

- incorrect legal assessment of the measures in favour of the airport concerned in so far as certain measures were not classified as State aid for the purposes of Article 107(1) of TFEU and others were classified as State aid which is compatible with the common market,
- failure to take into consideration that all the aid referred to in the contested decision in favour of the airport concerned was, in end effect, passed on to Ryanair as the most important user of that airport.

Action brought on 30 December 2015 — BelTechExport/Council

(Case T-765/15)

(2016/C 068/56)

Language of the case: English

Parties

Applicant: BelTechExport ZAO (Minsk, Belarus) (represented by: J. Jerņeva and E. Koškins, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul Council Regulation (EU) 2015/1948 of 29 October 2015 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2015 L 284, p. 62) to the extent that it extends the applicability of the restrictive measures, even if temporarily suspended, with respect to the applicant,
- annul Council Decision (CFSP) 2015/1957 of 29 October 2015 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus (OJ 2015 L 284, p. 149), to the extent that it extends the applicability of the restrictive measures, even if temporarily suspended, with respect to the applicant, and
- order the Council to pay the costs of the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested acts do not provide for adequate reasoning for the continuous listing of the applicant in the relevant annexes and that the Council has failed to comply with the provisions of Article 296(2) TFEU, which requires the Council to give reasons
 2. Second plea in law, alleging that the contested acts infringe 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 (the 'Charter') and Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ('ECHR') in that they were adopted without the applicant being provided with the possibility to effectively exercise its rights of defence, in particular the right to be heard and the right to benefit from a procedure allowing him to effectively request his removal from the lists of persons covered by the restrictive measures
 3. Third plea in law, alleging that the contested acts are vitiated by manifest errors of assessment in that they are based upon false assumption that the applicant, as a major company in the Belarusian sector of arms manufacture and arms export, benefits from the Lukashenka regime
 4. Fourth plea in law, alleging that the contested acts infringe the fundamental right to property provided for in Article 17 of the Charter and Article 1 of the Protocol No 1 of the ECHR, and that this infringement is not based upon compelling evidence, is unjustified and is disproportionate
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