



Press and Information

General Court of the European Union

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Judgment in Joined Cases T-196/11 and T-542/12
Aliaksei Mikhalchanka v Council

The General Court annuls the entry of a Belarusian journalist in the list of persons subject to restrictive measures against Belarus

The Council infringed the rights of the defence of the journalist and made errors of assessment in the reasons relied on against him

Aliaksei Mikhalchanka is a Belarusian journalist on the public television channel Obshchenatsional'noe Televidenie (ONT). Following the disappearance of key figures, fraudulent elections and serious violations of human rights in Belarus, the Council decided to take restrictive measures (travel bans within the EU and asset freezes) in respect of various Belarusian nationals. In 2011, the Council adopted such measures against Mr Mikhalchanka on the following ground: 'Journalist of the state TV channel ONT with senior and influential position'.¹ In 2012, the Council maintained those measures while amending the ground as follows: 'Journalist of the state TV channel ONT with an influential position. He is the anchorman of the TV programme "That is how it is". This programme is an instrument of state propaganda on TV, which supports and justifies the repression of the democratic opposition and of civil society. The opposition and civil society are systematically highlighted in a negative and derogatory way using falsified information. [Mr Mikhalchanka] was particularly active in this regard after the crackdown on peaceful demonstrations on 19 December 2010 and on subsequent protests'.² Mr Mikhalchanka is seeking the annulment of those entries.

In its judgment today, **the General Court upholds the application for annulment submitted by Mr Mikhalchanka.**³

First, the General Court **finds that the rights of the defence of Mr Mikhalchanka were infringed at the time when the restrictive measures were maintained in 2012.** Since the grounds given in 2012 were worded differently from those given in 2011, the Council was required to inform Mr Mikhalchanka of new evidence that it intended to use against him. As the measures of 2012 were not notified to Mr Mikhalchanka before they were adopted, he was not in a position to put his case properly prior to the adoption of the relevant acts.

Secondly, the Court considers that **the Council made errors of assessment in the grounds given in 2011.** In contrast to what is stated in the measures of 2011, it is not apparent from the

¹ Council Decision 2011/69/CFSP of 31 January 2011 amending Council Decision 2010/639/CFSP concerning restrictive measures against certain officials of Belarus (OJ 2011 L 28, p. 40), Council Implementing Decision 2011/174/CFSP of 21 March 2011 implementing Decision 2010/639/CFSP concerning restrictive measures against certain officials of Belarus (OJ 2011 L 76, p. 72), and Council Implementing Regulation (EU) No 271/2011 of 21 March 2011 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus (OJ 2011 L 76, p. 13).

² Council Decision 2012/642/CFSP of 15 October 2012 concerning restrictive measures against Belarus (OJ 2012 L 285, p.1) and Council Implementing Regulation (EU) No 1017/2012 of 6 November 2012 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2012 L 307, p. 7).

³ By another judgment today (Case [T-646/11, Ipatau v Council](#)), the General Court has dismissed the action for annulment brought by another Belarusian national, Mr Vadzim Ipatau. That national had been entered on the list by the Council on the following successive grounds: 'Deputy Chairperson, Central Electoral Commission (CEC)', followed by 'Deputy Chairperson, [CEC]. As a Member of the [CEC] he bears shared responsibility for the violations of international electoral standards in the Presidential elections on 19 December 2010'. In that case, the Court finds, in essence, that the Council did not infringe the rights of the defence of Mr Ipatau, that it gave sufficient reasons for the acts adopted against him and that it did not make any errors of assessment.

analysis of the documents in the case that Mr Mikhalchanka is a journalist with a senior position. Mr Mikhalchanka is not a senior journalist within the structure of ONT, but is rather a specialised journalist, namely a political commentator in the news broadcast unit of ONT and anchorman of the TV programme 'Kak Est'. The Council has not disclosed any evidence capable of demonstrating the influence, actual impact or responsibility that Mr Mikhalchanka or, as the case may be, the television program he presented, could have had in the violations of international electoral standards and the repression of civil society and the democratic opposition. The documents provided by the Council do not state that the 'Kak Est' programme had a large audience or that Mr Mikhalchanka was such an influential journalist in the Belarusian media that he bore some responsibility for the violations of international electoral standards and the repression of civil society and the democratic opposition. No evidence has been submitted by the Council showing the impact of that programme in the Belarusian media.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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