

Case C-453/00

Kühne & Heitz NV

v

Productschap voor Pluimvee en Eieren

(Reference for a preliminary ruling from
the College van Beroep voor het bedrijfsleven)

(Poultrymeat — Export refunds — Failure to refer a question for a preliminary
ruling — Final administrative decision — Effect of a preliminary ruling given by
the Court after that decision — Legal certainty — Primacy of Community
law — Principle of cooperation — Article 10 EC)

Opinion of Advocate General Léger delivered on 17 June 2003 I - 839
Judgment of the Court, 13 January 2004 I - 858

Summary of the Judgment

Member States — Obligations — Obligation of cooperation — Obligation on an administrative body to review a final administrative decision in order to take account of the interpretation of the relevant provision given in the meantime by the Court — Conditions

(Arts 10 EC and 234(3) EC)

- The principle of cooperation arising from Article 10 EC imposes on an administrative body an obligation to review a final administrative decision, where an application for such review is made to it, in order to take account of the interpretation of the relevant provision given in the meantime by the Court where:
- that judgment is, in the light of a decision given by the Court subsequent to it, based on a misinterpretation of Community law which was adopted without a question being referred to the Court for a preliminary ruling under Article 234(3) EC; and
 - under national law, it has the power to reopen that decision;
 - the person concerned complained to the administrative body immediately after becoming aware of that decision of the Court.
 - the administrative decision in question has become final as a result of a judgment of a national court ruling at final instance;

(see para. 28, operative part)