

Case T-336/94

Efisol SA

v

Commission of the European Communities

(Regulation (EEC) No 594/91 on substances that deplete the ozone layer —
Allocation of quotas — Import licences — Refusal to grant —
Application for compensation — Protection of legitimate expectations)

Judgment of the Court of First Instance (First Chamber, Extended Composition), 16 October 1996 II - 1346

Summary of the Judgment

1. *Non-contractual liability — Conditions — Illegality — Damage — Causal link (EC Treaty, Art. 215, second para.)*
2. *Community law — Principles — Protection of legitimate expectations — Conditions*
3. *Acts of the institutions — Adoption foreseeable by a prudent and discriminating trader — Principle of the protection of legitimate expectations — Not applicable*
4. *Environment — Protection of the ozone layer — Regulation No 594/91 on substances that deplete the ozone layer — Authorization to import into the Community — Administrative procedure — Allocation of a quota — Issue of import licences (Council Regulation No 594/91, Arts 3 and 4)*

5. *Community law — Principles — Protection of legitimate expectations — Withdrawal of a measure within a reasonable period — No legitimate expectation*
6. *Community law — Principles — Protection of legitimate expectations — Conduct on the part of a Community institution which is inconsistent with Community rules — No legitimate expectation*
7. *Procedure — Costs — Costs caused unreasonably or vexatiously*
(*Rules of Procedure of the Court of First Instance, Art. 87(3), second subpara.*)

1. The incurring by the Community of non-contractual liability, within the meaning of the second paragraph of Article 215 of the Treaty, depends on fulfilment of a set of conditions as regards the unlawfulness of the conduct alleged against the Community institution, the fact of damage and the existence of a causal link between the conduct in question and the damage complained of.
2. The right to rely on legitimate expectations extends to any individual who is in a situation in which it is apparent that the Community administration, by giving him precise assurances, has led him to entertain justified expectations.
3. If a prudent and discriminating trader could have foreseen the adoption of a Community measure likely to affect his interests, he cannot avail himself of any legitimate expectation if the measure is then adopted. Such will be the case where a trader has set in motion the transport by train of the consignments ordered without awaiting the decision of the Community institution on the application for import licences and without taking the precautions necessary to safeguard his interests in the event of the application for licences being rejected.
4. There are two stages in the administrative procedure laid down in Regulation No 594/91 for obtaining authorization to import into the Community substances that deplete the ozone layer: first, the allocation of a quota under Article 3 of that regulation and, second, the issue, pursuant to Article 4 thereof, of one or more import licences corresponding to the quota allocated. It follows that the right to import, accorded when a quota is allocated, takes effect only once an import licence has been issued.

An individual cannot, by virtue of the allocation to him of an import quota, have a justified expectation that the import licences applied for will subsequently be issued to him, since such allocation is merely the first stage in securing an effective right to import.

5. There can be no finding that a legitimate expectation has arisen on the part of an individual where the measure liable to give rise to such expectation has been withdrawn by the administration within a reasonable period.
6. A legitimate expectation cannot arise from conduct on the part of a Community institution which is inconsistent with Community rules.
7. Where the conduct on the part of a defendant institution, which was inconsistent with the Community rules, has contributed to the creation of a dispute, an applicant cannot be criticized for having instituted proceedings before the Court for an assessment of that conduct, as well as of any damage which may have resulted from it. It is therefore necessary, in such circumstances, to apply the second subparagraph of Article 87(3) of the Rules of Procedure, according to which the Court may order a party, even if successful, to pay the costs of proceedings which, by its own conduct, it has caused the opposite party to incur.