

The Appellant claims that:

- the judgment of the Court of First Instance of 29 November 2000 in case T-213/97 be annulled in so far as it applies to the Appellants;
- the Council's Decision not to adopt the proposal for a regulation imposing a definitive anti-dumping duty on imports of unbleached (grey) cotton fabrics in the People's Republic of China, Egypt, India, Indonesia, Pakistan and Turkey (COM (97) 160 final, of 21 April 1997) be annulled in so far as it applies to the Appellants;
- the Appellants' claim for compensation for the damage in case T-213/97 be declared founded and the determination of the amount of compensation referred back to the Court of First Instance;
- the Council be ordered to pay the Appellants' costs both in the present appeal and also in case T-213/97.

Pleas in law and main arguments

The Appellants submit that the Court of First Instance infringed Community law in the following ways:

- it infringed Article 173 of the EC Treaty (now Article 230 EC) as interpreted by the case law (and additionally, as read in the light of Article 9.1, 6.9, 12.2 and 13 and of the GATT 1994 Anti-dumping Agreement) and the general legal principle of coherence, in that it held the Measure Challenged was not a reviewable act within the meaning of the said Article 173 of the EC Treaty (now Article 230 EC);
- it infringed Article 19 of the EC Statute of the Court of Justice and Article 44 of the Rules of Procedure of the Court of First Instance in that it held that the Appellants had submitted a new claim in breach of those dispositions;
- it infringed Article 173 of the EC Treaty (now Article 230 EC) as interpreted by the case law (and additionally as read in the light of Articles 9.1, 6.9, 12.2 and 13 of the GATT 1994 Anti-dumping Agreement) in that it held that the mere expiry of the 15-month period provided for in Article 6(9) of the Basic Regulation does not constitute a decision by the Council which could be the subject of an action for annulment on the basis of Article 173 of the EC Treaty (now Article 230 EC); and

- it infringed Articles 190 and 215 of the EC Treaty (now Articles 253 and 288 EC), and the general legal principle of coherence in that it held that the argument that the Measure Challenged was unlawful for failure to state reasons cannot be upheld and, additionally, it implied that the Council had complete freedom of action unfettered by the Basic Regulation.

(¹) OJ C 318, 18.10.1997, p. 23.

Reference for a preliminary ruling by the Corte d'appello di Milano by order of 29 January 2001 in the appeal brought by Payroll Data Services (Italy) srl, ADP Europe SA and ADP GSI SA

(Case C-79/01)

(2001/C 108/16)

Reference has been made to the Court of Justice of the European Communities by order of 29 January 2001 by the Corte d'appello di Milano (Court of Appeal, Milan), which was received at the Court Registry on 15 February 2001, for a preliminary ruling in the appeal brought by Payroll Data Services (Italy) srl, ADP Europe SA and ADP GSI SA on the following question:

Do Articles 43 EC and 49 EC preclude Italian courts from applying Article 1 of Law No 12 of 11 January 1979, as amended by Article 58(16) of Law No 144 of 17 May 1999, regulating the profession of employment consultant, to the extent to which it prohibits, in absolute terms, external undertakings providing services relating to the preparation and printing of pay slips from providing their services to undertakings having less than 250 employees?

Reference for a preliminary ruling by the Tribunal d'Instance de Châteauroux by judgment of 26 January 2001 in the case of SARL Michel v Recettes des Douanes

(Case C-80/01)

(2001/C 108/17)

Reference has been made to the Court of Justice of the European Communities by judgment of 26 January 2001 by the Tribunal d'Instance de Châteauroux (District Court, Châteauroux), which was received at the Court Registry on 16 February 2001, for a preliminary ruling in the case of SARL Michel v Recettes des Douanes on the following question:

Must Article 3(a) and (b) of the Treaty of Rome, the first recital in the preamble to, and Article 3(2) of, Directive 92/12 of 25 February 1992 on the general arrangements for products subject to excise duty⁽¹⁾, and the sixth and eighth recitals in the preamble to Directive 92/81 of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils⁽²⁾ be interpreted as precluding the French Republic from refusing to reimburse the domestic duty on petroleum products (TIPP) paid by a trader in petroleum products following the failure by one of his customers to make payment?

(1) Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (OJ 1992 L 76, 23.03.1992, p. 1).

(2) Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils (OJ 1992 L 316, 31.10.1992, p. 12).

Reference for a preliminary ruling by the French Cour de cassation, Commercial, Financial and Economic Chamber, by judgment of that court of 13 February 2001 in the case of SARL, Borie Manoux v Directeur de l'Institut national de la propriété industrielle (INPI)

(Case C-81/01)

(2001/C 108/18)

Reference has been made to the Court of Justice of the European Communities by a judgment of the French Cour de cassation (Court of Cassation), Commercial, Financial and Economic Chamber, of 13 February 2001, received at the Court Registry on 16 February 2001, for a preliminary ruling in the case of SARL Borie Manoux v Directeur de l'Institut national de la propriété industrielle (INPI) on the following question:

Must Article 40 of Regulation No 2392/89⁽¹⁾ be interpreted as prohibiting the registration as a trade mark, for the products covered by the regulation, of a geographical reference the use of which is not provided for by Article 11, even where the registration of such a trade mark is not likely to mislead the consumer as to the provenance of the wine and does not give rise to any confusion with a registered geographical designation, in so far as such registration might suggest that the geographical reference in question, which relates to the region where that wine is actually produced but which covers other designations of origin, is protected?

(1) Council Regulation (EEC) No 2392/89 of 24 July 1989 laying down general rules for the description and presentation of wines and grape musts (OJ L 232, 9.8.1989, p. 13).

Reference for a preliminary ruling by the Tribunal de Grande Instance (Regional Court), Paris (31st Chamber) by judgment of that court of 19 February 2001 in the case of Ministère Public against John Greenham and Léonard Abel

(Case C-95/01)

(2001/C 108/19)

Reference has been made to the Court of Justice of the European Communities by judgment of the Tribunal de Grande Instance (Regional Court), Paris (31st Chamber) of 19 February 2001, received at the Court Registry on 27 February 2001, for a preliminary ruling in the case of Ministère Public against John Greenham and Léonard Abel on the following question:

Must Articles 28 and 30 of the Treaty be interpreted as prohibiting a Member State from preventing the free movement and marketing of a food supplement lawfully sold in another Member State?

Action brought on 27 February 2001 by the Commission of the European Communities against the Grand Duchy of Luxembourg

(Case C-97/01)

(2001/C 108/20)

An action against the Grand Duchy of Luxembourg was brought before the Court of Justice on 27 February 2001 by the Commission of the European Communities, represented by S. Rating and F. Siredey-Garnier, acting as Agents, with an address for service in Luxembourg.

The applicant claims that the Court should:

- declare that, by failing to ensure the transposition in practice of Article 4d of Directive 90/388/EEC⁽¹⁾, as amended by Directive 96/19/EC⁽²⁾, the Grand Duchy of Luxembourg has failed to comply with its obligations;
- order the Grand Duchy of Luxembourg to pay the costs.