



Reports of Cases

Case C-427/14

**Valsts ieņēmumu dienests
v
'Veloserviss' SIA**

(Request for a preliminary ruling from the Augstākās tiesas Administratīvo lietu departaments)

(Reference for a preliminary ruling — Community Customs Code — Post-clearance examination of declarations — Principle of the protection of legitimate expectations — National rules placing restrictions on re-examination of the results of a post-clearance examination — Powers — Decision on the first post-clearance examination — Incorrect or incomplete information not known on the date of the decision)

Summary — Judgment of the Court (First Chamber), 10 December 2015

1. *Customs union — Customs declarations — Post-clearance examination — National rules placing restrictions on re-examination of the results of a post-clearance examination three years from the date on which the customs debt was incurred — Not permissible — No infringement of the principle of the protection of legal certainty due to the possibility of an examination being carried out within that time period*

(Council Regulation No 2913/92, as amended by Regulation No 2700/2000, Arts 78(3) and 221(4))

2. *European Union own resources — Post-clearance recovery of import or export duties — Conditions for non-imposition of import duties laid down in Article 220(2)(b) of Regulation No 2913/92 — Error by the competent authorities — Requirement of active conduct*

(Council Regulation No 2913/92, as amended by Regulation No 2700/2000, Art. 220(2)(b))

1. Article 78(3) of Regulation No 2913/92 establishing the Community Customs Code, as amended by Regulation No 2700/2000, must be interpreted as precluding national rules under which a restriction is placed on the customs authorities' powers to conduct re-examinations or post-clearance examinations and to regularise the situation by fixing a new customs debt, provided that that restriction refers to a three-year period from the time the initial customs debt was incurred, which it is for the national court to verify.

Given that once the three-year time-limit from the time the customs debt was incurred has expired, it is no longer possible to communicate a new customs debt and thus regularise the situation arising from a revision or post-clearance examination within the meaning of Article 78(3) of the Customs Code, the principle of legal certainty requires that Member States must be free to limit the use of the procedure provided for under that provision after expiry of the three-year period as from the date on which the initial customs debt was incurred, inter alia by imposing a time-limit on revision. During that three-year period, however, a Member State's national rules must allow the customs authorities once again to take measures to restore the situation arising from a revision or post-clearance

examination under Article 78(3) of the Customs Code, inter alia by amending the customs debt. It must, moreover, be possible to take such a measure even after expiry of that period in a situation where a customs debt is the result, within the meaning of Article 221(4) of the Customs Code, of an act which, on the date it was committed, could give rise to criminal court proceedings, which it is for the referring court to verify.

The principle of the protection of legitimate expectations does not preclude the customs authorities from subsequently revising or conducting post-clearance examinations and regularising the situation as provided for in Article 78(3) of the Customs Code. During the three-year period which runs from the time when the initial customs debt is incurred, a taxable person must, as an economic operator, accept the risk and make the necessary arrangements in order to guard against the risks of the customs authorities revising their decision on the customs debt in the light of new information in their possession following examinations.

(see paras 36, 37, 41, 42, 46, operative part)

2. See the text of the decision.

(see paras 43, 44)