



Press Summary

29 July 2025

**Shvidler (Appellant) v Secretary of State for Foreign,
Commonwealth and Development Affairs (Respondent);
Dalston Projects Ltd and others (Appellants) v Secretary of State
for Transport (Respondent)**

[2025] UKSC 30

On appeal from [2024] EWCA Civ 172

Justices: Lord Reed, Lord Sales, Lord Leggatt, Lady Rose and Lord Richards

Background to the Appeal

This appeal concerns important questions about the operation of the sanctions regime put in place by the United Kingdom government to put pressure on the Russian Federation to end its aggressive war against Ukraine. It also addresses important questions regarding the proportionality of any interference with a sanctioned person's or entity's Convention rights.

The two appellants have been made subject to sanctions imposed on them under powers available under the Russia (Sanctions) (EU Exit) Regulations 2019 (SI 2019/855) as amended in 2022 ("**2019 Regulations**"). Mr Shvidler was designated on 24 March 2022, a month after Russia invaded Ukraine. The effect of this is to freeze his assets worldwide and to make it a criminal offence for others to deal with him in either a private or commercial capacity, subject to a few exceptions. Dalston Projects Ltd owns a yacht called M/Y Phi ("**the Phi**"), which has been detained in the London Docks pursuant to a decision by the Secretary of State for Transport taken first on 28 March 2022 and renewed at intervals thereafter. The effect of this is that the Phi has been moored in London since then, and Mr Naumenko who is the ultimate owner of the yacht says he has been prevented from earning a substantial income from chartering the yacht out during the spring and summer Mediterranean sailing season.

Mr Shvidler and Dalston Projects both challenged the decisions imposing sanctions on them, as disproportionately interfering with their private life under Article 8 of the Human Rights Convention and as affecting their rights to their property under Article 1 of the First Protocol to the Convention. Those challenges were brought not by way of ordinary judicial review proceedings but under the special procedure set out in Part 79 of the Civil Procedure Rules. However, the test that the courts must apply is the same test as would apply in judicial review

proceedings. It is accepted by the Government that there has been an interference with Mr Shvidler's and Dalston Projects' rights that needs to be justified. The issue between the parties is whether that interference is justified in light of the aims pursued by the sanctions or whether it is disproportionate and therefore unlawful. Their challenges were dismissed at first instance in two judgments. Their appeals, heard together by the Court of Appeal, were both dismissed.

The Appellants now appeal to the Supreme Court.

Judgment

The Supreme Court, by a majority, dismisses the appeal of Mr Shvidler and unanimously dismisses the appeal of Dalston Projects. Lord Sales and Lady Rose give the leading judgment, with which Lord Reed and Lord Richards agree. Lord Leggatt gives a judgment dissenting in relation to Mr Shvidler's appeal.

Reasons for the Judgment

As the Court of Appeal recognised, the principles that a first instance court should apply when reviewing a decision of the executive on grounds of proportionality, and the principles an appellate court should apply when reviewing a decision of the first instance court, are not as well understood as they need to be.

When a reviewing court carries out a proportionality assessment it must decide for itself if there has actually been a violation of Convention rights. The court's function is not merely a secondary, reviewing function, dependent on establishing that the primary decision-maker misdirected itself, or acted irrationally or was guilty of procedural impropriety ([120]). Further, the measure of respect to be accorded by the court to the views of the Government will depend on the importance of the right, the degree of interference with that right, and the extent to which the courts are well placed to adjudicate the balance of various rights and interests engaged ([123-124]). Furthermore where, as here, the measures initially adopted have been subject to constant review by the Minister, the challenge must be considered in light of all the evidence filed, including that filed by the decision-maker up after the initial decision was taken up until the time of the hearings themselves ([136-137]).

On the facts of this case, the Secretary of State for Foreign, Commonwealth and Development Affairs ("**Foreign Secretary**") and the Secretary of State for Transport ("**Transport Secretary**") have special constitutional responsibilities to respond to and contain Russia's invasion of Ukraine. They have superior institutional competence to make the relevant assessment regarding matters of national security and the conduct of UK's international relations, including the usefulness of sanctions in containing Russia's actions ([127-129]). The Foreign Secretary and the Transport Secretary should therefore be accorded a wide margin of appreciation in responding and seeking to restrain Russia's actions in Ukraine ([130]).

Another significant issue is the proper approach to be adopted by an appellate court to the assessment of proportionality. There are two possible approaches. In some cases, the appellate court defers to the first instance court, limiting itself to reviewing whether that court had applied the appropriate test in assessing the proportionality of a measure and testing whether the result was reasonable ([142]). On this basis the appellate court will only intervene where the lower court has made a significant error ([147]). This is likely to be the more appropriate approach where arguments have been repeated either from the courts below or in previous cases where the issue in the case may have had wider significance on the first occasion it arose, but now there is less need for appellate court guidance to resolve significant issues of principle ([143], [148]).

In other cases, the appellate court does not treat its role as so limited, but instead makes its own, fresh assessment of the proportionality of the measure in question ([144]). This approach is likely to be appropriate where the appeal court's decision will provide guidance for other later cases because there is a general principle arising, or where the subject matter has major social or political significance. In those cases, the public will rightly expect the senior judges in the appellate court to exercise their own judgement as to whether the measure in question is proportionate and lawful ([160-161]).

No matter which approach is chosen, the approach adopted must be the same at each appellate level ([149]). Where it is unclear which appellate approach is correct, and there is the prospect of an onward appeal, an intermediate appeal court may find it prudent to make an assessment of proportionality according to both approaches ([163]).

Each of these cases was essentially a test case regarding the proportionality of sanctions measures in respect of Russia in the context of its invasion of Ukraine. In the context of Mr Shvidler, a British citizen, the consequences of such sanctions measures were likely to have a very serious detrimental effect ([164]). Although the impact on Mr Naumenko from the detention of his yacht is less severe, the lack of evidence to suggest that he plays any political role or has any connections in the Russian government makes this also a paradigm case of wider importance ([165]). In each of these cases, therefore, the Court of Appeal was required to make its own assessment of the proportionality of the sanctions measures and this court should now do the same ([164-165]). The court can assess for itself the evidence regarding the impact of the measures on Mr Shvidler and his family, and on Dalston Projects and Mr Naumenko ([126]).

Applying the proportionality assessment afresh, there can be no doubt that the 2019 Regulations pursue a legitimate aim in attempting to limit and deter Russian aggression in Ukraine. Ukraine's invasion represents an egregious violation of international law and the UN Charter, constituting one of the most serious threats to European security and the international order since the end of the Second World War ([167]). Addressing the invasion is one of the most vital aims that the UK government has been called upon to pursue in recent years ([166-173]).

Furthermore, the measures against Mr Shvidler and for the detention of the Phi are rationally connected to this aim. Generally, where there is a very important public interest at stake, a less direct connection may be sufficient ([177]). This is further supported by the inherent difficulty both for the government and for the court to understand fully what factors may exert influence on President Putin and his government's prosecution of the war. It is also difficult to assess whether any particular sanction measure, or indeed any of the other measures put in place by the UK and its international partners, has had or may in the future have an influence or effect ([179]). There is, however, no need to show that the particular sanctions imposed would by themselves achieve such purposes; it is important to have regard to the cumulative effect of all the measures taken ([188-192]). All that is needed is for the Secretary of State to show some plausible contribution made to that effect by the measure in question ([193-194]).

In relation to the detention of yacht, the Phi, there is a clear economic link between its detention and pressure being put on Russia. Mr Naumenko claims he could earn very considerable income by chartering out the Phi to other wealthy individuals and it is very likely that income would make its way to be spent by him in Russia ([182]). The economic impact is also likely to have political ramifications, given the deprivation of a prestige asset by reason of Russia's invasion of Ukraine is likely to, or at least may, dispose Mr Naumenko to be discontented with the Russian regime ([184-190]). There is therefore clearly a rational connection between its detention and the aims of the 2019 Regulations ([194]).

In relation to Mr Shvidler, the court accepts the government's evidence that his designation will send a signal to both him and others associated with persons involved in the Russian elite

that there are negative consequences to having implicitly legitimised the Russian government's actions. The hope is that it will disincentivise others from associating with the government, or encourage them even actively to oppose it in the future ([196-197]). Whilst Mr Shvidler cannot be expected to place himself and his family in physical danger, he could take further steps to pressure those with whom he is involved to encourage President Putin to cease destabilising Ukraine, or distance themselves from President Putin ([199]).

As to whether a fair balance has been struck, whilst Mr Naumenko is impeded in the use of a luxury asset, it is not suggested that this would have any significant effect upon how he lives, nor that he cannot absorb the costs involved in maintain the vessel here ([205-207]). In any case, there are measures already in place by the Office of Financial Sanctions Implementation ("OFSI") to authorised exceptions to the sanctions so that he could engage people to deal with any issues of the physical deterioration of the vessel. Any failure of that authorisation procedure could be challenged by way of a new judicial review ([208-209]).

The designation of Mr Shvidler also strikes a fair balance, taking account of the importance of the public policy aim ([210]). There is no doubt that the measures have had a severe, open-ended and drastic effect on Mr Shvidler and his family ([211]). Nevertheless, their core needs can be met through the OFSI licensing system, even if their luxury lifestyle and private-school education may have been disrupted ([211-212]). Furthermore, the main point is that sanctions often have to be severe and open-ended if they are to be effective. ([213])

Other issues were also raised in the case of *Dalston Projects*, namely whether the Transport Secretary stated proper grounds for the detention of the Phi; and whether he committed the tort of conversion. Like the Court of Appeal below, the court agrees that the statement that the Phi was detained because it was "owned, controlled or operated by" Mr Naumenko and that he is a person connected with Russia was sufficient to enable Mr Naumenko to challenge the decision if either of those points were wrong, and reflects the structure of the relevant provisions ([228-233]).

As to the claim that Dalston Projects suffered the tort of conversion, given the court's finding that the detention of the Phi was lawful, the issue does not arise in this appeal. The court will leave this question to be considered on another occasion ([241]).

Lord Leggatt agrees with the majority on the proper approach for an appeal court to take and that on these appeals the Supreme Court must assess for itself the lawfulness of the sanctions imposed on the appellants ([250-252]). But Lord Leggatt disagrees with the majority's decision that the sanctions imposed on Mr Shvidler are lawful. While agreeing that in principle the objective of the sanctions regime is sufficiently important to justify limiting a fundamental right ([298-299]), Lord Leggatt considers that the government has failed to show a rational connection between freezing Mr Shvidler's assets and that objective ([305-319]). He also disagrees that the executive should be accorded a "wide margin of appreciation" on the footing that it is more competent than the courts to judge whether its own decision to restrict the liberty of an individual strikes a "fair balance" between that individual's rights and the interests of the community. In Lord Leggatt's view, judges are abdicating their responsibility if they defer to the view of the executive on this question ([256] and [286]).

Lord Leggatt would hold that prohibiting Mr Shvidler, indefinitely, from using any of his own funds and resources, not only in the UK but (because he is a British citizen) anywhere in the world, without the government's permission, even to buy food and meet other basic needs, is oppressive, unjust and disproportionate to any contribution which this drastic curtailment of liberty would rationally be expected to make to the purposes of sanctions ([324]).

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Cases - The Supreme Court](#)