

**Appeal brought on 14 December 2005 by Common Market Fertilizers SA (CMF) against the judgment given on 27 September 2005 by the First Chamber (Extended Composition) of the Court of First Instance of the European Communities in Joined Cases T-134/03 and T-135/03 between Common Market Fertilizers SA (CMF) and the Commission of the European Communities**

(Case C-443/05 P)

(2006/C 36/52)

(Language of the case: French)

An appeal against the judgment given on 27 September 2005 by the First Chamber (Extended Composition) of the Court of First Instance of the European Communities in Joined Cases T-134/03 and T-135/03 between Common Market Fertilizers SA (CMF) and the Commission of the European Communities was brought before the Court of Justice of the European Communities on 14 December 2005 by Common Market Fertilizers SA (CMF), represented by A. Sutton and N. Flandin, avocats.

The appellant claims that the Court should:

- set aside the judgment under appeal in its entirety;
- grant all of the claims submitted at first instance by the appellant;
- order the Commission to pay the costs both of the appeal and of the proceedings at first instance.

*Pleas in law and main arguments:*

In support of its appeal, the appellant points out four errors of law made by the Court of First Instance consisting in:

- an incomplete presentation of the legal context resulting in a misinterpretation of Regulation No 3319/94 <sup>(1)</sup> as to the conditions required to impose a specific duty, and an incorrect legal interpretation of the nature of the committee consulted;
- an incomplete presentation of the facts resulting in a clear distortion of those facts, and a misapplication of Regulation No 3319/94 as to whether there is a situation of indirect invoicing;

- an incorrect legal interpretation as regards the infringement of essential procedural requirements and specifically as regards the legal nature of the committee consulted; and
- an incorrect legal interpretation as regards the conditions for application of Article 239 of the Community Customs Code <sup>(2)</sup> and specifically as regards the application of the condition of no obvious negligence.

<sup>(1)</sup> Council Regulation (EC) No 3319/94 of 22 December 1994 imposing a definitive anti-dumping duty on imports of urea ammonium nitrate solution originating in Bulgaria and Poland, exported by companies not exempted from the duty, and collecting definitively the provisional duty imposed (OJ L 350, 31.12.1994, p. 20)

<sup>(2)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1)

**Action brought on 16 December 2005 by the Commission of the European Communities against the Italian Republic**

(Case C-449/05)

(2006/C 36/53)

(Language of the case: Italian)

An action against the Italian Republic was brought before the Court of Justice of the European Communities on 16 December 2005 by the Commission of the European Communities, represented by C. Cattabriga and S. Visaggio, acting as Agents, with an address for service in Luxembourg.

The Commission claims that the Court should:

1. declare that by not taking all the necessary legal and administrative measures to comply with Directive 2003/99/EC of the European Parliament and of the Council of 17 November 2003 <sup>(1)</sup> on the monitoring of zoonoses and zoonotic agents, amending Council Decision 90/424/EEC <sup>(2)</sup> and repealing Council Directive 92/117/EEC <sup>(3)</sup>, or by not notifying the Commission of such measures, the Italian Republic has failed to fulfil its obligations under the first paragraph of Article 14(1) of that directive.

2. order the Italian Republic to pay the costs.

*Pleas in law and main arguments*

The period for implementing the directive expired on 12 April 2004.

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<sup>(1)</sup> OJ L 325, 12.12.2003, p. 31.

<sup>(2)</sup> OJ L 224, 18.8.1990, p. 19.

<sup>(3)</sup> OJ L 62, 15.3.1993, p. 38.

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**Removal from the register of Case C-541/03 <sup>(1)</sup>**

(2006/C 36/54)

*(Language of the case: German)*

By order of 7 October 2005, the President of the Court of Justice of the European Communities has ordered the removal from the register of Case C-541/03 (Reference for a preliminary ruling from the Oberster Gerichtshof): Lambert Roodbeen v Republic of Austria.

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<sup>(1)</sup> OJ C 59, 06.03.2004.

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**Removal from the register of Case C-67/04 <sup>(1)</sup>**

(2006/C 36/55)

*Language of the case: Greek*

By order of 10 November 2005, the President of the Court of Justice of the European Communities has ordered the removal from the register of Case C-67/04: Commission of the European Communities v Hellenic Republic.

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<sup>(1)</sup> OJ C 94 of 17.4.2004.

**Removal from the register of Case C-147/05 <sup>(1)</sup>**

(2006/C 36/56)

*Language of the case: Dutch*

By order of 14 November 2005, the President of the Court of Justice of the European Communities has ordered the removal from the register of Case C-147/05: Commission of the European Communities v Kingdom of the Netherlands.

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<sup>(1)</sup> OJ C 143, 11.6.2005.

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**Removal from the register of Case C-153/05 <sup>(1)</sup>**

(2006/C 36/57)

*Language of the case: German*

By order of 11 October 2005, the President of the Court of Justice of the European Communities has ordered the removal from the register of Case C-153/05: Commission of the European Communities v Republic of Austria.

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<sup>(1)</sup> OJ C 143 of 11.6.2005.

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**Removal from the register of Case C-204/05 <sup>(1)</sup>**

(2006/C 36/58)

*Language of the case: French*

By order of 17 November 2005, the President of the Court of Justice of the European Communities has ordered the removal from the register of Case C-204/05: Commission of the European Communities v Kingdom of Belgium.

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<sup>(1)</sup> OJ C 171, 09.07.2005.