

**Order of the President of the Court of First Instance of  
25 April 2008 — Vakakis v Commission**

(Case T-41/08 R)

*(Community tendering procedure — Interim proceedings —  
Loss of an opportunity — Locus standi — Admissibility of  
the main application — Urgency — Measures of inquiry)*

(2008/C 197/44)

*Language of the case: English*

**Parties**

*Applicant:* Vakakis International — Symvouli gia Agrotiki Anaptixi AE (Athens, Greece) (represented by: B. O'Connor, Solicitor)

*Defendant:* Commission of the European Communities (represented by: M. Wilderspin and G. Boudot, Agents)

**Re:**

Application for an order granting interim measures in the context of the service tender procedure EuropeAid/125241/C/SER/CY for the supply of 'Technical Assistance to Support Rural Development Policy' in the Northern Part of Cyprus.

**Operative part of the order**

1. *The application for interim measures is dismissed.*
2. *The application for measures of inquiry or organisation of procedure is dismissed.*
3. *There is no need for a decision on the application for leave to intervene.*
4. *Costs are reserved, except that Agriconsulting shall bear the costs incurred by it in connection with the submission of its application for leave to intervene.*

**Action brought on 14 May 2008 — CHEMK and  
Kuznetskie ferrosplavy v Council and Commission**

(Case T-190/08)

(2008/C 197/45)

*Language of the case: English*

**Parties**

*Applicants:* Chelyabinsk elektrometallurgical integrated plant OAO (CHEMK) (Chelyabinsk, Russia) and Kuznetskie ferrosplavy OAO (Novokuznetsk, Russia) (represented by: P. Vander Schueren, lawyer)

*Defendants:* Council of the European Union and Commission of the European Communities

**Form of order sought**

- Annul the contested regulation in so far as it affects the applicants;
- order the Council to pay the costs incurred by the applicants in relation to these proceedings; or
- in the alternative, annul the contested decision; and
- order the Commission to pay the costs incurred by the applicants in relation to these proceedings.

**Pleas in law and main arguments**

The applicants put forward five grounds in support of their application for annulment of Council Regulation (EC) No 172/2008 <sup>(1)</sup> of 25 February 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ferro-silicon originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia ('the contested regulation') in so far as it affects the applicants. In the alternative, the applicants seek annulment of the Commission decision dated 28 February 2008, notified to them on 3 March 2008, by which the Commission rejected their request for a suspension of the anti-dumping measures that were introduced by the contested regulation ('the contested decision').

First, the applicants claim that the Council acted contrary to Article 2(9) of the Basic Regulation <sup>(2)</sup> ('the Basic Regulation') and failed to fulfil the obligation to provide an adequate statement of reasons when it refused to use the actual profit margin of the applicants' related importer for the construction of their export price.

Second, the applicants submit that the Council infringed the principle of non-discrimination as well as Articles 6(7), 8(4) and 20(1) of the Basic Regulation by granting advanced disclosure to the Macedonian producer SILMAK.

Third, the applicants contend that the Council acted contrary to Article 3(6) of the Basic Regulation by committing an error of law and a manifest error of assessment in concluding that the Community industry suffered material injury.

Fourth, the applicants claim that the contested regulation is contrary to Articles 3(6) and 3(7) of the Basic Regulation and is vitiated by an error of law, multiple manifest errors of assessment, the lack of due care and inadequate reasoning inasmuch as the Council allegedly disregarded the effect of other factors on the situation of the Community industry that break the link between the targeted imports and the alleged material injury to the Community industry.

Fifth, the applicants submit that the Council violated their rights of defence by refusing to provide data on the complaint that justified the initiation of the anti-dumping investigation.

In the alternative, the applicants put forward one ground of annulment of the contested decision, namely that the Commission committed an error of law, a manifest error of assessment and violated the principle of equal treatment and sound administration by rejecting the applicants' request for the suspension of the measures.

<sup>(1)</sup> OJ 2008 L 55, p. 6.

<sup>(2)</sup> Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996 L 56, p. 1).

### Action brought on 21 May 2008 — Transnational Company 'Kazchrome' and ENRC Marketing v Council

(Case T-192/08)

(2008/C 197/46)

*Language of the case: English*

#### Parties

*Applicants:* Transnational Company 'Kazchrome' (TNK Kazchrome) (Aktobe, Kazakhstan) and ENRC Marketing AG (Kloten, Switzerland) (represented by: L. Ruessmann and A. Willems, lawyers)

*Defendant:* Council of the European Union

#### Form of order sought

- To declare the application admissible;
- to annul Council Regulation (EC) No 172/2008 imposing a definitive anti-dumping duty on imports of ferro-silicon originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia as far as it applies to the applicants;
- order the Council to bear its own costs and those incurred by the applicants.

#### Pleas in law and main arguments

The applicants, who produce and sell ferro-silicon to the market of the European Union, seek partial annulment of Council Regulation (EC) No 172/2008 <sup>(1)</sup> of 25 February 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ferro-silicon originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia.

In support of their application, the applicants submit that they are directly and individually concerned by the contested regulation and that the anti-dumping duty imposed by the said regulation is the result of several manifest errors of assessment,

manifest errors of fact and breaches of the Basic Regulation <sup>(2)</sup> ('the Basic Regulation') as well as of the WTO Anti-Dumping Agreement. The applicants further argue that the defendant failed to state reasons as required by Article 253 EC.

On the basis of the first plea, the applicants submit that the Council failed to properly distinguish between effects caused by other known factors from any injury caused by the targeted imports and, thus, the Council's findings violate Articles 3(2), 3(6) and 3(7) of the Basic Regulation.

On the basis of their second plea, the applicants advance that the anti-dumping duty was adopted on the basis of an erroneous assessment of Community interest and in violation of Articles 9(4) and 21 of the Basic Regulation.

On the basis of their third plea, it is submitted that although the applicants provided verifiable information to the institutions, they were allegedly treated as non-cooperating, the Council failed to check the facts used against available information which was brought to their attention and failed to carry out a proper market economy treatment within the time-limits imposed by the Basic Regulation.

On the basis of the fourth plea, the applicants contend that their rights of defence have been violated in the course of the investigation.

<sup>(1)</sup> OJ 2008 L 55, p. 6.

<sup>(2)</sup> Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996 L 56, p. 1).

### Appeal brought on 21 May 2008 by Carina Skareby against the judgment of the Civil Service Tribunal delivered on 6 March 2008 in Case F-46/06, Skareby v Commission

(Case T-193/08 P)

(2008/C 197/47)

*Language of the case: French*

#### Parties

*Appellant:* Carina Skareby (Leuven, Belgium) (represented by S. Rodrigues and C. Bernard-Glanz, lawyers)

*Other party to the proceedings:* Commission of the European Communities

#### Form of order sought by the appellant

- set aside the judgment delivered on 6 March 2008 by the European Union Civil Service Tribunal in Case F-46/06;