

3. The third ground, alleging that the Civil Service Tribunal erred in finding that, as a result of the benefits already paid to Alessandro Missir's heirs, the Commission has fully compensated for the damage for which it is responsible.

In support of the third ground, the appellant submits that, in the light of the principles to be inferred from European Union case-law, benefits other than those referred to in Article 73 cannot contribute to the compensation for the damage, since such benefits differ from compensation for damage under European Union law on account of the grounds and conditions on which they are granted and their purpose. Consequently, as the Commission has failed to compensate fully for the damage for which it is responsible, it must be ordered to pay to the appellant a sufficient amount to ensure full compensation for the damage suffered by the murdered official and his successors.

Action brought on 29 July 2011 — Preparados Alimenticios del Sur v Commission

(Case T-402/11)

(2011/C 282/74)

Language of the case: Spanish

Parties

Applicant: Preparados Alimenticios del Sur, SL (Murcia, Spain) (represented by: I. Acero Campos, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- annul the decision to return to the Spanish customs authority the dossier on the application for remission;
- order the Commission to adjudicate upon the application for remission submitted by Prealisur S.L. which directly affects the application submitted by Zukan S.L.;
- so that it may adjudicate upon that application, order the Commission to take the necessary measures and steps, even it means taking measures against the Spanish customs authority, in order to obtain all the necessary information to decide the case, including the documents which the Commission states that it has requested from Spanish customs but which the latter has not yet supplied;
- order the European Commission to pay the costs.

Pleas in law and main arguments

This action is brought against the European Commission's decision of 29 June 2011, returning to the Spanish customs

authority the dossier on the applicant's application for remission so that that authority might adjudicate upon the application (Dossier No. 003-004-005-006-2009 RRPP-J Y REC 04/10), on the basis that the Commission did not have sufficient information to decide the case itself. The Spanish customs authority had previously transmitted the dossier to the Commission on the basis of Article 220(2)(b) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1).

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

1. First plea in law, alleging infringement of certain articles of 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).

— The applicant alleges, specifically, infringement of Articles 872 and 873, since the intention to take an unfavourable decision was not communicated to it — which would enable it to submit its observations in that regard — and the applicant was not informed of the European Commission's request for information to the Spanish customs authority and the consequent extension of the period of time to adjudicate upon the application for remission.

2. Second plea in law, alleging infringement of Article 220(2)(b) of the Customs Code, in so far as that article does not — contrary to the Commission's understanding — provide that the Customs authority's error must be an active one, the dossier being returned due to a lack of information from the party making the error, that is, the Spanish customs authority itself.

3. Third plea in law, alleging infringement of the Commission's Rules of Procedure and, in particular, of the Annex containing the Code of Good Administrative Behaviour for Staff of the European Commission in their Relations with the Public.

— The applicant submits in that regard that the contested decision infringed the general principles of good administration, the guidelines for good administrative behaviour and the right to information of interested parties. The applicant submits that the Commission has also failed to supply any of the documents requested, and has failed to provide any response to the decision which is the subject of this action.

4. Fourth plea in law, alleging infringement of the Charter of Fundamental Rights of the European Union.

— The applicant alleges, specifically, infringement of Articles 41, 42, 47, 48 and 51 of that charter.