

COURT OF JUSTICE

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JUDGMENT OF THE COURT

of 9 June 1992

in Joined Cases C-228, C-229, C-230, C-231, C-232, C-233, C-234, C-339 and C-353/90: (reference for preliminary rulings made by the Pretore di Savona, the Pretore di La Spezia and the Vice-Pretore di Salerno):
Simba and Others v. Ministero delle Finanze ⁽¹⁾

(National consumption tax on bananas — Levied only on products imported directly from non-member countries — Possible incompatibility with Community law)

(92/C 173/06)

(Language of the case: Italian)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Joined Cases C-228, C-229, C-230, C-231, C-232, C-233, C-234, C-339 and C-353/90: references to the Court under Article 177 of the EEC Treaty by the Pretore di Savona [Magistrate, Savona], the Pretore di La Spezia [Magistrate, La Spezia] and the Vice-Pretore di Salerno [Deputy Magistrate, Salerno] for preliminary rulings in the proceedings pending before those courts between Simba SpA (C-228 and C-234/90), Comafrika SpA (C-229, C-232 and C-339/90), Camar Srl (C-230/90), Co-Frutta SpA (C-231/90), Chiquita Italia SpA (C-233 and C-353/90) and the Ministero delle Finanze [Ministry of Finance] — on the interpretation of Articles 9, 95, 113 and 115 of the EEC Treaty and of Council Regulation (EEC) No 950/68 of 28 June 1968 on the Common Customs Tariff ⁽²⁾ in relation to the consumption tax imposed in Italy in fresh bananas imported directly from non-member countries — the Court, composed of F. A. Schockweiler, President of Chamber, acting for the President, F. Grévisse, P. J. G. Kapteyn (Presidents of Chambers), G. F. Mancini, C. N. Kakouris, J. C. Moitinho de Almeida, M. Díez de Velasco, M. Zuleeg and J. L. Murray, Judges; C. O. Lenz, Advocate-General; H. A. Rühl, Principal Administrator, acting for the Registrar, gave a judgment on 9 June 1992, the operative part of which is as follows:

1. *A duty such as the national consumption tax introduced into the Italian legal system by Law No 986/1964, as*

⁽¹⁾ OJ No C 239, 25. 9. 1990.

OJ No C 316, 15. 12. 1990.

OJ No C 10, 16. 1. 1991.

⁽²⁾ Official Journal, English Special Edition 1968, p. 275.

amended by Law No 873/1982, is not covered by Article 95 of the EEC Treaty in as much as such a duty is applicable to imports of fresh bananas coming directly from non-member countries.

2. *In as much as it is applicable to imports of fresh bananas coming directly from non-member countries, a duty such as the national consumption tax is not incompatible with the spirit and system of Community law as they emerge from the provisions of the EEC Treaty relating to the implementation of the common commercial policy, without prejudice, however, to the application of the provisions of any international agreements that may be in force between the Community and the non-member countries from which the bananas at issue in the main proceedings come.*
3. *In so far as a national law introducing a duty such as the consumption tax is considered to be incompatible with the provisions of Community law which are contained in agreements and which confer rights on individuals, that law must be disregarded by national courts since, in such a case, the individuals in question are not required to pay the duty at issue.*

Action brought on 15 May 1992 by the Commission of the European Communities against the Hellenic Republic

(Case C-203/92)

(92/C 173/07)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 15 May 1992 by the Commission of the European Communities, represented by Maria Kontou-Durande, a Member of its Legal Department, with an address for service in Luxembourg at the office of Roberto Hayder, a representative of the Commission's Legal Department, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

— declare that by failing to adopt within the prescribed periods the laws, regulations and administrative