

- Société des Sucreries du Marquenterre SA v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-24/06)
- SA des Sucreries de Fontaine Le Dun, Bolbec, Auffay (SAFBA) v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-25/06)
- Lesaffre Frères SA v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-26/06)
- Sucreries, Distilleries des Hauts de France v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-27/06)
- Sucreries & Distilleries de Souppes — Ouvré Fils SA v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-28/06)
- Sucreries de Toury et usines annexes SA v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-29/06)
- Tereos v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-30/06)
- SAS Sucrerie du Littoral Groupe S.D.H.F v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-31/06)
- Cristal Union v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-32/06)
- Sucrerie Bourdon v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-33/06)
- Sucrerie de Bourgogne SA v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-34/06)
- SAS Vermendoise Industries v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-35/06)
- Sucreries et Raffineries d'Erstein SA v Directeur général des douanes et droits indirects and Receveur principal des douanes et droits indirects (Case C-36/06)

The Tribunal de Grande Instance de Nanterre asks the Court of Justice of the European Communities to give a ruling on the following questions:

1. Is Article 6(4) of Commission Regulation (EC) No 314/2002 ⁽¹⁾ and/or Regulations (EC) Nos 1837/2002, ⁽²⁾ 1762/2003 ⁽³⁾ and 1775/2004 ⁽⁴⁾ adopted to implement it invalid in the light of Article 15 of Council Regulation (EC) No 1260/2001 ⁽⁵⁾ and in the light of the principle of

proportionality, in that, with regard to calculation of the production levy, it does not provide for the exclusion from the 'exportable surplus' of the sugar contained in processed products which are exported without export refunds?

If the answer to this question is in the negative:

2. Are Regulations (EC) Nos 1837/2002, 1762/2003 and 1775/2004 invalid in the light of Commission Regulation (EC) No 314/2002 and Article 15 of Council Regulation (EC) No 1260/2001 and of the principles of equality and proportionality, in that they lay down a production levy for sugar which is calculated on the basis of the 'average loss' per tonne exported, which does not take account of the quantities exported without refund, although these quantities are included in the total used to evaluate the total loss to be financed?

⁽¹⁾ Commission Regulation (EC) No 314/2002 of 20 February 2002 laying down detailed rules for the application of the quota system in the sugar sector (OJ L 50, p. 40)

⁽²⁾ Commission Regulation (EC) No 1837/2002 of 15 October 2002 fixing the production levies and the coefficient for the additional levy in the sugar sector for the marketing year 2001/02 (OJ L 278, p. 13)

⁽³⁾ Commission Regulation (EC) No 1762/2003 of 7 October 2003 fixing the production levies in the sugar sector for the 2002/03 marketing year (OJ L 254, p. 4)

⁽⁴⁾ Commission Regulation (EC) No 1775/2004 of 14 October 2004 setting the production levies in the sugar sector for the 2003/04 marketing year (OJ L 316, p. 64)

⁽⁵⁾ Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector (OJ L 178, p. 1)

Action brought on 24 January 2006 by the Commission of the European Communities against the Portuguese Republic

(Case C-38/06)

(2006/C 74/14)

(Language of the case: Portuguese)

An action against the Portuguese Republic was brought before the Court of Justice of the European Communities on 24 January 2006 by the Commission of the European Communities, represented by Günter Wilms and Margarida Afonso, acting as Agents, with an address for service in Luxembourg.

The Commission claims that the Court should:

1. Declare that, by refusing to establish and to make available to the Commission the own resources due as a result of imports of equipment and goods for specifically military use in the period from 1 January 1998 to 31 December 2002 inclusive, and by refusing to pay the related default interest, the Portuguese Republic has failed to fulfil its obligations under Articles 2, 9, 10 and 11 of Regulation No 1552/89, ⁽¹⁾ in so far as the period 1 January 1998 to 30 May 2000 inclusive is concerned and, after the latter date, under the corresponding provisions of Regulation No 1150/2000; ⁽²⁾
2. Order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

The Commission believes that Article 296 EC does not allow a Member State to exempt from customs duties imports of military matériel, in that the levying of those duties cannot be considered to threaten that Member State's essential security interests.

In the absence of concrete argument that might furnish specific justification of the need to derogate from the customs rules in order to protect the essential interests of the security of the Portuguese Republic, the Commission takes the view that the Portuguese authorities have failed to fulfil their obligations under Article 26 EC, Article 20 of the Community Customs Code ⁽³⁾ and, in consequence, the Common Customs Tariff.

It is unacceptable that a Member State should avoid its obligations with regard to the joint and several co-financing of the Community's budget by pleading the need to fund its military expenditure at lower cost.

Where the rules laid down are not complied with, all the Member States must bear the respective financial consequences, for such a case gives rise to the application of the mechanism which, by means of 'GNP' resources, offsets the shortfall in traditional own resources and VAT. Observance of the principle of good financial management, and also of the fundamental concepts of fairness and responsibility, demands that the Member States that caused the own resources made available to fall short of the amount due should alone bear the consequences for the Community budget resulting therefrom and, therefore, pay the sums not collected by reason of their respective failures to fulfil obligations.

The failure at issue continued until 31 December 2002, seeing that Regulation No 150/2003 ⁽⁴⁾ has been applicable since 1 January 2003. It is only from that date that that regulation has made it possible to suspend, on certain conditions, customs duties on the import of certain weapons and military equipment.

The Portuguese authorities ought to have credited the customs duties in the accounting ledgers in accordance with the rules fixed by the Community Customs Code for the imports at issue, and also to have established and made available to the Commission the own resources so resulting pursuant to Articles 2, 9, 10 and 11 of Regulation No 1552/89 and the corresponding provisions of Regulation No 1150/2000. An infringement of the customs legislation having been committed, the Community must be credited with a sum equivalent to the own resources lacking. To that sum must be added the default interest provided for by Article 11 of Regulation No 1150/2000.

⁽¹⁾ Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources (OJ 1989 L 155, p. 1).

⁽²⁾ Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources (OJ 2000 L 130, p. 1).

⁽³⁾ Approved by Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1).

⁽⁴⁾ Council Regulation (EC) No 150/2003 of 21 January 2003 suspending import duties on certain weapons and military equipment (OJ 2003 L 25, p. 1).

Action brought on 27 January 2006 by the Commission of the European Communities against the Kingdom of Belgium

(Case C-42/06)

(2006/C 74/15)

(Language of the case: French)

An action against the Kingdom of Belgium was brought before the Court of Justice of the European Communities on 27 January 2006 by the Commission of the European Communities, represented by B. Stromsky, acting as Agent, with an address for service in Luxembourg.

The applicant claims that the Court should:

- declare that, by imposing, in the Brussels-Capital Region, a system of approval of natural and legal persons manufacturing and/or distributing refuse collection bags, the detailed rules of which infringe the principle of proportionality, the Kingdom of Belgium has failed to fulfil its obligations under Articles 28 and 30 of the EC Treaty;