

4. Fourth plea in law, alleging breach of Article 27 TEU. The applicant claims that Decision 2011/137/CFSP referred to in paragraph 2 and Council Decision 2011/178/CFSP of 23 March 2011 amending Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya (OJ 2011 L 78, p. 24), were adopted in breach of Article 27(1) TEU.
5. Fifth plea in law, alleging error of law and manifest error of assessment on the ground that the applicant is a civil airline carrying passengers and freight, whereas the contested decision has the effect of freezing the applicant's assets on the sole ground that it is the property of the Libyan State, through an investment fund.

**Action brought on 12 August 2011 — BelTechExport v Council**

(Case T-438/11)

(2011/C 290/21)

*Language of the case: English*

**Parties**

*Applicant:* BelTechExport ZAO (Minsk, Belarus) (represented by: V. Vaitkute Pavan, A. Smaliukas and E. Matulionyte, lawyers)

*Defendant:* Council of the European Union

**Form of order sought**

- Annul Council Regulation (EU) No 588/2011 of 20 June 2011 amending Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus (OJ 2011 L 161, p. 1), to the extent that it concerns the applicant;
- Annul Council Decision 2011/357/CFSP of 20 June 2011 amending Decision 2010/639/CFSP concerning restrictive measures against certain officials of Belarus (OJ 2011 L 161, p. 25), to the extent that it concerns the applicant; and
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging that the defendant breached the obligation to provide adequate reasoning for inclusion of the applicant in the lists of the persons to whom restrictive measures apply.
2. Second plea in law, alleging that the defendant infringed the right of defence and the right to a fair hearing provided for in Article 47 of the Charter of Fundamental Rights of the

European Union and Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as:

- at no time it provided for the communication of detailed reasons for the inclusion of the applicant in the lists of persons subject to the restrictive measures; and
- it did not provide the applicant with the possibility to effectively exercise its' rights of defence, in particular the right to be heard and the right to the benefit of a procedure allowing it to effectively request its removal from the lists of persons covered by the restrictive measures.

3. Third plea in law, alleging that the defendant committed manifest errors of assessment in that it held in the contested measures that the applicant is the largest export/import company of defence products in Belarus, hence it is in some way linked to or associated with the violations of electoral standards and of human rights or crackdown on civil society in Belarus.
4. Fourth plea in law, alleging that the defendant infringed fundamental right to property provided for in Article 17 of the Charter of Fundamental Rights of the European Union and Article 1 of the Protocol No 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in an unjustified and disproportionate manner without compelling evidence.
5. Fifth plea in law, alleging that the defendant infringes the principle of proportionality in that it imposed a disproportionate restriction on the fundamental rights of the applicant without providing adequate procedural guarantees and compelling evidence.

**Action brought on 12 August 2011 — Sport-pari v Council**

(Case T-439/11)

(2011/C 290/22)

*Language of the case: English*

**Parties**

*Applicant:* Sport-pari ZAO (Minsk, Belarus) (represented by: V. Vaitkute Pavan, A. Smaliukas and E. Matulionyte, lawyers)

*Defendant:* Council of the European Union

**Form of order sought**

- Annul Council Regulation (EU) No 588/2011 of 20 June 2011 amending Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus (OJ 2011 L 161, p. 1), to the extent that it concerns the applicant;

— Annul Council Decision 2011/357/CFSP of 20 June 2011 amending Decision 2010/639/CFSP concerning restrictive measures against certain officials of Belarus (OJ 2011 L 161, p. 25), to the extent that it concerns the applicant; and

— Order the defendant to pay the costs.

### Pleas in law and main arguments

In support of the action, the applicant puts forward as the main argument the manifest errors of assessment that the contested Council measures are tainted with. It alleges, in particular, that the Council erred in holding that the applicant is (a) controlled by Mr Vladimir Peftiev; (b) an operator of a national lottery; (c) linked to, or associated with the violations of electoral standards and human rights, or the crackdown on civil society in Belarus, or the import to Belarus of the equipment, which might be used for internal repression.

Furthermore, in support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the defendant breached the obligation to provide adequate reasoning for inclusion of the applicant in the lists of the persons to whom restrictive measures apply.
2. Second plea in law, alleging that the defendant infringed the right of defence and the right to a fair hearing provided for in Article 47 of the Charter of Fundamental Rights of the European Union and Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as:
  - at no time it provided for the communication of detailed reasons for the inclusion of the applicant in the lists of persons subject to the restrictive measures; and
  - it did not provide the applicant with the possibility to effectively exercise its' rights of defence, in particular the right to be heard and the right to the benefit of a procedure allowing it to effectively request its removal from the lists of persons covered by the restrictive measures.
3. Third plea in law, alleging that the defendant infringed fundamental right to property provided for in Article 17 of the Charter of Fundamental Rights of the European Union and Article 1 of the Protocol No 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in an unjustified and disproportionate manner without compelling evidence.
4. Fourth plea in law, alleging that the defendant infringes the principle of proportionality in that it imposed a disproportionate restriction on the fundamental rights of the applicant without providing adequate procedural guarantees and compelling evidence.

### Action brought on 12 August 2011 — BT Telecommunications v Council

(Case T-440/11)

(2011/C 290/23)

*Language of the case: English*

### Parties

*Applicant:* BT Telecommunications PUE (Minsk, Belarus) (represented by: V. Vaitkute Pavan, A. Smaliukas and E. Matulionyte, lawyers)

*Defendant:* Council of the European Union

### Form of order sought

- Annul Council Regulation (EU) No 588/2011 of 20 June 2011 amending Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus (OJ 2011 L 161, p. 1), to the extent that it concerns the applicant;
- Annul Council Decision 2011/357/CFSP of 20 June 2011 amending Decision 2010/639/CFSP concerning restrictive measures against certain officials of Belarus (OJ 2011 L 161, p. 25), to the extent that it concerns the applicant; and
- Order the defendant to pay the costs.

### Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging that the defendant breached the obligation to provide adequate reasoning for inclusion of the applicant in the lists of the persons to whom restrictive measures apply.
2. Second plea in law, alleging that the defendant infringed the right of defence and the right to a fair hearing provided for in Article 47 of the Charter of Fundamental Rights of the European Union and Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as:
  - at no time it provided for the communication of detailed reasons for the inclusion of the applicant in the lists of persons subject to the restrictive measures; and
  - it did not provide the applicant with the possibility to effectively exercise its rights of defence, in particular the right to be heard and the right to the benefit of a procedure allowing it to effectively request its removal from the lists of persons covered by the restrictive measures.