

Pleas in law and main arguments

The applicant maintains that it has suffered economic damage because it was unable to import into the customs territory of the Community products of Community origin resulting from its business activities because of a series of unlawful acts and conduct on the part of the Community institutions, that is to say, of:

- (a) the European Commission, on the ground that it adopted Regulation (EEC) No 2454/93 ⁽¹⁾, which requires presentation of Community Customs Document T2M completed in its entirety as the sole proof of origin of Community catches substantiating the right to free movement;
- (b) the European Commission, which conducted on behalf of the Community the negotiations with Tunisia for setting up the Association Agreement, and the Council of the European Union, which ratified that Agreement, on the ground that they failed to ensure that catches of Community origin resulting from Community fishing activities outside the territorial waters of Tunisia would not be deprived of the right to free movement;
- (c) the European Commission and the Council of the European Union, on the ground that although they are members of the body competent to amend the Agreement, they failed, in the applicant's view, to ensure that provision was made for regulating the question of the above-mentioned specific category of fish, even though they were aware of the problem that had arisen;
- (d) the European Commission, on the ground that it omitted to exercise the necessary supervision over the Greek authorities as requested by the company.

Furthermore, the applicant maintains that the above acts and omissions infringe higher-ranking rules of law which have been laid down for the protection of individuals as follows:

- (a) the right to free movement of goods, in the exercise of which administrative formalities are of a procedural not substantive nature;
- (b) the right of commercial freedom, the essence of which is affected by the prohibition on alternative proof of origin;
- (c) the principle of proportionality, which is not compatible with the exclusion of any means of proof of origin other than the T2M;
- (d) the principle of protection of legitimate expectations since, although the company conducted itself as a prudent observer of the market, it suffered serious damage by reason of the fact that it availed itself of its rights under Community law;
- (e) the principle of effective legal protection, which is contrary to the 'denial of justice' which the company encountered on the part of the Greek, Tunisian and Community authorities.

In addition to the value of the compensation sought, the applicant points out that the unusual and special character of the harm it has sustained allows reparation of the above damage and considers that the circumstances in this case warrant the Community being held liable in the absence of fault.

⁽¹⁾ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1).

Appeal brought on 14 May 2007 by Sundholm against the judgment of the Civil Service Tribunal delivered on 1 March 2007 in Case F-30/05, Sundholm v Commission

(Case T-164/07 P)

(2007/C 155/69)

Language of the case: French

Parties

Applicant: Asa Sundholm (Brussels, Belgium) (represented by S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

Defendant: Commission of the European Communities

Forms of order sought

- Annul the judgment of the Civil Service Tribunal (Second Chamber) of 1 March 2007 in the Case F-30/05 (*Sundholm v Commission*);
- Give judgment again, and annul the Commission decision drawing up her Career Development Report for 2003 and order the defendant to pay the costs incurred at first instance and on appeal.

Pleas in law and main arguments

By her appeal the applicant seeks to annul the judgment of the Civil Service Tribunal dismissing the action in which she had sought the annulment of her Career Development Report for the period from 1 January 2003 to 31 December 2003.

In support of her appeal, the applicant claims that the Civil Service Tribunal erred in law in rejecting the plea alleging infringement of the rights of the defence.