII. Ground 3: Carltona

118. This is a complaint about who has to make the decision to make or maintain a designation: must it be the Secretary of State personally or can it be a responsible official within the FCDO? Ms Scott KC argued that the decision to maintain the Claimant's designation under section 23 of SAMLA was unlawful because it was not considered by the Secretary of State personally. She argued a decision of this nature fell outside the scope of the well-known principle, derived from Carltona Ltd v Commissioners of Works [1943] 2 All ER 560 ("Carltona"). In her persuasive submissions, Ms Scott KC relied strongly on the judgment of Lord Kerr in Regina v Adams [2020] UKSC 19; [2020] 1 WLR 2077 ("Adams") at [26] where he explained, as a "provisional view", that there was no presumption that the principle applied and matters should be approached as a matter of "textual analysis" of the relevant legislation. Ms Scott KC took me in some detail to provisions of SAMLA and submitted that an application of the factors identified by Lord Kerr all pointed toward it being only the Secretary of State personally who was authorised to make a decision to maintain a designation.

119. Mr Leary responded to this ground on behalf of the Secretary of State. He rightly emphasised that this ground faces the preliminary difficulty that in Shvidler it was said at [138]:

“Also, as in *U3* (see para 46), the *Carltona* principle applies in relation to the measures in question in these appeals, so that decisions and judgments made and reasons formulated by civil servants on the Ministers' behalf have the same status as decisions, judgments and reasons of the Ministers themselves (*Carltona Ltd v Comrs of Works* [1943] 2 All ER 560). Accordingly, the reviews carried out and the reasons given by the Foreign Secretary's and the Transport Secretary's officials are, in law, reviews carried out and reasons given by those Ministers”.

120. It was also common ground that in the many SAMLA sanction designation decisions which have come before the courts, they have proceeded on the basis that the Carltona principle is engaged. It was however also common ground that the point was not the subject of any argument or contested in any of these cases, including Shvidler.

121. In his impressive submissions, Mr Leary helpfully took me through a series of cases beginning with the central passage in Carltona itself (see [122] below), and submitted that there was a “presumption” that the principle applied, underlining that the statements relied upon by Ms Scott KC from Adams were only Lord Kerr's provisional views. Mr Leary also addressed each of the specific factors identified by Lord Kerr and submitted that they came down in favour of the Secretary of State's position. He emphasised in particular the burden

that would be imposed on the Secretary of State if she had to make every decision: see Adams at [39].

Analysis and conclusions on Ground 4

122. The more detailed law relating to the Carltona principle is helpfully and accurately summarised in *De Smith's Judicial Review* (9th Edition) at [5-148]-[5-153] and I will not set it out. I will first consider Mr Leary's submission that there is some form of "presumption" that the principle applies.

123. As I have said above, the Carltona principle derives from the decision of that name and the observations made in the case by Lord Greene MR's p.563 as follows:

"In the, administration of government in this country the functions which are given to ministers (and constitutionally properly given to ministers because they are constitutionally responsible) are functions so multifarious that no minister could ever personally attend to them. To take the example of the present case no doubt there have been thousands of requisitions in this country by individual ministries. It cannot be supposed that this regulation meant that, in each case, the minister in person should direct his mind to the matter. The duties imposed upon ministers and the powers given to ministers are normally exercised under the authority of the ministers by responsible officials of the department. Public business could not be carried on if that were not the case. Constitutionally, the decision of such an official is, of course, the decision of the minister. The minister is responsible. It is he who must answer before Parliament for anything that his officials have done under his authority, and, if for an important matter he selected an official of such junior standing that he could not be expected competently to perform the work, the minister would have to answer for that in Parliament. The whole system of departmental organisation and administration is based on the view that ministers, being responsible to Parliament, will see that important duties are committed to experienced officials. If they do not do that, Parliament is the place where complaint must be made against them."

124. The principle was recognised by the Court of Appeal in Lewisham Borough Council v Roberts [1949] 2 KB 608 as being one of general application. As explained by Denning LJ at 824B-C in that case: "*I take it to be quite plain that when a Minister is entrusted with administrative, as distinct from legislative, functions he is entitled to act by any authorised official of his department. The Minister is not bound to give his mind to the matter personally. That is implicit in the modern machinery of government*". The principle has been described as a "*common law constitutional power capable of being negated or confined by express statutory provisions*": see R v Home Secretary, ex parte Oladehinde [1991] 1 AC 254 (CA), per Lord Donaldson of Lynton MR at 282B.

125. When that case reached the House of Lords (R v Secretary of State for the Home Department, ex p Oladehinde [1991] 1 AC 254) Lord Griffiths at page 303 (giving the leading speech) explained that "*It is well recognised that when a statute places a duty on a minister it may generally be exercised by a member of his department for whom he accepts responsibility: this is the Carltona principle. Parliament can of course limit the minister's power to devolve or delegate the decision and require him to exercise it in person*". More

recently, in *R (Bourgass) v Secretary of State for Justice* [2016] AC 384, Lord Reed said at [52] that “*It is also possible that the performance of statutory ministerial functions by officials, or by particular officials, may be inconsistent with the intention of Parliament as evinced by the relevant provisions. In such circumstances, the operation of the Carltona principle will be impliedly excluded or limited*”. *Bourgass* does not appear to have been cited in *Adams*.

126. It is fair to say this is a powerful line of authority which supports Mr Leary's submission that there is a presumption that the principle applies; and he was right to underline the contrary opinion of Lord Kerr in *Adams* was only expressed as a “*provisional view*”. I am not sure the word “presumption” is that helpful because it can carry too much legal baggage. I would prefer to say that as a starting point, one should proceed on the basis that officials can perform ministerial functions, but that starting point must yield to a clearly expressed contrary will expressed in the language in a statute. One adopts such a starting point for the commonsense reason identified by Lord Greene MR as long ago as 1948, and the proliferation since then of legislation which gives powers of decision to ministers only serves to underline why one needs to start from the position that officials should generally be entitled to make decisions on behalf of a minister who is responsible to Parliament.

127. However, putting aside any such starting point, or presumption, and looking at matters with a clean sheet, I respectfully consider the view expressed in *Shvidler* was correct. In my judgment, applying Lord Kerr's factors in *Adams*, responsible officials can within the SAML A scheme make decisions to maintain designations. Those three factors are: (i) the language of the provisions and the broader legislative framework; (ii) the nature of the power being exercised (including its scope and consequences) and (iii) (at [39]) whether not applying the principle would “*place an impossible burden on the Secretary of State.*”

128. First, the language of the relevant provisions does not in my judgment evince any intention that the Secretary of State must take the decision personally. I note that in the submissions on behalf of the Claimant reliance is placed on the references in SAML A and the Russia Regulations to “the Secretary of State”, either directly or using another defined term (such as “the Minister” or “the appropriate Minister”). Ms Scott KC argued that this represents a deliberate legislative choice to confine the powers to the Secretary of State. I disagree. The mere fact that Parliament has conferred powers on “the Minister” or “the appropriate Minister”, without more, provides no basis on which to contend that Parliament has expressly or impliedly excluded the operation of the *Carltona* principle. To the contrary, that is the ordinary case: a statutory function is conferred on a Secretary of State and, in the absence of any indication to the contrary, may lawfully be exercised by an authorised official of his department. It is also apparent from the framework of SAML A as a whole that Parliament did not intend the terms “the appropriate Minister” or “the Minister” to refer to actions which must be taken by the Secretary of State personally. I note, for example, section 10(3) of SAML A states that regulations must provide that “*where an appropriate Minister*” has made a designation or has varied or revoked a designation, “*that Minister must without delay take such steps as are reasonably practicable to inform the designated person of the designation, variation or revocation*”. It would follow from the Claimant's submission that after the Secretary of State has personally designated or varied a designation, he must personally take steps to inform that designated person. That odd result would obviously not have represented Parliament's intention.

129. Secondly, as to the nature of the power being exercised, I accept that designation decisions are clearly capable of having serious consequences for those affected. But this is only one

of several relevant factors in the analysis identified in Adams. It is certainly not the case that any power with significant consequences must be exercised personally by the Secretary of State. Many decisions with such consequences are made by the Government and such decisions are accepted as falling within the Carltona principle (for which the named decision maker remains legally and politically accountable). So, I note that in Oladehinde, the House of Lords held that the principle applied to a provisional decision to deport. That is a decision capable of having profound consequences for the individual and in many respects more severe than designation. In Shvidler, it was said that the Carltona principle applied to decisions taken under the sanctions regime, without suggesting that the gravity of those decisions (said to be “*severe and open-ended*” at [210]) required any different conclusion.

130. Thirdly, as to the burden placed on the Secretary of State, if the Carltona principle does not apply, I am satisfied that the burden placed on the Secretary of State would render the sanctions system effectively unworkable, as convincingly argued by Mr Leary. The Russia Regulations came into full effect on 31 December 2020. Since that time (and as at the date of Ms Blythe’s statement) the UK Government had placed: (i) asset freezes and travel bans under the Russia Regulations on a total of 1683 individuals; (ii) asset freezes on 340 entities (excluding subsidiaries); and (iii) shipping sanctions on 59 vessels (as at 18 October 2024). There are now 3252 designated persons under the Russia Regulations. As evidenced by the present case, a considerable amount of work goes into every designation under each regime. For the Secretary of State to consider each would be inimical to her ability to run her department: see Adams at [17]. I also note that there are an additional 36 UK sanctions regimes. There can be no principled basis upon which the Secretary of State should designate personally under one regime but not another, when all of those regimes are created under the same primary legislative framework.

131. For these reasons, I dismiss Ground 3.

VIII. Ground 4: proportionality of the decision to maintain the designation

132. Under this ground, Mr Keith KC first argued that the decision to maintain the Claimant’s designation violated his rights under Article 8 ECHR and his property rights under A1P1 ECHR, because the interference was not “in accordance with law”. Secondly, he said the decision was a disproportionate interference with the Claimant’s rights on the facts. In particular, Mr Keith KC strongly relied on the evidence of the Claimant, and Dr Connolly’s reports and underlined his submission that there was no rational connection between the measure and the aim; and that it would not advance the claimed purposes which were to cause a change in Russian behaviour. He said less intrusive measures could have been used and ultimately a fair balance had not been struck between the Claimant’s interests and the general rights of the community.

133. As to the first argument, Mr Pobjoy KC’s response was essentially a repetition of why he argued the standards of legal certainty had been met. As to the second argument, he submitted that the decision was plainly proportionate. He relied strongly on the approach in Shvidler (see Section III above) in which the Supreme Court emphasised the relevance of the institutional competence of the Secretary of State.

Analysis and conclusions on Ground 4

Was the interference “in accordance with law”?

134. I reject this complaint. There is no basis for any suggestion that the legal basis for designation (including the family designation criterion) lacks accessibility, foreseeability,

or adequate safeguards against arbitrariness. I have also already rejected the argument that the absence of published policy or guidance as to which immediate family members will be designated renders the scheme unlawful. I conclude that the interference with the Claimant's ECHR rights was plainly in accordance with law.

Was the interference proportionate?

135. I begin by referring to my summary in **Section III** above of the main propositions to be drawn from Shvidler. A few points of emphasis. I must make my *own* assessment as whether the sanctions measure is proportionate to a legitimate aim, although I do not thereby become the primary decision-maker. In performing that role, I must recognise that the Secretary of State holds special constitutional responsibilities and superior institutional competence in relation to the conduct of foreign relations and the imposition of sanctions, and should be accorded a wide margin of appreciation when determining whether the objectives of sanctions measures justify the limitation of a fundamental right.
136. In a proportionality analysis, four well known questions arise for decision (the four limbs under Bank Mellat). So, I have to determine: (1) whether the objective of the measure is sufficiently important to justify the limitation of a protected right (*legitimate objective*), (2) whether the measure is rationally connected to the objective (*rational connection*), (3) whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective (*less intrusive measure*), and (4) whether, balancing the severity of the measure's effects on the rights of the persons to whom it applies against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter (*fair balance*).
137. The Claimant does not challenge the Secretary of State's factual conclusion that there are "reasonable grounds to suspect" that he is an "involved person" within the statutory scheme (he accepts that Mr Usmanov is his uncle). That is relevant to the assessment of the public interest in the Claimant's designation and the balance to be struck between the interference with his ECHR rights, and the legitimate aims pursued by the designation. The general points in made in Dana HC at [71]-[73] apply in this case, and I will not repeat them.
138. As I understand his case, the Claimant accepts that the first of the four limbs identified in Bank Mellat is satisfied. I turn to my conclusions in relation to each of the remaining three limbs.
- Rational connection***
139. Although the Claimant accepts that the aim specified in regulation 4 of the Russia Regulations, namely "*encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine*", is a legitimate aim, Mr Keith KC nevertheless contended that maintaining the Claimant's designation is not rationally connected to that objective, because there is no good reason to believe that his designation is likely to make a real contribution to the objective of bringing the invasion of Ukraine to an end.
140. I agree with Mr Pobjoy KC that this submission misunderstands the second limb of Bank Mellat. The question is not whether the Claimant's designation will of itself bring the conflict to an end. Rather, the question is whether the measure is capable of contributing to the stated objective as part of the overall sanctions regime. The decision to maintain the designation of the Claimant is so capable, essentially for the reasons set out in Ms Blythe's evidence. She explains, and I accept, that in the light of the activities of Mr Usmanov in supporting Russia's actions in Ukraine (set out in some detail in Blythe 1 at [59]-[61]), the Claimant's designation furthers the purposes of the 2019 Regulations. The Claimant's

designation, and others like him who are “associated with” an involved person, makes an important contribution to the overall cumulative impact of sanctions and enhances pressure on Russia in respect of its actions in Ukraine.

141.I accept the following points as specific reasons in support of this contribution:

- (1) First, designating the Claimant for his association with Mr Usmanov sends a signal to the Claimant, other people in similar positions and the wider international community that there are negative consequences to associating with such persons as Mr Usmanov, who themselves obtain a benefit from and/or support the Government of Russia.
- (2) Second, the designation will incentivise the Claimant and others in similar positions to lobby and/or distance themselves from the involved person, thereby ceasing to derive benefit from, individuals, such as Mr Usmanov, who have or have had a prominent role, and/or have carried on business in sectors of strategic significance to the Government of Russia.
- (3) Third, it may also encourage the Claimant to exert pressure on Mr Usmanov to oppose (publicly and/or as is more likely, privately) Russia’s invasion of Ukraine. This may, in turn, encourage others in the Russian political elite to publicly and/or privately oppose the invasion leading to a positive cumulative effect in favour of the UK’s foreign policy goals towards Russia. It is not in issue that Mr Usmanov has longstanding ties with President Putin and Dmitry Medvedev. It is therefore reasonable to assume Mr Usmanov holds influence with elites in Russia and is likely to be in a position to put pressure on the Government of Russia to cease its actions in respect of Ukraine. The influence of Mr Usmanov and his connections with the Government of Russia can also be seen in the fact that, for example, in 2023, Mr Usmanov (among others) filed a court claim to remove foreign investors from USM. Following the court’s decision, President Putin signed a decree to allow the removal to proceed. Furthermore, in July 2023 Metalloinvest announced an allocation of 400 million Rubles (c. £3.4 million as at April 2024) to restore areas of Belgorod which had been damaged due to the war. The use of its funds in this way indicated tacit approval by Metalloinvest of the activities of the Government of Russia in relation to the war and it could be inferred that its involvement in this manner would enable it, and Mr Usmanov, to garner influence over the Government of Russia’s approach to the war.
- (4) Fourth, it will ensure that the asset freeze and trust services sanctions imposed on Mr Usmanov have their intended effect and is therefore more likely to have the results set out above. I accept the evidence that Mr Usmanov has a demonstrated history of moving assets in the name of family members, such as the Claimant’s mother (who is also a designated person). There would therefore be a risk of sanctions circumvention which could mitigate the intended effect of the sanctions imposed on Mr Usmanov if the Claimant were not also subject to the same measures. Designating those associated with sanctioned individuals is a critical part of preventing the circumvention of sanctions, where designated persons might otherwise attempt to transfer their assets and funds to family members. Ms Blythe identifies in her evidence reports from the multilateral Russian Elites, Proxies and Oligarchs Task Force, which identified various instances in which Russian elites transferred beneficial ownership to their children to retain control or transferred funds to family members, or to hide assets and allow them to exercise control through their proxies.
- (5) Fifth, it will encourage the Claimant to put pressure on Mr Usmanov to distance himself from sectors of strategic significance to the Government of Russia such

as the Russian extractives sector and the Russian information, communications and digital technologies sector. This will deter current and future activity thus depriving those sectors of capital. This deterrent effect is particularly relevant in the case of Mr Usmanov given the sectors in which he is carrying on business.

- (6) Sixth, the UK sanctions regime is not dependent upon any one particular sanction being of critical effect, rather the system is built around a cumulative mass of sanctions and other prohibitive measures which create pressure upon the Russian state, making it harder for it to continue its unlawful invasion and annexation of Ukraine's sovereign territory. Sanctions against associated persons are just one part of a broad package of restrictive measures intended to exert cumulative pressure on Russia, in alignment with measures imposed by the UK's international partners.

142. Ms Blythe says, and I accept, that it is reasonable to assume that the Claimant is able to exert pressure on Mr Usmanov in the ways set out above given their familial relationship. She also says it is reasonable to suspect that the Claimant has benefitted from these ties to Mr Usmanov in recent years, as set out in the Claimant's updated SDF. In my judgment, on the basis of this evidence, the decision to maintain the Claimant's designation was plainly connected with the statutory objective. I would add that there is no sensible basis on the facts of this case to distinguish the reasoning on this limb from that which applied in Khan CA or Shvidler.

A less intrusive measure

143. The question under this third part of the proportionality test "*is whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective*": Bank Mellat at [74]. In the evidence before me, express consideration was given by the Defendant as to whether a less intrusive measure could have been used, including non-sanction measures (such as expressing concern through diplomatic channels, or not applying sanctions). However, the conclusion was reached that "*these less restrictive measures would not be sufficient for, or would compromise the achievement of, the objective set out in the Russia Regulations*" : see the SDF at page 13 of 17.

144. Again, I consider that there is no basis to distinguish the present case from Shvidler, where it was held at [203] that: "*given the nature of the objective sought to be achieved by the SAMLA regime and the sanctions imposed under it in these cases, as explained above, it is clear that there was no less intrusive measure which could have been used which would not have compromised the achievement of that objective in an unacceptable way.*"

Fair balance

145. In assessing whether the sanctions imposed strike a "fair balance" between the individual rights of the Claimant (here, Article 8 ECHR and A1P1 ECHR) on the one hand, and the general community on the other, it is necessary to take account of the importance of the public policy objectives which the sanctions sought to achieve.

146. I am satisfied that a fair balance has been struck:

- (1) As explained in Blythe 1 at [61], Russia's invasion of Ukraine represents "*the most serious threat to European security and the international order since the end of the Second World War*". Against that background, the Secretary of State considers that the objective of encouraging the Government of Russia to cease its actions in Ukraine, by way of the imposition of targeted sanctions measures, is sufficiently important to justify the limitation of fundamental rights.

- (2) The Secretary of State has considered whether the Claimant's designation would contribute to the objective of encouraging the Government of Russia to cease or limit its actions in Ukraine and has concluded that it will.
- (3) The UK sanctions regime is built around cumulative sanctions and other prohibitive measures which create pressure upon the Russian state, making it harder for it to continue its unlawful invasion and annexation of Ukraine's sovereign territory: see Dana CA at [54]-[57]. Sanctions against associated persons are a key aspect of this wider approach.
- (4) Due consideration has been given to the potentially substantial impact of sanctions measures on the Claimant and his family. The updated SDF which recommended that the Secretary of State maintain his designation noted, in particular, that:

(i) “[...] *sanctions may have a serious impact on designated persons, particularly in relation to accessing assets within the UK*”. In this regard, the Claimant has several assets in the UK. The asset freeze proposed by the sanctions would interfere with those possessions, and therefore his A1P1 rights. However, the Claimant has indicated that his primary residence is in Dubai. The fact that he no longer resides in the UK, combined with the evidence of his high net worth, suggests that his circumstances are not severely affected to the point where he cannot meet his immediate needs.

(ii) “[...] *sanctions can have a serious impact on designated persons particularly in relation to their family and private life*”. In this regard, the Claimant has a substantial connection to the UK and a young family, such that the sanctions measures would interfere with his Article 8 and A1P1 ECHR rights. However, this impact is mitigated by his ability to reside in one of the three other countries of which he is a national.

- (5) Notwithstanding the serious interference with those rights, designation was considered to be proportionate to the objectives pursued, having regard to: (i) the importance of the overarching objective of the designation; (ii) the Secretary of State's judgment that less intrusive measures would unacceptably compromise the achievement of that objective; (iii) the temporary and reversible nature of the sanctions measures; (iv) the possibility of the Claimant obtaining licences to meet certain basic needs; and (v) the safeguards built into the statutory regime. I note that point (iv) was recognised in Shvidler at [212] as being of particular significance.

147. The core point, as noted in Shvidler at [213], is that “*sanctions often have to be severe and open-ended if they are to be effective*”. In light of the importance of the policy objective and the connection between the designation of the Claimant and that objective, I find that a fair balance has been struck. For the avoidance of any doubt, this is my assessment as opposed to a rationality assessment of the Secretary of State's conclusion. But I approach the proportionality analysis with regard to the Secretary of State's position, in accordance with the propositions I have drawn from Shvidler as set out in Section III above.

148. For these reasons, I dismiss Ground 4.

IX. Ground 5: irrationality of the decision to maintain the designation

149. This is a direct rationality challenge to the merits of the decision to designate the Claimant. Mr Keith KC was characteristically realistic in recognising the hurdle he had to overcome. In particular, he accepted that if the proportionality challenge failed (as it has under Ground 4), it would be difficult to succeed on a rationality basis. The focus of his arguments was on the fact that there is no evidence that the Claimant has any connection to, or any influence over, the current regime in Russia, or President Putin, or the Russian military. Mr Keith KC underlined in particular that there is no evidence that the Claimant has ever expressed any support for the Russian Government, or for its war in Ukraine. He emphasised that the Claimant is adamant that his own designation could not, and will not, force his hand to pressurise his uncle in order for him to pressurise, in turn, the Government of Russia and President Putin. The Claimant's uncle Mr Usmanov, is said to be an independent businessman who neither has been nor would be influenced by members of his family. It was forcefully submitted by Mr Keith KC that this was the case prior to the Claimant's designation, and has remained the case ever since. Strong reliance was again placed on Dr Connolly's expert evidence, which I have summarised above.

150. In criticising the evidence of the Secretary of State when compared to this expert evidence, Mr Keith KC relied on the powerful observations of Lord Leggatt in his dissent in Shvidler at [307]. It was said, invoking these observations, that the Secretary of State's position was based on "*no more than armchair theories*", which did not qualify for the weight undoubtedly due to evidence and argument which is the genuine product of institutional competence. Mr Keith KC fairly recognised that the majority in Shvidler did consider themselves bound to attach special weight to the judgements and assessments of the Defendant for reasons of institutional competence. He forcefully submitted however that the position in the present case is plainly distinguishable in light of the expert evidence available to the Court.

151. Mr Keith KC argued that the process by which the Claimant came to be selected to be designated was tainted by political and presentational considerations, as well as by the influence of the unnamed 'public body' which first proposed him as a target (a point I rejected in the Disclosure Judgment at [26]). He said that the chronology reveals that an intention had been formed to designate the Claimant simply for being his uncle's nephew, long before the legal grounds to do so were available; and no explanation has been given as to why he was chosen (it being a matter of record that there are other relatives of high-profile designated persons who have not been targeted in the same way). He submitted that the Defendant's post-hoc justifications for his designation are speculative, unevicenced and irrational.

152. In response, Mr Pobjoy KC argued that the decision to maintain the Claimant's designation was rational. Mr Pobjoy KC underlined that it was expressly acknowledged that the decision would have a significant impact on the Claimant but, on the material before her, it was open to the Secretary of State to decide to maintain his designation.

Analysis and conclusions on Ground 5

153. Applying conventional public law standards, I am satisfied that the decision to maintain the designation was open to the Secretary of State as a matter of rationality. The evidence shows that those involved in this process reviewed a wide range of material before coming to their conclusions and acted with care and professionalism. This was clearly a decision which had a political, presentational and signalling aspect, as all sanctions decisions do, but that did not make it irrational. Those are all legitimate factors in a decision of the present type.

154. I begin by recognising that a wide margin of appreciation is appropriate in this context. Decisions concerning the imposition of sanctions upon individuals necessarily involve the exercise of evaluative judgment across a range of sensitive and often interlocking considerations, including matters of national security, foreign policy, and economic impact. In this context, the Secretary of State and his department possess a depth of institutional competence and accumulated experience in matters of Russian political economy, including the means by which individuals may be connected, directly or indirectly, to strategic objectives of the Russian state: see Shvidler at [116] and [127]-[130]. Accordingly, considerable respect is properly afforded to the Secretary of State's judgment both as to the necessity of designation in a given case and as to its likely efficacy and impact, including as to the relationship between Mr Usmanov and President Putin.

155. I turn to Mr Keith KC's main submission to the effect that the decision to maintain the Claimant's designation was irrational because he has no connection to or influence over the Russian regime, President Putin, Russian military action in Ukraine, or his uncle. In Shvidler at [197], the Supreme Court emphasised the importance of "*the cumulative effect of the measures imposed under that regime*", including that "*the imposition of sanctions in relation to*" a particular individual "*contributes to that cumulative effect*". For the reasons set out earlier in this judgment concerning rational connection, the designation of the Claimant furthers the overarching purpose of the sanctions regime.

156. I also do not accept Mr Keith KC's submission that designation of an associated person on grounds of close family association cannot further the purposes of the Russia Regulations (said to be supported by Dr Connolly's reports). That submission is contrary to the statutory scheme and the clearly expressed intention of Parliament, which has specifically made provision for the designation of persons who are associated with involved persons and are not *themselves* directly involved in the relevant activities. I consider the real complaint is against Parliament's decision to make provision for designation on grounds of mere association. That is not a basis for concluding that the Claimant's designation was irrational.

157. Given that the Secretary of State was uniquely well placed to assess whether sanctions decisions would achieve their intended purpose, and a wide margin of appreciation applies in the present case, there is no basis for a finding that the decision to maintain Mr Ismailov's designation was irrational.

158. For these reasons, Ground 5 is dismissed

X. Ground 6: arbitrariness

159. Mr Keith KC argued that the decision to maintain the Claimant's designation was unlawful because it was exercised arbitrarily and/or with partiality as between persons or classes potentially affected by regulations 5 and 6 of the Russia Regulations. It was submitted that a significant number of persons who are the children of prominent designated persons have themselves not been designated. Reliance was placed on two comparator examples: it was said that the children of Roman Abramovich and Vladimir Yakunin (former President of the Russian Railways) have not been designated, even though publicly available information demonstrates that they have significant financial or property assets in the UK.

160. I do not accept there was any public law error by the Secretary of State under this head. There are four main reasons for this conclusion.
161. First, even if (which is far from clear) there is a freestanding principle of public law requiring equality of treatment which would apply in the context of SAMLA, the Claimant would need to show the comparators he has picked were for all material purposes in an identical position to him. In (R (Hussain) v Secretary of State for the Home Department [2012] EWHC 1952 (Admin), the case which is relied upon by Mr Keith KC in support of this ground, it was said at [46] that all persons in a similar position should be treated similarly. But the Claimant has made no attempt to show similarity and I know nothing of the detail of the comparators. The complaint does not get over this preliminary hurdle.
162. Second, and in any event, as rightly argued by Mr Leary, the Claimant's case on arbitrariness and partiality cannot succeed in the light of recent authority. In Shvidler, the Supreme Court rejected a materially similar argument at [214]-[222]. Mr Shvidler had complained that his designation was arbitrary, discriminatory and capricious because many other business persons (including those with greater involvement in companies doing business in Russia) had not been designated. The Supreme Court had no hesitation in finding at [218] that *"[Counsel for Mr Shvidler's] distinct submission that the alleged arbitrariness in designating Mr Shvidler but not other people shows that the designation was disproportionate must be rejected"*. At [221], it continued: *"The designation of a range of wealthy business persons who are connected with Russia is assessed by Parliament and by the Foreign Secretary to be a response which does hold out some prospect of putting pressure on the regime in support of that policy goal. It is not the case that every single such wealthy business person has to be designated in order for each designation to make a material contribution to that strategy; it is legitimately open to Parliament and the Foreign Secretary to assess that adding each designation makes a material contribution to the public policy objective and that each additional designation increases the effect of the strategy"*.
163. In Dana HC, I rejected an argument based on alleged difference in treatment at [92]. I said, where (as here) a designation decision has been reached *"on a case-by-case basis by reference to their particular facts, the objectives of the regime, and individual considerations of proportionality"*, and the Secretary of State has set out the reasons for that decision at length, the mere identification of non-designated persons as putative comparators will not suffice. The court is not in a position to assess on the evidence for itself whether those persons are sufficiently similarly situated so as to render the designation arbitrary. The assessment of which persons warrant designation is, moreover, what I described as *"a matter of executive judgement par excellence"* in which the court will not substitute its own view. A challenger *"who made no attempt to draw out the role and involvement"* of proposed comparators cannot expect the court to conduct that comparative exercise for itself. See further Dana CA at [64] where this aspect of my decision was set out and the Court of Appeal did not express any disagreement with the approach.
164. Thirdly, there are a large number of reasons why the nephew of one "involved person" might be designated whilst another family member of another "involved person" is not. That results from the multifactorial nature of the assessment as to whether to exercise the power to designate and does not give rise to any suggestion of arbitrariness or partiality.

165. Fourthly, designation is a matter of judgment involving a significant pool of potential designees. It would be wrong in principle to fetter the statutory discretion of the Secretary of State by requiring designation in every case in which there exists a power to designate by virtue of family association. That would be unworkable. Whilst the Russia Regulations enable the designation of individuals who are “associated with” involved persons by virtue of family connection, it does not follow that all persons within this group should be designated. This is a matter of discretion to be exercised by reference to HMG's foreign policy and intelligence assessments. I note a significant number of individuals have been designated by virtue of their family connection to an involved person. The Claimant is not alone and those designated on this basis are not all of Russian nationality and are not all connected with high-profile oligarchs. The evidence before me is that there are more than 50 individuals currently on the UK sanctions list designated under the Russia Regulations whose Statements of Reason refer to familial association.

166. Absent something like a finding that a bad faith decision has been made to designate person A and not person B (who is in the same position as person A), a complaint based simply on difference of treatment is unlikely to succeed. I return to the basic point that a claimant must show his own designation on the facts pertaining to *him* was irrational.

167. For these reasons, I dismiss Ground 6.

XI. Ground 7: the Public Sector Equality Duty (PSED)

168. The principles governing the PSED are well-established. In short, section 149 of the Equality Act 2010 (“the 2010 Act”), imposes on public authorities an obligation, in the exercise of their functions, to have due regard to (amongst other things) the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act. Section 29(6) of the 2010 Act prohibits a person, in the exercise of a public function other than providing a service to the public or a section of the public, from doing anything which constitutes discrimination, harassment or victimisation. This is subject to a number of exceptions listed in Schedule 3 to the 2010 Act. The ‘protected characteristics’ defined by s.149(7) include race, which itself includes nationality and ethnic or national origins (s.9(1)(b)-(c) of the 2010 Act).

169. This ground was argued on behalf of the Claimant by Ms Scott KC. Her overall submission was that the disclosed documents show that the Secretary of State breached the PSED in a manner that renders the decision to maintain his designation unlawful. In her persuasively presented and well-ordered oral arguments, she said there was a failure to discharge the duty in relation to the Russia Regulations, the two sets of amending Regulations (the 1st and 13th Regulations) and the decision to designate/maintain the Claimant's personal designation. Ms Scott KC skilfully analysed, in some detail, the approach taken in the disclosed documents to the discharge of the PSED in relation to these matters. As regards the various statutory instruments, Ms Scott KC submitted that a lawful assessment would have required structured consideration of the impact of the measures on affected individuals, including those designated solely by reason of family relationship. In particular, she said that a PSED-compliant assessment would have required consideration of whether the breadth of the family designation criteria was justified. She argued that the result of such an assessment may well have been a materially different formulation of the regime, including a narrower or more structured approach to family-based designation.

170. Reliance was placed by Ms Scott KC on the Defendant's concession that no PSED assessment was undertaken at all in respect of the decision to designate the Claimant or the decision to maintain the Claimant's designation. This was said to be an error of law, because the PSED applies to all decisions taken by public bodies to whom the duty applies, including policy decisions and decisions on individual cases.

171. Ms Mayer addressed this ground on behalf of the Secretary of State. She also took me through the three PSED assessments that were conducted in respect of the Russia Regulations (and amendments). Ms Mayer underlined that the duty can be discharged in various ways and a formal impact assessment is not a legal requirement. As to the decision to maintain the Claimant's personal designation, she argued, relying on R (Marouf) v SSHD [2025] AC 130 ("Marouf") that the PSED has no extraterritorial effect. Without prejudice to that threshold point, Ms Mayer said that in the ARF the duty was discharged. She also argued that a separate assessment is not required in every individual designation case. Finally, a point was taken under Section 31(2A) of the Senior Courts Act 1981.

Analysis and conclusions on Ground 7

172. I begin with some matters which I understood to be common ground: (i) the PSED is a duty of process not outcome; (ii) what the duty requires depends upon the context and the nature of the function being exercised; and (iii) provided the court is satisfied that there has been a proper consideration of the duty, it is for the Minister to decide how much weight should be given to the various factors informing the decision: R (Bracking) v Secretary of State for Work and Pensions [2013] EWCA Civ 1345 at [26].

173. Ms Mayer was right to underline that the cases recognise that the requirements of the duty must be responsive to the particular circumstances of any given case. In other words, the level of regard that will amount to "due regard" under section 149(1) of the 2010 Act falls to be determined by reference to the public function being exercised, and the practical constraints faced by the decision-maker. As explained in another context, "*[t]he decision of a Minister on a matter of national policy will engage very different considerations from that of a local authority official considering whether or not to take any particular step in ongoing proceedings seeking to recover possession of a unit of social housing*": Powell v Dacorum Borough Council [2019] EWCA Civ 23 at [44]. In particular, the duty "*does not require the impossible. It requires the taking of reasonable steps to make enquiries about what may not yet be known to a public authority about the potential impact of a proposed decision or policy on people with the relevant characteristics*": R (Bridges) v Chief Constable of South Wales [2020] 1 WLR 5037 at [181].

The Russia Regulations and 1st and 13th Amendment regulations

174. As I have recoded above, three PSED assessments were conducted in relation to this legislation. I will summarise these documents ("the Assessments") at the risk of repeating what appears in each, given the overlap between them.

175. First, before the Russia Regulations were adopted, a PSED assessment was carried out and considered by Ministers. It said as follows: "*[t]his document records the analysis undertaken by the Department to enable Ministers to fulfil the requirements (to the extent that they apply) placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. Whether or not those requirements apply as a matter of law, these considerations set out in PSED are considered in relation to the regime as a*

whole. The PSED requires the Minister to pay due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not" (this wording appears in each of the Assessments). The document shows that the impact of these regulations on a range of protected characteristics was considered. Under the heading "Race", the document stated: "...as this regime relates to Russia, clearly the majority of people affected are Russian. However it is the conduct of a person that results in that person being sanctioned, not their nationality. Furthermore the purpose of the regime is to encourage Russia to cease actions destabilising Ukraine, including the annexation of Crimea and other actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. And so the expectation is that the regime should eventually have positive impacts on those negatively affected by the behaviour targeted by these sanctions". Accordingly, the Assessment included the recognition that the regulations would have a disproportionate impact on those of Russian nationality. It also noted the statutory safeguards provided for in the legislative scheme, including that "designated persons can ask for their designation to be reviewed with a view to lifting the designation fully or partially, and can ultimately ask the Court to review their listing", amongst other matters, meant that "the measures imposed are appropriate and proportionate to achieve" the purpose of encouraging Russia to cease actions destabilising Ukraine.

176. Second, before the 1st Amendment Regulations were made, a further Assessment was undertaken. It noted that the amendments would "...broaden the definition of 'involved person' in the criteria which give grounds for a person to be designated". It was also said that "...while these Regulations are aimed at the Government of Russia, it is not possible to avoid designations that are subsequently made under them having some impact on the wider population. The Government intends to use powers in a way which is targeted and smart, designed to damage the interests of those who bear greatest responsibility for Russia's actions. However, the expectation is that these sanctions should eventually have positive impacts by encouraging the Government of Russia to change its behaviour". The impact of the regulations on a range of protected characteristics were considered, including those with Russian nationality. Under "Race" the wording I have set out above from the first Assessment was repeated. The Assessment recorded that any designation would be subject to the requirements under the legislative scheme, including that there be: (i) reasonable grounds to suspect that a person is an involved person as defined; (ii) that the designation is appropriate having regard to the purposes of the regime; and (iii) that the designation is appropriate having regard to the likely significant effects on the designated person.

177. Third, before the 13th Amendment Regulations were made, a further PSED Assessment was conducted. It expressly noted that the regulations would "broaden the definition of 'associated with' to include specified immediate family members". There was accordingly a specific focus on this aspect. The impact of the amendments on a range of protected characteristics was considered. This included recognition that the regulations as amended would have a disproportionate impact on those of Russian nationality. In relation to "Race", it was said: "...as this sanctions regime relates to Russia, clearly the majority of people affected under these amendments would be Russian. However, the purpose of the regime is to encourage the Russian Government to cease its invasion of Ukraine, and other actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine and the measures do not target people on the basis of a particular race or ethnicity

or nationality". It was further noted that the "designation criteria" (which included the widened definition of "association") "may also have an impact on the wider population, although they are aimed at applying coercive pressure on the Government of Russia to constrain its aggressive actions against Ukrainian sovereignty and territorial integrity and its destabilising activities against Ukraine". The Assessment recognised that the designation criteria would have an impact on the wider population- that is those who were not themselves responsible for Russian actions in Ukraine. The analysis concluded that, given the overall purposes of the Russia sanctions regime, the amendments were considered "appropriate and proportionate" to achieving the objectives of that regime.

178. In my judgment, Ms Mayer's cogent submissions demonstrated that there was no substance to the complaints about how the PSED was discharged in relation to the making of these legislative instruments. First, it is not correct to say that the impact on those designated solely because of family association was not considered. Second, the assessment as regards the 13th Amended Regulations recognised there would be an impact on those not responsible for Russia's actions. Thirdly, Ms Mayer was right to underline that there is no freestanding protected characteristic of being a family member- there is therefore no duty to have regard to the impact of a policy on familial status.

179. For completeness, I should record that I do not accept the written submission for the Claimant that each of the three PSED assessments "*reasoned (in slightly varying language) that it was a person's conduct, rather than their nationality, which would result in their being sanctioned*". That is not correct. No statement to that effect is made in the Assessment accompanying the 13th Amendment Regulations. That analysis, as noted above, recognises that designation criteria may have an impact on persons who are not themselves responsible for Russia's aggressive actions against Ukraine.

180. Overall, in my judgment, the PSED was discharged in respect of the Russia Regulations and their subsequent amendment by two instruments.

The decision to designate and maintain the Claimant's designation

181. Ms Mayer was right to argue that Marouf precludes reliance on the PSED in respect of these decisions. As held by the Supreme Court, applying the presumption against extraterritorial effect, and as a matter of construction of the 2010 Act, the PSED has no extraterritorial effect. It is not in issue that the Claimant is a citizen of Russia, Uzbekistan, and Cyprus and does not currently live or work in the UK, having left the UK in March 2022 to live in the UAE. This was some months before the designation decision was made and he was still outside the UK at the time a decision was made to maintain his designation. I accordingly accept the submission of Ms Mayer that the Claimant therefore falls outside of the scope of section 149. I have not overlooked the written submissions for the Claimant that the PSED remained engaged because the relevant decision was taken by a UK decision-maker within the UK, and that this territorial nexus to the decision-making process is sufficient to engage the duty, regardless of where the affected individual is located. But that is precisely the argument that was considered and rejected in Marouf. So, at [53]-[54], the Supreme Court held that the fact that the decision was taken in the UK does not mean that the PSED requires due regard to be had to the effects of the decision on persons outside of the UK. Equally, the evidence that the Claimant was on a temporary stay abroad does not assist. As a matter of construction the Act does not apply to the exercise of functions in so far as that exercise affects those living outside the UK: the Claimant was such a person at the material times. The fact that he clearly had deep connections with the UK is not a basis to say that the Act applies to him.

182. I was also persuaded by Ms Mayer's alternative argument that, even if the PSED applied, it was lawfully discharged in the circumstances of the personal designation decision. First, I note that the PSED for the 1st Amendment Regulations was attached as Annex C to the ministerial submission of 22 July 2022, prior to the Claimant's designation. Secondly, the ARF provided to Ministers before the decision to maintain the designation was taken included specific reference to the prior PSED assessments and noted at [32] that:

“...the Russia Regulations are likely to have a disproportionate impact on Russian nationals. This impact is, however, justified by the important purposes of the Russia Regulations on account of the designation furthering the purposes of the regime, namely, to encourage Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine. Any sanctions regime designed for the purposes of achieving those objectives will inevitably result in a disproportionate number of Russian nationals being designated. In any case, persons designated under the Russia Regulations are not all Russian nationals, and include Ukrainian, British, Irish, Iranian and Syrian citizens, amongst others, all of whom have been subject to sanctions when they meet the designation criteria.”

Is there a PSED in every individual designation decision?

183. I consider there to be no such duty for at least two reasons.

184. First, I refer to the observations of Lady Rose JSC in Marouf at [62], where she explained that the PSED is primarily directed at "policy decisions" not at the application of policy to individual cases. As she noted, the duty on an official not to discriminate unlawfully against a particular individual at all stages of the grant of entry clearance (the issue in that case) is imposed by the substantive obligations under the 2010 Act, rather than by the PSED. She held that there is no need to impose on that official a further duty under section 149(1)(a). Adopting this analysis, I consider that there is no need to impose that duty in relation to an individual designation decision - which simply applies a policy that was subject to the PSED.

185. Second, I return to the basic principle that the requirements of the PSED must be appropriate to the particular circumstances of any given case. In particular, the level of “regard” that will amount to “due regard” under section 149 falls to be determined by reference to the particular public function being exercised and the practical constraints relating thereto. The evidence is that the Secretary of State has designated thousands of individuals under the Russia Regulations. These designations frequently consist of separate urgent and standard procedure designations, and many involve decisions following a section 23 SAMLA request for revocation. Urgent governmental action has been necessary in response to a fast-changing crisis, not only to support Ukraine's efforts in the war, but to ameliorate the deepening humanitarian crisis in Ukraine. In my judgment, it would be unworkable if the Secretary of State were required to prepare a separate individualised PSED assessment in relation to each decision in respect of every designated individual. The form of consideration given to the PSED when making the instruments themselves, as outlined above, was more than sufficient to satisfy the “due regard” obligation as regards individual designation.

Relief

186. Finally, had there been any merit in the PSED challenge, I would have refused relief under section 31(2A) of the Senior Courts Act 1981 or the principle that relief should be refused where a decision would inevitably have been the same: R (Plan B Earth) v Secretary of State for Transport [2020] EWCA Civ 214 at [272]. This was rightly described by Ms Mayer as a paradigm case for refusing relief. The Claimant has not challenged the Secretary of State's conclusion that there are reasonable grounds to suspect that he is an "*involved person*" within the meaning of regulation 6 of the Russia Regulations, with the consequence that he is *prima facie* liable to designation as falling within the scope of the sanctions regime. Detailed evidence in response to his claim has been prepared and the decision has been reached (on the request for review) that his designation is justified in all the circumstances. I accept Ms Blythe's evidence that undertaking a further PSED exercise "*would not have made, nor would it now make, any material difference to Mr Ismailov's designation in this case*".

187. It follows that, for a number of reasons, Ground 7 fails.

XII. Conclusion

188. For the reasons given above, I dismiss the application for review.