



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 67/13

Luxembourg, 30 May 2013

Judgment in Case C-677/11

Doux Élevage SNC and Coopérative agricole UKL-ARREE v Ministère de l'Agriculture, de l'Alimentation, de la Pêche, de la Ruralité et de l'Aménagement du territoire and CIDEF

A decision by which a national authority extends to all traders in an agricultural industry an agreement made within a recognised inter-trade organisation from that industry which introduces the levying of a CVO (cotisation volontaire obligatoire) does not constitute State aid

That contribution does not represent an advantage, granted directly or indirectly through State resources, which is imputable to the State

In the context of inter-trade consultation in the agricultural sector, French legislation¹ allows the various trade organisations, commonly known as 'trades', which are most representative of an agricultural industry to join together in an inter-trade group.

CIDEF (Comité interprofessionnel de la dinde française) (French turkey inter-trade committee), a non-profit association, has been recognised by the French authorities as an agricultural inter-trade organisation. In 2007, the trade organisations which were then members of CIDEF signed an inter-trade agreement on, inter alia, promoting and defending the sector's interests and establishing a 'CVO' (cotisation volontaire obligatoire) (a contribution which is initially voluntary and later made compulsory by an Inter-ministerial Order). That agreement was extended to all traders in the sector on a compulsory basis in 2009 by a tacit Ministerial decision to accept that extension.

Doux Élevage SNC, a subsidiary of the Doux group a poultry producer, and the agricultural cooperative UKL-ARREE brought an action before the Conseil d'État (France) for the annulment of the tacit decision to extend the addendum of 2008, made on 29 August 2009 as a result of the administration's silence regarding the application for an extension of that agreement, and for the annulment of the notice making that decision public. They argued that the inter-trade contribution established by the agreement, which the decision extended to all traders in the inter-trade organisation on a compulsory basis, related to State aid and that, accordingly, that decision ought to have been notified beforehand to the European Commission².

In those circumstances, the Conseil d'État asks the Court of Justice whether the decision extending the levying of the CVO relates to State aid.

In its judgment delivered today, the Court replies that the decision extending the levying of the CVO is not connected with State aid, given that it does not represent an advantage financed through 'State resources'.

As a preliminary point, the Court states that EU law prohibits any aid granted to undertakings by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods in so far as it affects trade between Member States³.

¹ Law No 75-600 of 10 July 1975 on agricultural inter-trade organisations (Journal Officiel de la République Française (JORF) of 11 July 1975, p. 7124). The provisions of that law have been codified in the code rural et de la pêche maritime ('the Rural Code').

² Under Article 108(3) TFEU.

³ Article 107 TFEU.

Next, the Court examines the CVO in the light of its case-law concerning the conditions relating to financing through State resources and imputability to the State.

The Court observes that the CVO is made by private-sector economic operators, a mechanism which does not involve any direct or indirect transfer of State resources: the sums provided by the payment of those contributions do not go through the State budget or through another public body and the State does not relinquish any resources, in whatever form (such as taxes, duties, charges and so on), which, under national legislation, should have been paid into the State budget. Moreover, there is no doubt that inter-trade organisations are private-law associations and form no part of the State administration.

In addition, it is clear that the French authorities cannot use the resources resulting from the CVO to support certain undertakings. It is the inter-trade organisation that decides how to use those resources, which are entirely dedicated to pursuing objectives determined by that organisation. Likewise, those resources are not constantly under public control and are not available to State authorities. Any influence that France may exercise over the functioning of the inter-trade organisation by means of its decision extending an inter-trade agreement to all traders in an industry is not capable of altering that finding.

It is clear from the case-file submitted to the Court that **the French legislation at issue does not confer upon the competent authority the power to direct or influence the administration of the funds**. Moreover, according to the case-law of the French national courts, the provisions of the Rural Code governing the extension of an agreement introducing the levying of contributions within an inter-trade organisation do not permit public authorities to exercise control over a CVO except to check its validity and lawfulness.

Regarding that control, the Court finds that the Rural Code does not permit making the extension of an agreement dependent upon the pursuit of political objectives which are specific, fixed and defined by the public authorities, given that the code non-exhaustively lists the very general and varied objectives that an inter-trade agreement must promote in order to be capable of being extended by the competent administrative authority.

Moreover, there is nothing in the case-file submitted to the Court permitting it to consider that the initiative for imposing the CVOs originated with the public authorities rather than the inter-trade organisation. The French authorities were simply acting as a 'vehicle' in order to make the contributions introduced by the inter-trade organisations compulsory, for the purposes of pursuing the objectives established by those organisations.

Thus, **neither the State's power to recognise an inter-trade organisation, nor the power of that State to extend an inter-trade agreement to all the traders in an industry permit the conclusion that the activities carried out by the inter-trade organisation are imputable to the State**.

Lastly, in response to an observation made by the Commission, the Court states that private funds used by inter-trade organisations do not become 'State resources' simply because they are used alongside sums which may originate from the State budget.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" 📠 (+32) 2 2964106