Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the obligation to state reasons

   — The statement of reasons for including the applicant on the lists annexed to the contested measures does not meet the requirements of the second paragraph of Article 296 TFEU. It is vague and insufficiently precise. First, it is not clear from the statement of reasons what State support the applicant supposedly received for the development of the Bremino-Orsha special economic zone. The statement of reasons relating to the grant of '*a number of financial and tax advantages and other benefits*' in favour of the applicant is also unclear since it is not possible to understand which advantages are meant. The claim that the shareholders of Bremino-Grupp OOO are '*the owners of Bremino-Orsha*' is simply false because it is legally impossible to be the owner of an economic zone. Furthermore, the allegation that all three of the applicant's shareholders belong to the '*inner circle of Lukashenka-related businessmen*' is too general and cannot constitute sufficient grounds for the imposition of sanctions.

2. Second plea in law, alleging manifest errors of assessment

   — The defendant clearly proceeded on an incorrect factual basis and the assessment made was therefore wrong. The fact that the 'Bremino-Orsha' economic zone was established by presidential decree does not constitute an advantage for the applicant, since this procedure is provided for in Belarusian legislation when establishing economic zones. The tax advantages associated with the special economic zone are available to any investor. It is unclear how the defendant defines the specific inner circle of Lukashenka-related businessmen and on what basis it includes the applicant's shareholders in it. In addition, it is not clear from this reasoning how the applicant is concerned since it has not received any advantages in that regard. Nor has the applicant received any support from the President's son, Mr Viktar Lukashenka.

3. Third plea in law, alleging infringement of the applicant's rights of defence and its right to effective judicial protection

   — The defendant failed to inform the applicant of the proposed inclusion in the lists at issue and afforded it no opportunity to defend itself and, if necessary, to adduce evidence in order to rebut the allegations before the decision to impose restrictive measures against it was published.

4. Fourth plea in law, alleging that the restrictive measures are disproportionate

   — The contested measures constitute an unjustified and disproportionate interference with the applicant's fundamental rights, in particular its right to property, its right to pursue an economic activity and its right to respect for its reputation under Articles 16 and 17 of the Charter.

Action brought on 7 September 2021 — Steinbach International v Commission

(Case T-566/21)

(2021/C 490/57)

Language of the case: German

Parties

Applicant: Steinbach International GmbH (Schwertberg, Austria) (represented by: J. Gesinn, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should annul Commission Implementing Regulation (EU) 2021/957 of 31 May 2021 concerning the classification of certain goods in the Combined Nomenclature (OJ 2021 L 211, p. 48).

Pleas in law and main arguments

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

1. First plea in law: by classifying the Mesh Lounge under heading 6306 90 00 of Part 2 of Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1987 L 256, p. 1), the defendant changed the content of those tariff headings.

2. Second plea in law: heading 9506 of the Combined Nomenclature is a heading under which the Mesh Lounge can be classified because it is another type of water sport equipment and can readily be compared to inflatable arm rings, which the defendant has previously decided are goods under heading 9506 29 00. Whether the Mesh Lounge is used for sporting activities is not decisive.

3. Third plea in law: assuming that the Mesh Lounge cannot be classified under heading 9506 29 00 of the Combined Nomenclature, classification under heading 3926 9097 90 of the Combined Nomenclature (other articles manufactured from plastics or foil) is a possibility since the characteristic constituents are the air pillow and ring, and not the mesh.

4. Fourth plea in law: the overall assessment was carried out solely on the basis of use. The overall assessment must be carried out on the basis of other criteria, which leads to the result that the Mesh Lounge — leaving aside its classification under the other possible headings — would have to be classified under heading 3926 9097 90 of the Combined Nomenclature. The Mesh Lounge cannot be regarded as camping equipment. Alternatively, classification under heading 9503 0095 90 (other toys from plastics) of the Combined Nomenclature is a possibility if the Mesh Lounge is considered to be similar to air mattresses.

Action brought on 12 September 2021 — Swords v Commission

(Case T-586/21)

(2021/C 490/58)

Language of the case: English

Parties

Applicant: Patrick Swords (Dublin, Ireland) (represented by: G. Byrne, Barrister-at-Law)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the implied decision of the Commission dated 13 July 2021 refusing to grant access to documentation requested by the applicant; ([1])

— order the defendant to pay costs to the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging that, in refusing access to the documentation requested, the Commission has infringed the third indent of Article 4(2) of Regulation No 1049/2001. ([2])

   — The applicant claims that, notwithstanding that an investigation is ongoing in respect of Ireland, that cannot by itself justify the application of the exception upon which the Commission has relied in refusing disclosure in this case. The fact that numerous fundamental rights of relevant members of the public have been so severely restricted in such an unprecedented and severe manner ought to have weighed against the decision to refuse disclosure in the context of this case. In that regard, the applicant asserts that the Commission failed to interpret and apply strictly the said restriction, given the hardship endured by relevant members of the public with respect to the extreme measures imposed by Ireland, which trespass upon civil liberties and fundamental rights in a manner entirely unprecedented in the history of the EU. The applicant claims that such considerations demonstrate that the principles of transparency and democracy in this case, together with the impediments on access to justice suffered by such members of the public, are issues of particularly pressing concern which should have prevailed over the reasons the Commission relied on to support its refusal to disclose the requested information.

2. Second plea in law, alleging that if, the exception claimed by the Commission was applicable, the Commission erred in failing to recognise that the applicant's request arose in exceptional circumstances, and erred in holding that there was no overriding public interest in disclosure of the requested information. Thus, the applicant claims that the Commission's decision constitutes an infringement of the last sentence of the third indent of Article 4(2) of Regulation No 1049/2001.