



Press and Information

General Court of the European Union

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Judgment in Case T-789/19

Tom Moerenhout and Others v Commission

The General Court, finding an inadequate statement of reasons, annuls a Commission decision refusing to register a proposed citizens' initiative

A citizen presenting such a proposed initiative must be given the opportunity to understand the Commission's reasoning

On 5 July 2019 Mr Tom Moerenhout and six other citizens communicated to the European Commission, in accordance with the regulation on the citizens' initiative,¹ a proposed European citizens' initiative entitled 'Ensuring Common Commercial Policy conformity with EU Treaties and compliance with international law' ('the proposed ECI').

In accordance with the requirements laid down in that regulation,² the subject matter and the objectives of the proposed initiative, along with the provisions of the Treaties considered relevant by the citizens for the proposed action, were provided. In accordance with its subject matter, the proposed ECI sought the adoption of provisions regulating commercial transactions with an Occupant's entities based or operating in occupied territories by withholding products originating from there from entering the EU market. In that regard, the applicants referred to various provisions of the Treaties, the Charter of Fundamental Rights of the European Union, several regulations and Court of Justice judgments, and provisions and sources of international law.

By decision of 4 September 2019,³ the Commission refused to register the proposed ECI. The reason it gave for that refusal was that a legal act covering the subject matter of the proposed ECI could be adopted only on the basis of Article 215 TFEU, which requires that a decision be adopted which provides for the interruption or reduction, in part or completely, of economic and financial relations with the third country concerned. However, the Commission found that it did not have the power to submit a proposal for a legal act on that basis.

By its judgment, delivered in extended composition, the General Court of the European Union annuls the contested decision because it does **not contain enough information** to make it possible for the applicants to **know the reasons** for the refusal to register the proposed ECI and for the General Court to exercise its power of review of the lawfulness of that refusal. That decision does not comply with the **duty to state reasons** arising from the Treaty⁴ and the ECI regulation.⁵ The General Court accordingly explains the **extent** of the Commission's duty to state reasons when it refuses to register a proposed ECI which has been submitted under that regulation.

The General Court's assessment

The General Court notes that the objectives of the ECI regulation are to **reinforce European citizenship, enhance the democratic functioning of the European Union, encourage the**

¹ Regulation (EU) No 211/2011 of the European Parliament and the Council of 16 February 2011 on the citizens' initiative (OJ 2011 L 65, p. 1, and corrigendum OJ 2012 L 94, p. 49). That regulation was repealed and replaced with effect from 1 January 2020 by Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative (OJ 2019 L 130, p. 55, 'the ECI regulation').

² Article 4(1) of the ECI regulation.

³ Commission Decision (EU) 2019/1567 of 4 September 2019 on the proposed citizens' initiative entitled 'Ensuring Common Commercial Policy conformity with EU Treaties and compliance with international law' (OJ 2019 L 241, p. 12).

⁴ Article 296 TFEU.

⁵ Second subparagraph of Article 4(3) of the ECI regulation.

participation of citizens in democratic life, and make the European Union more accessible. It states that the attainment of those objectives would be seriously compromised if a decision refusing a proposed ECI does not have a full statement of reasons.

Under that regulation,⁶ a proposed ECI is to be registered by the Commission provided that that proposed initiative **does not manifestly fall outside the framework of its powers** to submit a **proposal for a legal act of the European Union** for the purpose of implementing the Treaties. In the present case, the General Court finds that the contested decision does not state sufficient reasons for the Commission's lack of competence to submit a proposal able to respond to the subject matter and objectives of the proposed ECI. After reiterating the principles of the duty to state reasons for acts of the institutions, the General Court describes the factors which had to be taken into consideration in order for the contested decision to have a sufficient statement of reasons concerning the Commission's lack of competence for the purpose of the ECI regulation.

In the first place, the General Court observes that simply referring to Article 215 TFEU, on restrictive measures, does not make it possible to understand why the Commission considered that the proposed action came exclusively within the scope of the Common Foreign and Security Policy (CFSP). **The Commission did not explain why** it considered that the measure envisaged by the proposed ECI had to be **categorised as aiming at an act providing for the interruption or reduction of commercial relations with one or more third countries** for the purposes of Article 215(1) TFEU.

In the second place, it observes that the assessment of whether the statement of reasons is sufficient must take account of the relevant context. In their proposed ECI, the applicants referred, explicitly and repeatedly, to the common commercial policy and to provisions relating to that area, such as Article 207 TFEU. In the present case, it was therefore for the Commission to **explain the reasons which led it to conclude**, implicitly in the contested decision, that the measure aimed at by the proposed ECI, in the light of its subject matter and objectives, **did not fall within the scope of the common commercial policy** and could not, therefore, be adopted on the basis of Article 207 TFEU. That assessment was of fundamental importance for the contested decision since, unlike the CFSP, the common commercial policy is an area in which that institution has the power to draw up a proposal for an EU act on the basis of Article 207 TFEU.

In the third place, the General Court states that the **adequacy or otherwise of the statement of reasons** for the contested decision must also be assessed in the light of the objectives of the provisions of the Treaties⁷ and the regulation on the citizens' initiative, consisting in encouraging the participation of citizens in democratic life and making the European Union more accessible. On account of those objectives, the Commission was obliged to make clear the reasons justifying the refusal to register the proposed ECI. In the absence of a full statement of reasons, the Commission's objections to the admissibility of the proposed ECI **could seriously compromise** the possible submission of a new proposed ECI.

Consequently, the General Court annuls the contested decision owing to an inadequate statement of reasons.

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 and ten days 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 European Union 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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⁶ Article 4(2)(b) of the ECI regulation.

⁷ Article 11(4) TEU and the first paragraph of Article 24 TFEU.

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

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