

Pleas in law and main arguments

In these proceedings, the applicant, who, on his recruitment in October 1985, was classified in Grade A7, step 3, challenges the decision of the appointing authority refusing to revise that classification, placing him in Grade A6, step 2, and not in Grade A6, step 3, refusing to reconstitute his career and limiting the date of effect of the decision on his reclassification to 5 October 1995.

The pleas relied on by the applicant in support of his claims are the same as those relied on by the applicant in Case T-125/04 *Rousseaux v Commission*.

Action brought on 14 April 2004 by Cargill B.V. against the Commission of the European Communities

(Case T-142/04)

(2004/C 168/14)

(Language of the case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 14 April 2004 by Cargill B.V., having its registered office in The Hague (Netherlands), represented by H.J. Bronkhorst and J.F. van Nouhuys.

The applicant claims that the Court should:

- I. annul the decision of 5 January 2004 addressed to it by the Commission of the European Communities;
- II. order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments:

The applicant takes issue with the Commission's decision that remission of import duties was not justified in a particular case. That decision was adopted following annulment by the Court of Justice of Commission Decision C/2000/485 final in Case C-156/00 *Kingdom of the Netherlands v Commission*.⁽¹⁾

The applicant imported maize into the EC under the inward processing arrangements. The maize was to be processed into glucose, which in turn was re-exported. For that purpose the applicant had the necessary authorisations for the system of equivalent compensation. The Commission states in the contested decision that the exported glucose was not obtained entirely from maize but also from wheat originating on the EC market. The Netherlands authorities thereupon recovered the import duties owing. In the contested decision the Commission turned down the request for remission of that debt.

In support of its application the applicant first submits that there has been a breach of the rights of the defence. More

specifically, it pleads infringement of the *audi alteram partem* rule and of the right of access to the case-file.

The applicant submits further that there has been a breach of Regulation No 1430/79⁽²⁾ on the repayment or remission of import or export duties, as well as a breach of Article 239 of Regulation No 2913/92⁽³⁾ establishing the Community Customs Code, and of Articles 905 to 909 inclusive of Regulation No 2454/93⁽⁴⁾ laying down provisions for the implementation of Regulation No 2913/92. The applicant also alleges breach of the obligation under Article 253 EC to state reasons.

The Commission, the applicant argues, erred in finding that the applicant was manifestly negligent in regard to meeting the conditions governing its authorisation for inward processing. According to the applicant, the glucose to be exported, produced from wheat and maize, had the same characteristics as glucose obtained solely from maize. The applicant submits further that both products come under one single CN code. It claims that the only reproach which may be made against it is that it exported the glucose in part after expiry of the six-month period set out in the authorisation.

The applicant concludes by arguing that there has been an infringement of the principle of proportionality.

⁽¹⁾ Judgment in Case C-156/00 *Netherlands v Commission* [2003] ECR I-2527.

⁽²⁾ Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties (OJ 1979 L 175, p. 1).

⁽³⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1).

⁽⁴⁾ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1).

Action brought on 13 April 2004 by Télévision Française 1 SA against the Commission of the European Communities

(Case T-144/04)

(2004/C 168/15)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 13 April 2004 by Télévision Française 1 SA, established in Boulogne (France), represented by J.-P. Hordies, lawyer, with an address for service in Luxembourg.