



Press and Information

Court of Justice of the European Union  
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Judgment in Case C-183/16 P  
Tilly-Sabco v Commission

## **The Court annuls the Commission regulation fixing at zero the amount of export refunds in the poultry meat sector in July 2013**

*However, it maintains the effects of that regulation until the adoption of a new regulation free from procedural defects*

In the context of the common agricultural policy, an EU Regulation<sup>1</sup> 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,<sup>2</sup> 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 judgments of 14 January 2016<sup>3</sup>, the Court refused to annul that regulation and, thereby, confirmed the fixing of export refunds in the poultry meat sector at €0 in July 2013. Tilly-Sabco then brought an action before the Court of Justice seeking to have the judgment of the General Court set aside and the annulment of the Commission regulation challenged.

By today's judgment, the Court upholds Tilly-Sabco's appeal and **annuls the Commission's implementing regulation on the basis of a procedural defect.**

The Court observes, first of all, that the Commission should have submitted the draft regulation to the Management Committee for the Common Organisation of Agricultural Markets. The purpose of that committee, composed of representatives of the Member States, is to enable the Member States to control the exercise by the Commission of its implementing powers, as an unfavourable opinion on the part of the Management Committee would prevent the adoption of the draft act. The Court also observes that there must be a period of at least 14 days between the submission to the committee of the draft implementing act and the meeting of that committee, to enable the committee to carry out an unhurried examination of the draft, and the representatives of the Member States to define a position within the management committee in order to protect the specific interests of each Member State.

The Court notes that, in the present case, the Commission only submitted the draft regulation to the management committee during the meeting convened to examine that draft. By acting in that way, the Commission disregarded 14-day time-limit and prevented the members of the

<sup>1</sup> Council 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)

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

<sup>3</sup> Cases: [T-397/13](#) Tilly-Sabco v Commission, [T-434/13](#) Doux v Commission and [T-549/13](#) France v Commission. See also Press Release No [1/16](#).

management committee from expressing their views and suggesting amendments. As regards the justification relied on by the Commission for disregarding the 14-day time-limit, that there was a risk of leaks, the Court points out that accepting such a justification would have the result of systematically exempting the Commission from compliance with that time-limit as, in principle, such risks always exist.

The Court concludes that the Commission committed a procedural error which the General Court failed to raise in its judgment, and for that reason it sets aside the judgment and annuls the Commission's implementing regulation.

Furthermore, the Court notes that the proceedings have not established any error affecting the substantive compliance of the contested implementing regulation with EU law. Therefore, annulling the contested regulation without providing for the maintenance of its effects until it is replaced by a new act would not only adversely affect the implementation of EU law, but would also affect legal certainty. For that reason, the Court maintains the effects of the contested regulation until the entry into force of a new act.

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**NOTE:** An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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

Press contact: Holly Gallagher 📞 (+352) 4303 3355