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COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH
CORTE DI GIUSTIZIA DELLE COMUNITÀ EUROPEE
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TRYBUNAL SPRAWIEDLIWOŚCI WSPÓLNOT EUROPEJSKICH
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Press and Information

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Judgment of the Court of Justice in Case C-310/04

Kingdom of Spain v Council of the European Union

THE COURT OF JUSTICE ANNULS THE NEW SUPPORT SCHEME FOR COTTON

The effects of the annulment are suspended until the adoption, within a reasonable time, of a new scheme

On the accession of Greece to the European Communities, a support scheme for cotton was established by a Protocol annexed to the Act of Accession. It was extended when Spain and Portugal acceded to the European Communities.

The scheme is intended in particular to support cotton production in the regions of the Community where it is important for the agricultural economy, to enable the producers concerned to earn a fair income, and to stabilise the market by improving structures at the level of supply and marketing.

As part of the reform of the common agricultural policy, the Council adopted new common rules for direct support schemes and for certain support schemes for farmers. To bring the support schemes for cotton, olive oil, raw tobacco and hops into line with those for the other sectors of the common agricultural policy, the Council adopted a new support scheme for cotton.

Spain brought an action before the Court of Justice of the European Communities seeking the annulment of this new support scheme for cotton. It argues in particular that the amount of the specific aid for cotton and the fact that eligibility for the aid is subject to the sole condition of maintaining the crop until the boll opening are manifestly inappropriate for ensuring economic conditions which, in regions that lend themselves to that crop, can ensure that activity in the cotton sector is continued and prevent that crop from being driven out by others. The principle of proportionality was therefore infringed.

On this point, the Court starts by recalling that, in view of the wide discretion enjoyed by the Community legislature **where the common agricultural policy is concerned, the lawfulness of a measure adopted in that sphere can be affected only if the measure is manifestly**

inappropriate in terms of the objective which the competent institution is seeking to pursue.

Specifically, the question arises of the bases on which the amount of the specific aid for cotton was determined, and of whether, on those bases, the Community legislature was able, without exceeding its broad discretion, to reach the conclusion that, if set at 35% of the total existing aid in the previous support scheme, that amount will suffice for attaining the objective pursued of ensuring the profitability and hence the continuation of that crop.

For that purpose, the Community institutions must be able to show before the Court that when the contested measure was adopted, all the relevant factors and circumstances of the situation the measure was intended to regulate were taken into consideration.

The Court finds in this respect that the labour costs of a fixed nature, such as the costs of the farmers' workforces and their families, were not included and were thus not taken into consideration in the comparative study drawn up by the Commission of the foreseeable profitability of cotton growing under the new support scheme which was used as the basis of the determination of the amount of the specific aid for cotton.

It therefore finds that **the relevance of the labour costs in question for the purposes of calculating the production costs of cotton and the foreseeable profitability of that crop appears in itself to be scarcely deniable.** Furthermore, the Council and the Commission have not been able to disprove the argument that the inclusion of those costs entails an increase in the production costs of cotton such that adequate profitability of that crop under the new support scheme is not ensured, so that that crop, or at least a substantial part of it, is liable to be given up or in some cases driven out by other crops.

Moreover, **the potential effects of the reform of the cotton support scheme on the economic situation of the ginning undertakings were not examined.** However, cotton production is not economically possible without the presence in the vicinity of the production regions of such undertakings operating under economically sustainable conditions, since cotton has little commercial value before being processed and it cannot be transported over long distances.

The production of cotton and its processing by the ginning undertakings thus appear to be inextricably linked. The potential effects of the reform of the cotton support scheme on the economic viability of the ginning undertakings therefore constitute a basic factor to be taken into account in order to assess the profitability of cotton growing.

In those circumstances, the Court holds that the principle of proportionality has been infringed, and annuls the new support scheme for cotton. However, for reasons of legal certainty, the effects of the annulment are suspended until the adoption, within a reasonable time, of a new scheme.

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Languages available: CS DE EL EN ES FR HU PL PT SK SL

The full text of the judgment may be found on the Court's internet site
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-310/04>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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