Application lodged on 8 October 2018 — Sammut v Parliament

(Case T-608/18)

(2019/C 4/41)

Language of the case: Maltese

Parties

Applicant: Mark Anthony Sammut (Foetz, Luxembourg) (represented by: P. Borg Olivier, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the General Court should:

— annul, pursuant to Article 270 TFEU, the decision of 6 July 2018 of the European Parliament, adopted under Article 90 (2) of the Staff Regulations, by which it rejected the complaint presented by the applicant in order to have removed, from his staff report for the year 2016, a statement concerning the alleged failure to inform the Appointing Authority of his intention to publish a book in 2016 entitled 'L-Aqwa fl-Ewropa. Il-Panama papers u il-Poter' ['The best in Europe. The Panama Papers and Power']; and as a result,

— annul in part the decision of the Director General of the Directorate-General for Translation of 4 January 2018; and as a result,

— order the removal of the said statement from the staff report (point 3 concerning the conduct of the applicant — Compliance with Rules and Procedures);

— assess the damage suffered by the applicant as a consequence of those decisions;

— order the defendant to pay compensation for the damage suffered by the applicant as a result of those decisions;

— order the Appointing Authority to pay the costs.

Pleas in law

In support of his application, the applicant puts forward three pleas.

1. The first plea in law alleges infringement of Article 17a of the Staff Regulations, in as much as it is intended to protect the fundamental right of freedom of expression guaranteed by Article 10 of the Convention on the Protection of Human Rights and Fundamental Freedoms and by Article 11 of the Charter of Fundamental Rights of the European Union. Furthermore, a balance has to be stuck between rights and obligations, as not all rights are absolute.

2. The second plea in law alleges misinterpretation of Article 17a of the Staff Regulations, in that the subject of the book does not concern 'the work of the Union', and therefore the applicant was not under an obligation to inform the Appointing Authority of his intention beforehand. The words 'matter dealing with' mean and refer to the content of the document, the purpose of which is to deal with 'work of the Union'. This means that an official has to inform the Appointing Authority and obtain permission only if he would in any way be dealing with the work of the Union. The duty of the Appointing Authority that follows from this is to interpret strictly, not broadly what constitutes the 'work of the Union'. Furthermore, it is claimed that:

   — no reasons for the decision have been given, as it is based simply on a mere opinion, not on facts or legal considerations;

— the duty imposed by the Appointing Authority is more onerous than that laid down in the Staff Regulations;

— the decision is based on the disproportionate exercise discretion;

— 'matter dealing with the work of the Union' relates to a context which can be inferred, with regard to the workings of the Union, from other Guidelines;

— as there is no reference to his work or to any other work of the Union in the book, the applicant has not failed in his duty of trust, loyalty and impartiality towards the Union;

— from the case-law of the Court of Justice, in particular its judgment of the 6 March 2001 (*Connolly* v *Commission* (C-274/99 P, EU:C:2001:127, paragraphs 43 to 62), a number of relevant points emerge for the evaluation of the application and implementation of Article 17a of the Staff Regulations.

3. The third plea in law is based on the non-material damage suffered by the applicant as a result of the decision, both at his workplace as well as in his personal life, and the impact that this has had on his literary output. It is consequently necessary to quantify the damage and subsequently award compensation in that regard.

Action brought on 15 October 2018 — Polskie Górnictwo Naftowe i Gazownictwo v European Commission

(Case T-616/18)

(2019/C 4/42)

Language of the case: Polish

Parties

Applicant: Polskie Górnictwo Naftowe i Gazownictwo S.A. (Warsaw, Poland) (represented by: E. Buczkowska and M. Trepka, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission Decision of 24 May 2018 relating to a proceeding under Article 102 TFEU and Article 54 of the EEA Agreement in Case AT.39816 — Upstream Gas Supplies in Central and Eastern Europe, ([1]) closing that proceeding in accordance with Article 9 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 [EC] and 82 [EC], ([2]) by making the commitments of the public joint stock company Gazprom and Gazprom Export LLC ('Gazprom') of 15 March 2018 legally binding;

— order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission adopted a decision vitiated by a manifest infringement of Article 9 of Regulation No 1/2003, read in conjunction with Article 102 TFEU, and of the principle of proportionality, in so far as the Commission committed a manifest error of assessment of the evidence gathered and considered that the objections raised during proceeding AT.39816, which concerned the subordination, on the part of Gazprom, of gas deliveries to Poland to the obtaining of control of gas infrastructures in Poland, were not justified and, by reason of that error, accepted commitments of Gazprom which did not address the objections raised in that regard.

2. Second plea in law, alleging that the Commission made a decision vitiated by a manifest infringement of Article 9 of Regulation No 1/2003, read in conjunction with Article 102 TFEU, and of the principle of proportionality, in so far as the Commission accepted Gazprom's commitments concerning the application of unfair and manifestly excessive prices, commitments which do not adequately address the objections of the Commission, including the essence of those complaints, namely the application by a dominant operator of manifestly excessive prices.