

Since the complaint through official channels was unsuccessful, the applicant brought the present action, in which he submits:

- Breach of the Staff Regulations, and in particular Articles 25, paragraph 2, 62, paragraph 3, and 85 of Article 1(3) of Annex VII to those Regulations and Article 46 of Annex VIII;
- Failure to take account of general principles of law, such as the principle of sound administration, protection of legitimate expectations, legal certainty, and the principles which require the Appointing Authority to take a decision only on the basis of relevant reasons which are not marred by errors of fact or law.

Action brought on the 17 September 2001 by Rica Foods (Free Zone) N.V. against Commission of the European Communities

(Case T-211/01)

(2001/C 317/65)

(Language of the case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 17 September 2001 by Rica Foods (Free Zone) N.V., of Oranjestad (Aruba), represented by Gerard van der Wal, lawyer, The Hague (Netherlands).

The applicant claims that the Court should:

1. annul Regulation 1325/2001;
2. hold the Community liable for the damage caused to the applicant by virtue of the fact that since 1 July 2001 the import of the products referred to in Regulation 1325/2001 has been prevented or restricted as a consequence of that regulation and order that the parties shall agree on the extent of the damage suffered by the applicant and that, failing agreement thereon, the proceedings shall be resumed within a period to be specified by the Court in order to determine the extent of the damage, and order the Community to pay the interim estimated damage and damage yet to be estimated; in the further alternative order the Community to pay the damages to be determined by the Court, plus interest of 8 % per annum from the date of the application until the date of payment in full;

3. order the Commission to pay the costs.

Pleas in law and main arguments

The applicant produces sugar and sugar/cocoa mixtures in Aruba. Aruba is part of the Overseas Countries and Territories (OCT). The sugar and the sugar/cocoa mixtures produced by the applicant have OCT originating status as a result of the EC/OCT and ACP/OCT accumulation and can be imported free of duty into the EC.

By virtue of Commission Regulation 1325/2001 of 29 June 2001⁽¹⁾ as amended by Commission Regulation No 1476/2001 of 18 July 2001,⁽²⁾ a quota of 4 848 tonnes of sugar was introduced for the period from 1 July to 1 December 2001.

The applicant submits that the contested regulation infringes Article 109 of the OCT Decision. When considering whether to take the safeguard measures the Commission relied on incorrect facts. The difficulties to which the Commission refers are not difficulties within the meaning of Article 109 of the OCT Decision. Moreover, the Commission has failed to demonstrate the causal link between those difficulties and the deterioration in the situation of an economic sector in the Community. The applicant states, further, that the import of sugar and sugar/cocoa mixtures from the OCT has no effect on those difficulties.

The applicant also alleges infringement of the principle of proportionality, infringement of Articles 3 and 182 to 184 of the EC Treaty. The contested regulation does not take into account the privileged position which those articles accord to the OCT.

The applicant also submits that Regulation 2553/97, to the which the contested regulation refers is unlawful. Finally, the applicant alleges abuse of discretion by the Commission and failure to state reasons for the contested regulation.

⁽¹⁾ Commission Regulation (EC) No 1325/2001 of 29 June 2001 providing for the continued application of safeguard measures with regard to imports of sugar sector products with EC/OCT originating status from the Overseas Countries and Territories for the period 1 July to 1 December 2001 (OJ L 177, 30.6.2001, p. 57 to 59).

⁽²⁾ Commission Regulation (EC) No 1476/2001 of 18 July 2001 amending Regulation (EC) No 1325/2001 as regards safeguard measures with regard to imports from the Overseas Countries and Territories of mixtures of sugar and cocoa with ACP/OCT originating status for the period 1 July to 1 December 2001 (OJ L 195, 19.7.2001, p. 29 to 30).