

Action brought on 28 January 2003 by LEP International BV against the Commission of the European Communities

(Case T-26/03)

(2003/C 70/49)

(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 28 January 2003 by LEP International BV, established in Schiphol-Rijk (Netherlands), represented by Cornelis de Bie and Paul Bakker.

The applicant claims that the Court should:

- annul the decision of the European Commission.

Pleas in law and main arguments

The applicant seeks the annulment of the Decision of the European Commission of 7 October 2002 in case REM 08/003 concerning an application for remission of import duties under Article 239 of Regulation (EEC) No 2913/92⁽¹⁾.

The applicant drew up, on the instructions of Hector International Tpt. Ltd., documents for the transport of meat to Morocco under the external Community transit procedure. However, the applicant states that, through acts of third parties, that transit operation was not properly discharged, as a result of which the applicant, as the holder of the documents, was requested to pay the customs duties owed. It therefore submitted an application to the Netherlands authorities for remission of the import duties owed. The application was forwarded to the Commission, which rejected it in the contested decision.

The applicant argues that the contested decision infringes Article 239 of Regulation (EEC) No 2913/92, that it assesses the facts incorrectly and that it is based on an inadequate statement of reasons.

According to the applicant, a special circumstance exists since the customs authorities knew at an early stage that the external transit procedure would not be discharged and did not inform the applicant of this. The applicant further argues that a special circumstance exists inasmuch as a Spanish official may have been involved.

The applicant states, moreover, that it acted in good faith and that it was not to blame for the irregularities. Nor, according to the applicant, can any manifest negligence be imputed to it. The fact that the applicant did not take out insurance does not, according to it, constitute negligence. On the contrary, businesses are free to decide whether and, if so, how they cover themselves against possible risks.

⁽¹⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ No L 302, 19.10.1992, p. 1).

Action brought on 30 January 2003 by S.P. S.p.A against Commission of the European Communities

(Case T-27/03)

(2003/C 70/50)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 30 January 2003 by S.P. S.p.A., represented by Gianluca Belotti and Nicola Pisani, lawyers.

The applicant claims that the Court should:

- declare non-existent and/or null and void or, in any event, annul the contested decision;
- in the alternative, annul or reduce the penalty imposed on S.P.;
- in any event, order the defendant to pay the costs.

Pleas in law and main arguments

Among various grounds of annulment, the applicant alleges lack of competence of the Commission to adopt on 17 December 2002 a decision based on Article 65 of the ECSC Treaty when that treaty expired on 22 July 2002, resulting in the nullity of the decision. According to the applicants, the Commission did not have the power to adopt the abovementioned decision in the absence of an express decision to that effect on the part of the Member States.