

Case T-364/03

Medici Grimm KG

v

Council of the European Union

(Dumping — Imports of leather handbags originating in the People's Republic of China — Amendment of a regulation imposing a definitive anti-dumping duty — No retroactive effect — Annulment by the Court of First Instance — Action for damages — Sufficiently serious breach)

Judgment of the Court of First Instance (Fourth Chamber), 26 January 2006 II - 81

Summary of the Judgment

Non-contractual liability — Conditions — Sufficiently serious breach of Community law (Art. 288, second para., EC)

For the Community to incur non-contractual liability within the meaning of the second paragraph of Article 288 EC, a series of conditions must be met, namely the conduct of which the institutions are accused must have been unlawful, the damage must be real and a causal connection must exist between that conduct and the damage in question.

The fact that the unlawfulness of the conduct of the institution has been established by a judgment of the Community judicature is not however sufficient to justify the conclusion that the first condition has been satisfied. A sufficiently serious breach of a rule of law intended to confer rights on individuals must be established.

The decisive test for finding that there has been a sufficiently serious breach of Community law is whether the Community institution concerned manifestly and gravely disregarded the limits on its discretion. Where that institution has only a considerably reduced, or no, discretion, the mere infringement of Community law may be sufficient to establish the existence of a sufficiently serious breach. However, it is also necessary to take account of the complexity of the situations to be regulated, the difficulties in the application or interpretation of the legislation, the clarity and precision of the rule infringed, and whether the error of law made was inexcusable or intentional.

(see paras 59, 61, 62, 79-81, 87)