



## Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

17 September 2014\*

(Reference for a preliminary ruling — Dumping — Regulation (EC) No 661/2008 — Definitive anti-dumping duty on imports of ammonium nitrate originating in Russia — Conditions for exemption — Article 3(1) — First independent customer in the European Union — Acquisition of ammonium nitrate fertiliser through another company — Release of the goods — Application for invalidation of the customs declaration — Decision 2008/577/EC — Customs Code — Articles 66 and 220 — Error — Regulation (EEC) No 2454/93 — Article 251 — Post-release verification)

In Case C-3/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Tartu ringkonnakohus (Estonia), made by decision of 27 December 2012, received at the Court on 3 January 2013, in the proceedings

**Baltic Agro AS**

v

**Maksu- ja Tolliameti Ida maksu- ja tollikeskus,**

THE COURT (Third Chamber),

composed of M. Ilešič, President of the Chamber, C.G. Fernlund, A. Ó Caoimh (Rapporteur), C. Toader and E. Jarašiūnas, Judges,

Advocate General: P. Cruz Villalón,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- the Estonian Government, by M. Linntam and N. Grünberg, acting as Agents,
- the Council of the European Union, by S. Boelaert and M. Remmelgas, acting as Agents, assisted by B. Byrne, Solicitor, and G. Berrisch, Rechtsanwalt,
- the European Commission, by A. Stobiecka-Kuik, E. Randvere and B.-R. Killmann, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 3 April 2014,

gives the following

\* Language of the case: Estonian.

## Judgment

- 1 This request for a preliminary ruling concerns the interpretation and the validity of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1), as amended by Council Regulation (EC) No 1791/2006, of 20 November 2006 (OJ 2006 L 363, p. 1, the ‘Customs Code’), 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), as amended by Commission Regulation (EC) No 312/2009 of 16 April 2009 (OJ 2009 L 98, p. 3, ‘Regulation No 2454/93’), and the interpretation of Article 3(1) of Council Regulation (EC) No 661/2008, of 8 July 2008 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia following an expiry review pursuant to Article 11(2) and a partial interim review pursuant to Article 11(3) of Regulation (EC) No 384/96 (OJ 2008 L 185, p. 1, and corrigendum, OJ 2009 L 339, p. 59), of the Commission Decision 2008/577/EC of 4 July 2008 accepting the undertakings offered in connection with the anti-dumping proceeding concerning imports of ammonium nitrate originating in Russia and Ukraine (OJ 2008 L 185, p. 43, and corrigendum OJ 2009 L 339, p. 59), of Article 28 TFEU, of Article 31 TFEU and of Article 20 of the Charter of Fundamental Rights of the European Union (the ‘Charter’).
- 2 The request has been made in proceedings between Baltic Agro AS (‘Baltic Agro’), the applicant in the main proceedings, and Maksu- ja Tolliameti Ida maksu- ja tollikeskus (tax and customs authority — tax and customs centre, East, the ‘MTA’) concerning antidumping duties and value added tax (‘VAT’), on importations of ammonium nitrate originating in Russia, which were claimed from it as a result of a post-release verification.

### Legal context

#### *The Customs Code*

- 3 Article 66 of the Customs Code provides:

‘1. The customs authorities shall, at the request of the declarant, invalidate a declaration already accepted where the declarant furnishes proof that goods were declared in error for the customs procedure covered by that declaration or that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

Nevertheless, where the customs authorities have informed the declarant of their intention to examine the goods, a request for invalidation of the declaration shall not be accepted until after the examination has taken place.

2. The declaration shall not be invalidated after the goods have been released, except in cases defined in accordance with the committee procedure.

3. Invalidation of the declaration shall be without prejudice to the application of the penal provisions in force.’

- 4 Article 220(2) of the Customs Code provides:

‘Except in the cases referred to in the second and third subparagraphs of Article 217 (1), subsequent entry in the accounts shall not occur where:

...

- (b) the amount of duty legally owed failed to be entered in the accounts as a result of an error on the part of the customs authorities which could not reasonably have been detected by the person liable for payment, the latter for his part having acted in good faith and complied with all the provisions laid down by the legislation in force as regards the customs declaration;

...'

*Regulation No 2454/93*

- 5 Article 251 of Regulation No 2454/93 is worded as follows:

'By way of derogation from Article 66(2) of the Code, a customs declaration may be invalidated after the goods have been released, as provided below:

1. where it is established that the goods have been declared in error for a customs procedure entailing the payment of import duties instead of being placed under another customs procedure, the customs authorities shall invalidate the declaration if a request to that effect is made within three months of the date of acceptance of the declaration provided that:
  - any use of the goods has not contravened the conditions of the customs procedure under which they should have been placed,
  - when the goods were declared, they were intended to be placed under another customs procedure, all the requirements of which they fulfilled, and
  - the goods are immediately entered for the customs procedure for which they were actually intended.

The declaration placing the goods under the latter customs procedure shall take effect from the date of acceptance of the invalidated declaration.

The customs authorities may permit the three-month period to be exceeded in duly substantiated exceptional cases;

...'

*Regulation No 661/2008*

- 6 Recitals 159 and 161 in the preamble to Regulation No 661/2008 are worded as follows:

'(159) To further enable the Commission and the customs authorities to effectively monitor the compliance of the companies with the undertakings, when the request for release for free circulation is presented to the relevant customs authority, exemption from the anti-dumping duty is to be conditional on (i) the presentation of an undertaking invoice, which is a commercial invoice containing at least the elements listed and the declaration stipulated in the Annex, (ii) the fact that the imported goods are manufactured, shipped and invoiced directly by the said companies to the first independent customer in the Community, and (iii) the fact that the goods declared and presented to customs correspond precisely to the description on the undertaking invoice. Where the above conditions are not met the appropriate anti-dumping duty shall be incurred at the time of acceptance of the declaration for release into free circulation.

...

(161) Importers should be aware that a customs debt may be incurred, as a normal trade risk, at the time of acceptance of the declaration for release into free circulation as described in recitals (159) and (160) even if an undertaking offered by the manufacturer from whom they were buying, directly or indirectly, had been accepted by the Commission.’

7 Articles 1 and 2 of Regulation No 661/2008 impose definitive anti-dumping duties of different amounts on the importation of ammonium nitrate and certain fertilizers and other goods containing ammonium nitrate originating in Russia.

8 Article 3(1) and (2) of that regulation is worded as follows:

‘1. Imports declared for release into free circulation which are invoiced by companies from which undertakings are accepted by the Commission and whose names are listed in Decision 2008/577/EC, as from time to time amended, shall be exempt from the anti-dumping duty imposed by Article 2, on condition that:

- they are manufactured, shipped and invoiced directly by the said companies to the first independent customer in the Community, and
- such imports are accompanied by an undertaking invoice which is a commercial invoice containing at least the elements and the declaration stipulated in the Annex [to] this Regulation, and
- the goods declared and presented to customs correspond precisely to the description on the undertaking invoice.

2. A customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation:

- whenever it is established, in respect of imports described in paragraph 1, that one or more of the conditions listed in that paragraph are not fulfilled, or

...’

*Decision 2008/577*

9 Recital 21 in the preamble to Decision 2008/577 states:

‘In order to enable the Commission to monitor effectively the companies’ compliance with the undertakings, when the request for release into free circulation is presented to the relevant customs authority, exemption from the anti-dumping duty will be conditional on (i) the presentation of an undertaking invoice containing at least the elements listed in the Annex to Regulation (EC) No 2008/661/EC and in the Annex to Council Regulation (EC) No 2008/662/EC ...; (ii) the fact that imported goods are manufactured, shipped and invoiced directly by the said companies to the first independent customer in the Community; and (iii) the fact that the goods declared and presented to customs correspond precisely to the description on the undertaking invoice. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty shall instead be payable.’

10 By that decision, the European Commission accepted the price undertakings offered, in accordance with Article 8(1) of 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), by the Russian exporting producers of ammonium nitrate, ‘JSC Acron [(“Acron”)], Veliky Novgorod, Russia and JSC Dorogobuzh, Dorogobuzh, Russia, members of “Acron” Holding Company’.

### **The dispute in the main proceedings and the questions referred for a preliminary ruling**

- 11 In the months of October 2009 and January 2010, Baltic Agro, established in Estonia, bought 5 000 tonnes of ammonium nitrate fertilizer, through the agency of an Estonian company, Magnet Grupp OÜ ('Magnet Grupp') as an intermediary. Several purchase agreements were concluded for that purpose between, first, Acron and Magnet Grupp and, secondly, between Magnet Grupp and Baltic Agro. By those contracts, Acron sold 10 000 tonnes of ammonium nitrate fertilizer to Magnet Grupp and Baltic Agro bought 5 000 tonnes of those goods from Magnet Grupp. Under its contracts, Baltic Agro undertook to complete the customs formalities in connection with the goods and to pay the VAT due.
- 12 According to the referring court, in the months of January and February 2010, two customs clearance agents filed five customs declarations declaring the importation of 1 751,50 tonnes of ammonium nitrate fertilizer. Those declarations referred to Baltic Agro as the consignee of the imported goods and, as the consignor, to Acron in two of them and to Ventoil SIA, a Latvian transport company, in the three others.
- 13 On 1 March and 23 April 2010, the customs clearance agents requested that the declarations be invalidated by the MTA on the ground that they referred to Baltic Agro as the consignee instead of Magnet Grupp.
- 14 On 3 March 2010, the MTA carried out a verification procedure into those five customs declarations in order to determine whether the customs value of the goods imported, the calculation and settlement of all the charges levied on importation were correct.
- 15 On 31 May 2010, on the basis of the verification procedure, the MTA adopted two tax assessment notices requiring Baltic Agro to pay customs duty and VAT due on the imported goods on the ground that the conditions for exemption provided for in Article 3(1) of Regulation No 661/2008 had not been met, namely, because Baltic Agro was not the first independent customer in the European Union.
- 16 Baltic Agro lodged an application for annulment against those notices before the Tartu halduskohus (Administrative court, Tartu) claiming that the fact that it had used the services of another company for the importations at issue, in this case Magnet Grupp, was not relevant for taxation purposes.
- 17 On 25 April 2011, the Tartu Halduskohus dismissed the application, holding that Baltic Agro could not benefit from the exemption provided for in Article 3(1) of Regulation No 661/2008 because it had not acquired the imported goods directly from the producer.
- 18 On 25 May 2011, Baltic Agro brought an appeal before the Tartu ringkonnakohus (Court of appeal, Tartu) seeking an order setting aside the decision dismissing its application.
- 19 The referring court wishes to know whether Baltic Agro, not being the first independent customer in the European Union, may rely on the exemption from antidumping duties provided for in Article 3(1) of Regulation No 661/2008. In that respect, that court queries whether, in order to benefit from that exemption, the first customer and the importer must always be the same person.
- 20 The referring court also has doubts as to the consequences of an incorrect customs declaration. In that regard, it wonders whether the fact that a customs authority, following the lodging of a request by the applicant in the main proceedings to have declarations invalidated, accepted those declarations or carried out a post-release verification exercise, doesn't show the existence of an error on the part of that authority, opening the possibility for that applicant to use the procedure under Article 220(2)(b) of the Customs Code which permits declarations such as those at issue in the main proceedings to be invalidated.

- 21 Finally, the referring court wonders whether recourse to another company, such as Magnet Grupp, to import the goods into the European Union does not give rise to unequal treatment before the law, given that an importer who does not use such an intermediary is eligible for the exemption from anti-dumping duties provided for by Article 3(1) of Regulation No 661/2008. According to the referring court, that treatment is not proportionate and creates an inequality between two importers who are in the same situation, which is contrary to EU law and, in particular, Article 20 of the Charter.
- 22 In those circumstances, the Tartu ringkonnakohus decided to stay the proceedings and refer the following questions to the Court for a preliminary ruling:
- ‘1. Is Article 3(1) of ... Regulation ... No 661/2008] to be interpreted as meaning that the importer and the first independent customer in the [Union] must always be one and the same person?
  2. Is Article 3(1) of ... Regulation ... No 661/2008, in conjunction with ... Decision 2008/577 ..., to be interpreted as meaning that exemption from anti-dumping duty applies only to such first independent customer in the [Union] as has not resold the goods to be declared prior to making the declaration?
  3. Is Article 66 of the Community Customs Code ..., in conjunction with Article 251 of ... Regulation ... No 2454/93 and the other procedural rules relating to subsequent amendments to a customs declaration, to be interpreted as meaning that, where the wrong consignee is entered in a customs declaration on the importation of goods, it must be possible, on request, for the declaration to be invalidated and the consignee’s details to be corrected even after the goods have been released if the customs duty exemption provided for in Article 3(1) of ... Regulation ... No 661/2008 would have had to be applied if the correct consignee had been entered, or is Article 220(2)(b) of the Community Customs Code ... to be interpreted, in those circumstances, as meaning that the customs authorities are not entitled to make a subsequent entry in the accounts?
  4. If both of the alternatives in Question (3) should be answered in the negative, must it be considered compatible with Article 20 of the Charter ..., in conjunction with Article 28(1) TFEU and Article 31 TFEU, for Article 66 of the Community Customs Code ..., in conjunction with Article 251 of ... Regulation ... No 2454/93 and the other procedural rules relating to subsequent amendments to a customs declaration, not to permit a declaration to be invalidated and the consignee’s details to be corrected, on request, after the goods have been released, if the customs duty exemption provided for in Article 3(1) of ... Regulation ... No 661/2008 would have had to be applied if the correct consignee had been entered?’

### **Consideration of the questions referred**

#### *The first and second questions*

- 23 By its first and second questions, which it is appropriate to consider together, the referring court asks, in essence, whether Article 3(1) of Regulation No 661/2008 must be interpreted as meaning that a company established in a Member State, which purchased ammonium nitrate originating in Russia, through another company also established in a Member State, with a view to importing it into the Union, may be considered to be the first independent customer in the Union, within the meaning of that provision, and may therefore be eligible for the exemption from definitive anti-dumping duty laid down by that regulation in respect of the ammonium nitrate.

- 24 It must be observed at the outset that the exemption from anti-dumping duties may be made only under certain conditions, in cases specifically provided for, and thus constitutes an exception to the normal regime for anti-dumping duties. The provisions which provide for such an exemption are, therefore, to be interpreted strictly (see, by analogy, *Söhl & Söhlke*, C-48/98, EU:C:1999:548, paragraph 52, and *Isaac International*, C-371/09, EU:C:2010:458, paragraph 42).
- 25 Under Article 3(1) of Regulation No 661/2008, the imports accepted by the Commission are eligible for exemption from anti-dumping duty if those imports comply with the three cumulative conditions laid down in that article. First, the imported goods must be manufactured, shipped and invoiced directly by the said companies to the first independent customer in the Union. In this respect, the first indent of Article 3(1) of the regulation explicitly requires, through the use of the term ‘directly’, a close link between, on the one hand, the company responsible for the manufacture, shipping and invoicing of the goods imported and, on the other hand, the first independent customer in the Union.
- 26 Secondly, the imports eligible for the exemption must be accompanied by an undertaking invoice, which is a commercial invoice containing at least the elements and the declaration stipulated in the Annex of Regulation No 661/2008.
- 27 Thirdly, the goods declared and presented to customs must correspond precisely to the description on the undertaking invoice and thus satisfy the requirements referred to in the previous paragraph.
- 28 In addition, Article 3(2) of the regulation specifies that a customs debt is to be incurred at the time of acceptance of the declaration for release into free circulation whenever it is established that the imports envisaged by Article 3(1) do not fulfil one or more of the conditions listed in that provision.
- 29 Article 3 of Regulation No 661/2008 must be read in the light of recital 159 in the preamble to that regulation which states that the exemption from the anti-dumping duty is subject to the conditions laid down in that article in order to enable the Commission and the customs authorities to monitor effectively the compliance of the companies with the undertakings when the request for release for free circulation is presented to the relevant customs authority. Consequently, if the conditions are not met the appropriate anti-dumping duty shall be incurred at the time of acceptance of the declaration for release into free circulation.
- 30 Furthermore, as the Advocate General has observed at point 33 of his Opinion, the requirements laid down in Article 3(1) of Regulation No 661/2008, read in conjunction with recital 159, are justified for reasons relating to the verification, whether by the Commission or by the competent authorities of the Member States, that the undertakings given have been complied with.
- 31 However, as is clear from the order for reference, it is apparent that the goods at issue the main proceedings were not invoiced and shipped directly by Acron to Baltic Agro, because the latter, on the one hand, did not purchase the goods directly from Acron, which was the company whose undertaking had been accepted by the Commission by Regulation No 661/2008 and, on the other hand, purchased only some of the goods sold by Acron to Magnet Grupp even though Baltic Agro was referred to in the customs declarations as consignee of all the goods sold by Acron. In circumstances such as those, the first condition laid down by Article 3(1) of Regulation No 661/2008 cannot be considered to be fulfilled, with the result that the exemption from the anti-dumping duty provided for by that regulation does not apply.
- 32 In the light of the foregoing, the answer to the first and second questions is that Article 3(1) of Regulation No 661/2008 must be interpreted as meaning that a company established in a Member State, which purchased ammonium nitrate originating in Russia, through another company also established in a Member State, with a view to importing it into the Union, may not be considered to

be the first independent customer in the Union, within the meaning of that provision, and may not therefore be eligible for the exemption from definitive anti-dumping duty laid down by that regulation in respect of the ammonium nitrate.

*The third question*

- 33 By its third question, the referring court asks, in essence, whether Articles 66 and 220(2)(b) of the Customs Code must be interpreted as precluding a customs authority from making a subsequent entry in the accounts of anti-dumping duty when, as in the circumstances of the case in the main proceedings, applications to have the customs declarations invalidated were brought on the grounds that the entry for the consignee was incorrect and the authority had accepted those declarations or put in hand a verification exercise after receiving those applications.
- 34 It should be observed, first, that Article 66 of the Customs Code provides that an application to invalidate a customs declaration may be accepted where the declarant furnishes proof that goods were declared in error for the customs procedure covered by that declaration or that the placing of the goods under the customs procedure for which they were declared is no longer justified. According to the same article, the declaration may not be invalidated after the goods are released except in the limited cases listed, in particular, in Article 251 of Regulation No 2454/93.
- 35 Secondly, Article 220(2)(b) of the Customs Code provides that a subsequent entry in the accounts resulting from a customs debt shall not occur where the amount of duty legally owed was not entered in the accounts as a result of an error on the part of the customs authorities themselves, which could not reasonably have been detected by the person liable for payment, who had, for his part, acted in good faith.
- 36 However, in the present case, it does not appear from any of the material in case file that, in the circumstances of the main proceedings, Articles 66 and 220(2)(b) of the Customs Code are applicable.
- 37 As regards Article 66 of the Customs Code, it is apparent that Baltic Agro has not submitted, or even alleged, that the goods were declared in error for the customs procedure corresponding to the customs declaration at issue. Thus, as the Advocate General observed at points 46 to 47 of his Opinion, Article 66 of the Customs Code does not apply to such circumstances.
- 38 As regards Article 220(2)(b) of the Customs Code, it must be emphasised that, in the present case, none of the material in the case-file before the Court leads to the conclusion that the indication by the customs clearance agents of Baltic Agro as the consignee in their customs declarations, or the acceptance or the initiation of a verification of those declarations after a request for invalidation of the latter was lodged, amounts to an error on the part of the customs authority.
- 39 In any event, even if that material did demonstrate an error enabling the invalidation of the customs declarations at issue in the main proceedings, it must be emphasised that such circumstances would not permit Baltic Agro to benefit from the exemption from anti-dumping duty provided for Regulation No 661/2008 because, as is clear from paragraph 31 of this judgment, that company would still not fulfil the conditions laid down in Article 3 of the regulation in order to be considered as the first independent customer in the Union.
- 40 In those circumstances, the answer to the third question is that Articles 66 and 220(2)(b) of the Customs Code must be interpreted as not precluding a customs authority from making a subsequent entry in the accounts of anti-dumping duty when, as in the circumstances of the case in the main proceedings, the requests to invalidate the customs declarations were brought on the ground that the entry for the consignee was incorrect and that the authority had accepted those declarations or put in hand a verification exercise after receiving those requests.



*The fourth question*

- 41 By its fourth question, the referring court asks, in essence, whether Article 66 of the Customs Code and Article 251 of Regulation No 2454/93 are compatible with the fundamental right to equality before the law affirmed in Article 20 of the Charter in circumstances where, in the context of the common customs tariff referred to in Articles 28 TFEU and 31 TFEU, those provisions of the Customs Code and of Regulation No 2454/93 do not permit the invalidation, on request, of an incorrect customs declaration and thus the grant of the benefit of the exemption from anti-dumping duty to the consignee that the latter could have claimed, if the error had not been made.
- 42 In this regard, the referring court considers that if the provisions of the Customs Code and of Regulation No 661/2008 at issue in the main proceedings do not permit the cancellation of the customs declaration in order to correct the consignee of the goods at issue and thereby preclude Magnet Grupp from relying on the exemption from anti-dumping duty that it could have claimed had there been no such error, the question arises as to whether there is a breach of the fundamental right to equality before the law, since the two companies involved in the main proceedings, which are essentially in the same situation, are not treated in the same manner.
- 43 However, as has been stated at paragraph 38 of this judgment, no error of such a kind as to permit the invalidation of the customs declarations is at issue in the main proceedings. It must be noted, in that respect, that the obligation to provide correct information in a customs declaration falls on the declarant. That obligation is no more than the corollary of the principle of irrevocability of the customs declaration once it has been accepted, a principle the exceptions to which are strictly defined by the relevant EU legislation (*DP grup*, C-138/10, EU:C:2011:587, paragraphs 39 to 41).
- 44 It must also be held that a company that has complied with the requirements laid down in Article 3 of Regulation No 661/2008 and has correctly completed a customs declaration in order to be eligible for an exemption from anti-dumping duty is not in a situation comparable with that of a company that has not complied with those requirements.
- 45 Further, as has been stated in paragraphs 31 and 39 of this judgment, even if the entries in the customs declarations at issue in the main proceedings had been correct, Baltic Agro would not be in a position to claim the exemption from anti-dumping duty because it would not, in any event, satisfy the conditions laid down by Article 3(1) of Regulation No 661/2008.
- 46 Consequently, the answer to the fourth question is that Article 66 of the Customs Code and Article 251 of Regulation No 2454/93 are compatible with the fundamental right to equality before the law affirmed in Article 20 of the Charter in circumstances where, in the context of the common customs tariff, referred to in Articles 28 TFEU and 31 TFEU, those provisions of the Customs Code and of Regulation No 2454/93 do not permit the invalidation, on request, of an incorrect customs declaration and thus the grant of the benefit of the exemption from anti-dumping duty to the consignee that the latter could have claimed, if the error had not been made.

**Costs**

- 47 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

1. **Article 3(1) of Regulation (EC) No 661/2008 of 8 July 2008, imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia following an expiry review pursuant to Article 11(2) and a partial interim review pursuant to Article 11(3) of Regulation (EC) No 384/96, must be interpreted as meaning that a company established in a Member State, which purchased ammonium nitrate originating in Russia, through another company also established in a Member State, with a view to importing it into the Union, may not be considered to be the first independent customer in the Union, within the meaning of that provision, and may not therefore be eligible for the exemption from definitive anti-dumping duty laid down by that regulation in respect of the ammonium nitrate.**
2. **Articles 66 and 220(2)(b) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Council Regulation (EC) No 1791/2006, of 20 November 2006, must be interpreted as not precluding a customs authority from making a subsequent entry in the accounts of anti-dumping duty when, as in the circumstances of the case in the main proceedings, the requests to invalidate the customs declarations were brought on the ground that the entry for the consignee was incorrect and that the authority had accepted those declarations or put in hand a verification exercise after receiving those requests.**
3. **Article 66 of Regulation No 2913/92, as amended by Regulation No 1791/2006, and Article 251 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, as amended by Commission Regulation (EC) No 312/2009, of 16 April 2009 are compatible with the fundamental right to equality before the law affirmed in Article 20 of the Charter in circumstances where, in the context of the common customs tariff, referred to in Articles 28 TFEU and 31 TFEU, those provisions of the Customs Code and of Regulation No 2454/93 do not permit the invalidation, on request, of an incorrect customs declaration and thus the grant of the benefit of the exemption from anti-dumping duty to the consignee that the latter could have claimed, if the error had not been made.**

[Signatures]