

- declare, pursuant to Article 184 of the EC Treaty, that Council Regulation (EC) No 71/97 is inapplicable in so far as it constitutes the legal basis for Regulation No 88/97,
- declare, pursuant to Article 184 of the EC Treaty, that Article 13 of Council Regulation (EC) No 384/96 is inapplicable in so far as it constitutes the legal basis for Regulations (EC) No 71/97 and (EC) No 88/97,
- order the defendant to pay the costs.

Pleas in law and main arguments adduced in support:

The applicant has already, with Case T-74/97, brought an action against the Council before the Court of First Instance of the European Communities.

In the present action, the applicant challenges Commission Regulation (EC) No 88/97 (the 'Exemption Regulation'), which lays down the detailed rules for the procedure for the exemption of undertakings provided for by Council Regulation (EC) No 71/97 (the 'Reference Regulation'). The Reference Regulation extended the duty originally introduced for bicycles originating in the People's Republic of China to the import of bicycle parts originating in that country. Although the applicant does not satisfy the factual preconditions for circumvention, it was not granted exemption from the duty applicable in the case of circumvention.

The applicant contends that the Exemption Regulation should be annulled and relies thereby essentially on the following grounds.

The end-use system before the national customs authorities introduced for importers by the Exemption Regulation, which does not grant undertakings an exemption automatically if they do not satisfy the factual preconditions for circumvention but makes exemption dependent on further conditions, is not covered by Article 3 of the Reference Regulation and Article 13 of Regulation (EC) No 384/96 (the 'Basic Regulation') and therefore lacks a legal basis.

In addition, the applicant pleads in an ancillary claim the inapplicability of the Reference Regulation and Article 13 of the Basic Regulation in so far as they constitute the legal basis for the Exemption Regulation. The applicant relies in that regard essentially on the arguments already made in Case T-74/97.

**Action brought on 27 March 1997 by Sofivo and Others
against the Commission of the European Communities**

(Case T-76/97)

(97/C 166/39)

(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 27 March 1997 by Sofivo, established at Condé sur Vire (France), Sofivo Production, established at Brece (France), Sovinor, established at Condé sur Vire (France), Denkavit France, established at Montreuil-Bellay (France), Sobeval Viande, established at Périgueux (France), Serval, established at Sainte Eanne (France), Besnier Industrie, established at Bourbarre (France), Sovida, established at Chateaubriand (France), Sica Ouest Elevage, established at Ploudaniel (France), Guinde, established at Montauban de Bretagne (France), Tarbouriech, established at Villeneuve sur Lot (France), Mamellor, established at Charnay les Macon (France), Coopagri Bretagne, established at Landerneau (France), Collet et Compagnie, established at Chateaubourg (France), Kermene SA, established at Saint Jacut du Mene (France), and Vals, established at Champagne (France), represented by Philippe Denesle, of the Rouen Bar, with an address for service in Luxembourg at the Chambers of Marc Loesch, 11 Rue Goethe.

The applicants claim that the Court should:

- annul Commission Regulation (EC) No 200/97 adopted on 31 January 1997,
- order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

The applicants, who are also the applicants in Cases T-14/97, T-15/97, T-20/97 ⁽¹⁾ and T-61/97 ⁽²⁾, are contesting the way in which, by establishing a supplementary early marketing premium in the beef and veal sector, Regulation (EC) No 200/97 ⁽³⁾ purports to tackle the unequal treatment and anti-competitive discrimination criticized in the applications lodged in the cases cited above.

According to the applicants, the Commission has adopted, in the contested measure, the principle of the payment of a supplementary premium, which, although introducing a differentiation as regards the amount of the aid, nevertheless fails to remedy the unequal treatment and anti-competitive discrimination in any way. In their view, the grant of a supplementary premium in the same amount, the sole consideration for which is the weight of the slaughtered animal, without taking into account any other objective market factor, cannot restore a balance between competing products.

The applicants have stated in their previous applications that, since the average carcass weight qualifying for the premium may vary from one Member State to the next, without such variation being justified by objective, relevant divergences, the provisions in issue did not comply with Article 40 of the Treaty. In the contested act, however, the Commission once again adopts reference weights without providing any objective data.

In addition, however, and as their main point, the applicants state that, whilst the Commission is right in its view that production no longer meets normal demand in the market, the provisions adopted by it cannot remedy the effect under consideration. The supplementary premium of ECU 10 per 108 kilograms in respect of animals reared in France does not in any way permit the

restoration of competition with, for example, animals reared in the Netherlands, which, at a weight of 138 kilograms, will be capable of being sold on the French market at a higher price, having regard not only to the number of additional kilograms but also to the higher price per kilogram paid for animals with superior physical characteristics, for which a premium of ECU 60 is to be paid.

(¹) OJ No C 94, 22. 3. 1997, pp. 20, 21 and 22 respectively.

(²) Not yet published in the Official Journal.

(³) Commission Regulation (EC) No 200/97 of 31 January 1997 amending Regulation (EEC) No 3886/92 laying down detailed rules for the application of premium schemes in the beef and veal sector (OJ No L 31, 1. 2. 1997, p. 62).

Action brought on 27 March 1997 by José Baiges Planas and 16 others against the Commission of the European Communities

(Case T-77/97)

(97/C 166/40)

(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 27 March 1997 by José Baiges Planas, residing in Brussels, Viviane Baretto-Piazzini, residing at Rhode St Genese (Belgium), David Broderick, residing in Brussels, Alessandro Buttice, residing in Brussels, Peter Grasmann, residing in Brussels, Timothy Hayes, residing at Wezembeek-Oppem (Belgium), Louis Hersom, residing in Brussels, Owen Jones, residing in Brussels, Jean-Louis Levy-Gorgeot, residing at Bereldange (Luxembourg), Saturno Mallia, residing at Overijse (Belgium), Fernando Mazza, residing at Steinsel (Luxembourg), Yasmine Pire, residing in Brussels, William Richer, residing at Hoeilaart (Belgium), Josefa Rodriguez Portero, residing in Brussels, Robert Smyth, residing at Sterrebeek (Belgium), Alain Van Hamme, residing at Grimbergen (Belgium), and Fionnuala Walker, residing in Brussels, represented by Marc-Albert Lucas, of the Liège Bar, with an address for service in Luxembourg at the Chambers of Evelyne Korn, 21 Rue de Nassau.

The applicants claim that the Court should:

- annul the Commission's decision rejecting their request to be regraded,
- annul the Commission's decision rejecting their administrative complaint,
- order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are the same as in Case T-16/97 (¹).

(¹) OJ No C 74, 8. 3. 1997, p. 27.

Action brought on 28 March 1997 by F. Javier Maetzu Nieva against the Commission of the European Communities

(Case T-78/97)

(97/C 166/41)

(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 28 March 1997 by F. Javier Maetzu Nieva, residing in Brussels, represented by Nicolas Lhoëst, of the Brussels Bar, with an address for service in Luxembourg at the offices of Fiduciaire Myson Sarl, 30 Rue de Cessange.

The applicant claims that the Court should:

- annul the Commission's decision of 18 June 1996 rejecting the applicant's request that it give consideration to the possible application of Article 31 (2) of the Staff Regulations,
- annul, in so far as may be necessary, the decision adopted by the Commission on 27 December 1996 expressly rejecting the applicant's complaint,
- order the defendant to pay all the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are the same as in Case T-16/97 (¹).

(¹) OJ No C 74, 8. 3. 1997, p. 27.

Action brought on 28 March 1997 by Michael A. Köhler against the Commission of the European Communities

(Case T-79/97)

(97/C 166/42)

(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 28 March 1997 by Michael A. Köhler, residing at Wezembeek-Oppem (Belgium), represented by Nicolas Lhoëst, of the Brussels Bar, with an address for service in Luxembourg at the offices of Fiduciaire Myson Sarl, 30 Rue de Cessange.