

Council Decision 2012/642/CFSP of 15 October
2012 concerning restrictive measures against Belarus

COUNCIL DECISION 2012/642/CFSP

of 15 October 2012

concerning restrictive measures against Belarus

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) The Council first adopted restrictive measures against Belarus under Common Position 2004/661/CFSP⁽¹⁾. It has continued to express its grave concern about the continued lack of respect for human rights, democracy and rule of law in Belarus, and that political prisoners have not been released or rehabilitated, and has therefore renewed and extended its measures.
- (2) On 25 October 2010, the Council adopted Decision 2010/639/CFSP concerning restrictive measures against Belarus⁽²⁾.
- (3) Specific concerns have led to the imposition of restrictive measures against persons who are considered by the Pourgourides Report to be key actors in the unresolved disappearances of four well-known persons in Belarus in 1999-2000, and the following cover-up, or who failed to start an independent investigation or prosecution regarding the disappearances.
- (4) Measures have also been imposed against those responsible for the fraudulent elections and referendum in Belarus on 17 October 2004, for the violations of international electoral standards in the presidential elections in Belarus on 19 March 2006 and on 19 December 2010, as well as those who are responsible for severe human rights violations and the repression of peaceful demonstrators in the aftermath of those elections and that referendum.
- (5) Particular responsibility is borne by the officials directly involved or responsible for the fraudulent nature of the presidential elections and referendum; those responsible for organising and implementing the dissemination of falsified information through the state-controlled media; those responsible for excessive and unprovoked use of force against unarmed and peaceful protesters; those responsible for implementing the ongoing and politically motivated administrative and criminal sanctions against large groups of representatives of the civil society, democratic opposition, NGOs and free media in Belarus, and those responsible for systematic and coordinated violation of international human rights standards and the laws of the Republic of Belarus in the administration of justice and exercising methods of coercion and intimidation against legal representatives of detainees and against other individuals.

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Changes to legislation: There are currently no known outstanding effects for the Council Decision 2012/642/CFSP. (See end of Document for details)

- (6) Furthermore, given the gravity of the situation, measures should also be imposed on persons in a leading position in Belarus, and on persons and entities benefiting from or supporting the Lukashenka regime, in particular persons and entities providing financial or material support to the regime.
- (7) In order to ensure the effectiveness of these measures, they should also apply to entities owned or controlled by natural or legal persons, entities or bodies responsible for serious violations of human rights or the repression of civil society and democratic opposition, or whose activities otherwise seriously undermine democracy or the rule of law in Belarus, and to entities owned or controlled by persons and entities benefiting from or supporting the Lukashenka regime.
- (8) Noting that the most recent elections of 23 September 2012 have also been found to be inconsistent with international standards, in particular in preliminary findings of the OSCE/ODIHR election observation mission to Belarus, and that the situation as regards democracy, human rights and rule of law had not improved, the Council maintains its grave concerns regarding the situation in Belarus.
- (9) On the basis of a review of Decision 2010/639/CFSP, the restrictive measures should be extended until 31 October 2013.
- (10) For the sake of clarity, the measures imposed by Decision 2010/639/CFSP should be integrated into a single legal instrument,

HAS ADOPTED THIS DECISION:

Article 1

1 The sale, supply, transfer or export of arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, as well as equipment which might be used for internal repression, to Belarus by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.

2 It shall be prohibited to:

- a provide, directly or indirectly, technical assistance, brokering services or other services related to the items referred to in paragraph 1 or related to the provision, manufacture, maintenance and use of such items, to any natural or legal person, entity or body in, or for use in, Belarus;
- b provide, directly or indirectly, financing or financial assistance related to the items referred to in paragraph 1, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of such items, or for the provision of related technical assistance, brokering services or other services to any natural or legal person, entity or body in, or for use in, Belarus;
- c participate, knowingly and intentionally, in activities, the object or effect of which is to circumvent the prohibitions referred to in points (a) or (b).

Article 2

1 Article 1 shall not apply to the:

- a sale, supply, transfer or export of non-lethal military equipment or of equipment which might be used for internal repression, intended solely for humanitarian or protective

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- use, or for institution building programmes of the United Nations (UN) and the Union, or for EU and UN crisis management operations;
- b sale, supply, transfer or export of non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection, intended solely for protective use of personnel of the Union and its Member States in Belarus;
 - c provision of technical assistance, brokering services and other services related to such equipment or to such programmes and operations;
 - d provision of financing and financial assistance related to such equipment or to such programmes and operations,

on condition that such exports and assistance have been approved in advance by the relevant competent authority.

2 Article 1 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Belarus by UN personnel, personnel of the Union or its Member States, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only.

[^{F13} Article 1 shall not apply to biathlon equipment that complies with the specifications defined in the event and competition rules of the International Biathlon Union (IBU).]

Textual Amendments

- F1** Inserted by [Council Decision \(CFSP\) 2017/350 of 27 February 2017 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus](#).

Article 3

1 Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of persons:

- a responsible for serious violations of human rights or the repression of civil society and democratic opposition, or whose activities otherwise seriously undermine democracy or the rule of law in Belarus, or any person associated with them;
- b benefiting from or supporting the Lukashenka regime,

as listed in the [^{F2}Annex].

2 Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.

3 Paragraph 1 shall be without prejudice to the cases where a Member State is bound by an obligation of international law, namely:

- a as a host country of an international intergovernmental organisation;
- b as a host country to an international conference convened by, or under the auspices of, the United Nations;
- c under a multilateral agreement conferring privileges and immunities;

or

- d under the 1929 Treaty of Conciliation (Lateran pact) concluded by the Holy See (State of the Vatican City) and Italy.

4 Paragraph 3 shall be considered as applying also in cases where a Member State is host country of the Organisation for Security and Cooperation in Europe (OSCE).

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5 The Council shall be duly informed in all cases where a Member State grants an exemption pursuant to paragraphs 3 or 4.

6 Member States may grant exemptions from the measures imposed in paragraph 1 where travel is justified on the grounds of urgent humanitarian need, or on grounds of attending intergovernmental meetings, including those promoted or hosted by the Union, or hosted by a Member State holding the Chairmanship in office of the OSCE, where a political dialogue is conducted that directly promotes democracy, human rights and the rule of law in Belarus.

7 A Member State wishing to grant exemptions referred to in paragraph 6 shall notify the Council in writing. The exemption shall be deemed to be granted unless one or more of the Council members raises an objection in writing within two working days of receiving notification of the proposed exemption. Should one or more of the Council members raise an objection, the Council, acting by a qualified majority, may decide to grant the proposed exemption.

8 In cases where pursuant to paragraphs 3, 4, 6 and 7 a Member State authorises the entry into, or transit through, its territory of any person listed in the [F2Annex], the authorisation shall be limited to the purpose for which it is given and to the person concerned thereby.

Textual Amendments

- F2** Substituted by [Council Decision \(CFSP\) 2016/280 of 25 February 2016 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus](#).

Article 4

- 1 All funds and economic resources belonging to, owned, held or controlled by:
- a persons, entities or bodies responsible for serious violations of human rights or the repression of civil society and democratic opposition, or whose activities otherwise seriously undermine democracy or the rule of law in Belarus, or any natural or legal persons, entities or bodies associated with them, as well as legal persons, entities or bodies owned or controlled by them;
 - b natural or legal persons, entities or bodies benefiting from or supporting the Lukashenka regime, as well as legal persons, entities or bodies owned or controlled by them,
- as listed in the [F2Annex] shall be frozen.

2 No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of such natural or legal persons, entities or bodies listed in the [F2Annex].

Textual Amendments

- F2** Substituted by [Council Decision \(CFSP\) 2016/280 of 25 February 2016 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus](#).

Article 5

1 The competent authority of a Member State may authorise the release of certain frozen funds or economic resources or the making available of certain funds or economic resources, under such conditions as it deems appropriate, after having determined that the funds or economic resources concerned are:

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- a necessary to satisfy the basic needs of any person listed in the [F2Annex] and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- b intended exclusively for the payment of reasonable professional fees and the reimbursement of incurred expenses associated with the provision of legal services;
- c intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;
- d necessary for extraordinary expenses, provided that the competent authority has notified the grounds on which it considers that a specific authorisation should be granted to the other competent authorities and the Commission at least two weeks prior to the authorisation; or
- e to be paid into or from an account of a diplomatic mission or consular post or an international organisation enjoying immunities in accordance with international law, in so far as such payments are intended to be used for official purposes of the diplomatic mission or consular post or international organisation.

Member States shall inform the other Member States and the Commission of any authorisation granted under this Article.

- 2 Article 4(2) shall not apply to the addition to frozen accounts of:
 - a interest or other earnings on those accounts; or
 - b payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to the provisions of Common Position 2006/276/CFSP, Council Decision 2010/639/CFSP or this Decision.

and provided that any such interest, other earnings and payments continue to be subject to Article 4(1) of this Decision.

- 3 Article 4(1) shall not prevent a listed natural or legal person, entity or body from making a payment due under a contract entered into before the listing of such a natural or legal person, entity or body, provided that the relevant Member State has determined that the payment is not, directly or indirectly, received by a natural or legal person, entity or body referred to in Article 4(1).

Textual Amendments

- F2** Substituted by [Council Decision \(CFSP\) 2016/280 of 25 February 2016 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus.](#)

Article 6

[F21 The Council, acting upon a proposal by a Member State or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt amendments to the list contained in the Annex as required by political developments in Belarus.]

- 2 The Council shall communicate its decision, including the grounds for listing, to the person concerned, either directly, if the address is known, or through the publication of a notice, providing such person with an opportunity to present observations.

- 3 Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the person concerned accordingly.

Status: Point in time view as at 28/02/2017.

Changes to legislation: There are currently no known outstanding effects for the Council Decision 2012/642/CFSP. (See end of Document for details)

Textual Amendments

- F2** Substituted by [Council Decision \(CFSP\) 2016/280 of 25 February 2016 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus.](#)

Article 7

In order to maximise the impact of the abovementioned measures, the Union shall encourage third States to adopt restrictive measures similar to those contained in this Decision.

^{F3}Article 8

- 1 This Decision shall apply until 28 February 2018.
- 2 This Decision shall be kept under constant review and shall be renewed or amended, as appropriate, if the Council deems that its objectives have not been met.]

Textual Amendments

- F3** Substituted by [Council Decision \(CFSP\) 2017/350 of 27 February 2017 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus.](#)

Article 9

This Decision shall enter into force on 1 November 2012.

Status: Point in time view as at 28/02/2017.

Changes to legislation: There are currently no known outstanding effects for the Council Decision 2012/642/CFSP. (See end of Document for details)

ANNEX

Persons referred to in Articles 3(1) and 4(1)

	Names of Belarusian spelling	Names (Belarusian spelling)	Names (Russian spelling)	Identifying Information	Reasons for listing
1.	Navumau, Uladzimir Uladzimiravich Naumov, Vladimir Vladimirovich	НАВУМАЎ, Уладзімір Уладзіміравіч	НАУМОВ, Владимир Владимирович	DOB: 7.2.1956 POB: Smolensk (Russia)	Failed to take action to investigate the case of the unresolved disappearances of Yuri Zakharenko, Viktor Gonchar, Anatoly Krasovski and Dmitri Zavadski in Belarus in 1999-2000. Former Minister of Interior and also former Head of the President's Security Service. As a Minister of Interior he was responsible for the repression of peaceful demonstrations until his retirement on 6 April 2009 for health reasons. Received a residence in the Drozdy nomenklatura

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					district in Minsk from the Presidential Administration. In October 2014, was awarded the Order 'For Merit' III degree by President Lukashenka.
2.	Paulichenka, Dzmitry Valerievich Pavlichenko, Dmitri Valerievich (Pavlichenko, Dmitriy Valeriyevich)	ПАЎЛІЧЭНКА Дзмітрый Валер'евіч	ПАВЛИЧЕНКО Дмитрий Валериевич	DOB: 1966 POB: Vitebsk Белорусская ассоциация ветеранов спецподразделений войск МВД 'Честь' 220028, Минск Маяковского, 111	Key person in the unresolved disappearances of Yuri Zakharenko, Viktor Gonchar, Anatoly Krasovski and Dmitri Zavadski in Belarus in 1999-2000. Former Head of the Special Response Group at the Ministry of Interior (SOBR). Businessman, Head of 'Honour', the Ministry of Interior's Association of the veterans from special forces from the Ministry of Interior.
3.	Sheiman, Viktor Uladzimiravich (Sheyman, Viktor Uladzimiravich)	ШЭЙМАН, Віктар Уладзіміравіч	ШЕЙМАН, Виктор Владимирович	DOB: 26.5.1958 POB: Hrodna region Address: Управление	Head of the Management Department of the President's Administration.

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	Sheiman, Viktor Vladimirovich (Sheyman, Viktor Vladimirovich)			Делами Президента ул. К.Маркса, 38 220016, г. Минск	Responsible for the unresolved disappearances of Yuri Zakharenko, Viktor Gonchar, Anatoly Krasovski and Dmitri Zavadski in Belarus in 1999-2000. Former Secretary of the Security Council. Sheiman remains a Special Assistant/ Aid to the President.
4.	Sivakau, Iury Leanidavich (Sivakau, Yury Leanidavich) Sivakov, Iury (Yurij, Yuri) Leonidovich	СИВАКАЎ, Юрый Леанідавіч	СИВАКОВ, Юрий Леонидович	DOB: 5.8.1946 POB: Onory, Sakhalin Region Address: Белорусская ассоциация ветеранов спецподразделений войск МВД 'Честь' 220028, Минск Маяковского, 111	Orchestrated the unresolved disappearances of Yuri Zakharenko, Viktor Gonchar, Anatoly Krasovski and Dmitri Zavadski in Belarus in 1999-2000. Former Minister of Tourism and Sports, former Minister of Interior and former Deputy Head of the Presidential Administration.]

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Changes to legislation: There are currently no known outstanding effects
for the Council Decision 2012/642/CFSP. (See end of Document for details)

F⁴ ANNEX II

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Textual Amendments

- F4** Deleted by [Council Decision \(CFSP\) 2016/280 of 25 February 2016 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus.](#)

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- (1) [OJ L 301, 28.9.2004, p. 67.](#)
- (2) [OJ L 280, 26.10.2010, p. 18.](#)

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Changes to legislation:

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