



Press and Information

General Court of the European Union

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Judgments in Cases T-397/13

Tilly-Sabco v Commission, T-434/13 Doux v Commission and T-549/13

France v Commission

The General Court holds that the Commission did not err in fixing the export refunds in the poultry meat sector at €0 in July 2013

In the context of the common agricultural policy, an EU Regulation¹ provides that the difference between prices on the world market and prices in the EU may be covered by export refunds for products in, inter alia, the poultry meat sector. The Commission fixes the amount of those refunds for the whole EU. The export refunds for three categories of frozen chicken were gradually reduced, from 0.4 €/kg in 2010 to 0.1085 €/kg at the beginning of 2013. Finally, as from July 2013, the Commission, by an implementing regulation,² set the export refunds at €0 as regards, inter alia, those products. In Europe the export refunds for frozen chicken benefited, inter alia, two French companies (Tilly-Sabco and Doux) and concerned exports to countries in the Middle East. Since the entry into force of the new common agricultural policy on 1 January 2014, positive export refunds are now possible only in cases of crisis.

France and the companies Doux and Tilly-Sabco requested the General Court to annul the Commission implementing regulation setting the export refunds at €0.

By today's judgments, **the Court** refuses to annul that regulation and therefore **confirms the fixing of export refunds in the poultry meat sector at €0 in July 2013**.

First of all, the Court holds that **Tilly-Sabco and Doux may contest the implementing regulation on the basis of the new provision introduced by the Treaty of Lisbon** in the fourth paragraph of Article 263 TFEU. That provision provides that any natural or legal person may institute proceedings against a regulatory act which is of direct concern to them and does not entail implementing measures. The Court notes that export refunds are granted only after an export licence has been issued by the national authorities. However, companies could export the products in question without presenting an export licence if they did not wish to benefit from the export refunds. In the present case, given that the export refunds were set at €0, the operators concerned would not normally apply for export licences. In that case, **the national authorities do not adopt, in the ordinary course of business, any implementing measures** (granting export licences), **with the result that it would be artificial to consider that the implementing regulation at issue entails such measures solely because the companies could, in theory, apply for export licences**.

As to the substance, the Court rejects the arguments put forward by France, Doux and Tilly-Sabco. In particular, it finds that **the Commission's analysis of the EU market situation is not vitiated by a manifest error of assessment**: the Commission found, inter alia, that the price of poultry meat was high, that the margins of EU producers were greater than the historical average and that exports had continued to increase despite three successive reductions of the export refunds. **The Commission therefore did not commit a manifest error of assessment in considering that the situation on the EU market was stable and that it was not necessary to set positive**

¹Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (OJ 2007 L 299, p. 1).

²Commission Implementing Regulation (EU) No 689/2013 of 18 July 2013 fixing the export refunds on poultry meat (OJ 2013 L 196, p. 13).

export refunds in order to ensure the stability of the market. The Court notes, inter alia, that, in the analysis of the market situation, the Commission is not required to take into account the particular situation of companies which export the products concerned by the refunds to the destinations concerned (in the present case, inter alia, countries in the Middle East), but that it suffices for it to consider the overall situation of the EU market.

In addition, the Court points out that **the purpose of the export refunds** is not to subsidise producers in difficulty, but to **stabilise the overall EU market by enabling the EU to sell its surplus to non-member countries.** A stable situation on the EU market, as found by the Commission as regards the poultry meat sector, may therefore lead the Commission to consider that positive export refunds are not necessary in order to sell the surplus and ensure the stability of the market.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The full texts of the judgments [T-397/13](#), [T-434/13](#), [T-549/13](#) are published on the CURIA website on the day of delivery

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