

Press Release

Carter-Ruck

Date: 13 March 2012

Burmese national Pye Phyo Tay Za wins his appeal: European Court of Justice (ECJ) annuls EU restrictive measures freezing his assets and orders the Council to pay his legal costs

Carter-Ruck Solicitors

6 St Andrew Street
London EC4A 3AE

T 020 7353 5005
F 020 7353 5553
DX 333 Chancery Lane
www.carter-ruck.com

Pye Phyo Tay Za has won his appeal to the European Court of Justice (ECJ) in Luxembourg. The ECJ in a landmark judgment handed down today has set aside the earlier judgment of the General Court and annulled the contested freezing regulation insofar as it relates to Pye Phyo Tay Za.

Pye Phyo Tay Za is a Burmese national whose father is a Burmese businessman. He was first listed by the EU in 2003 at the young age of 16. His listing was renewed in 2008. He was given no prior notice of his listing, no hearing and no opportunity to make representations before the Regulation had entered into force. In the Regulation he was described simply as the “*son of Mr Tay Za*”, the Managing Director of a named company, with no further information.

The ECJ upheld Pye Phyo Tay Za’s appeal, ruling that the legal basis of the freezing regulation is flawed under European law. The application of restrictive measures to persons on the “*sole ground of their family connection with persons associated with the leaders of [Burma] irrespective of the conduct of such persons is at variance with the Court’s case law*”.

In ruling that the General Court had erred in law, the ECJ upheld the paramount rights of the individual as well as the importance of the rule of law. It added:-

It is not easy to establish a link, even an indirect link, between the absence of progress towards democratisation and the continuing violation of

Partners

Andrew Stephenson
Alasdair Pepper
Guy Martin
Nigel Tait
Ruth Collard
Cameron Doley
Claire Gill
Adam Tudor
Isabel Hudson

Partnership Secretary

Helen Burluck

Regulated by the
Solicitors Regulation
Authority

SRA No. 44769

human rights in Myanmar, which, as is apparent from recital 1 in the preamble to the contested regulation, is one of the reasons which led to the adoption of the regulation, and the conduct of the family members of those in charge of businesses, which, in itself, has not been criticised.

As Sir Sydney Kentridge QC, advocate for Pye Phyo Tay Za, stated at the oral hearing:-

The Court has raised the question of putting pressure on the father through the son. I said that this was a very unattractive if not inhuman proposition.

To visit the sins of the father on the son is not consistent with the jurisprudence of the EU.

For further information, please contact Guy Martin (guy.martin@carter-ruck.com) or Dominic Garner (dominic.garner@carter-ruck.com).