



EURO 2004


Hungary

C-291/15

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Main topics


- Determination of the Customs value
 - Doubts based on the veracity of the declared price
 - Declared price lower than the price paid in respect of other transactions relating to similar goods
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Facts

Request for a preliminary ruling:

The referring judicial body asks the CJEU if the practice of the Hungarian authorities is in accordance with the applicable rule

This practice consists in:

- Calculating the customs value of goods on the basis of the transaction value of similar goods
 - Considering that the declared value is abnormally low (lower by more than 50%) in comparison with average statistical purchase prices of similar goods
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The applicable rule

- Article 181.a of Commission Regulation (EEC) No 2454/93 (repealed)
- Currently, article 140 of Commission Implementing Regulation (EU) 2015/2447



Article 140. COMMISSION IMPLEMENTING REGULATION (EU) 2015/2447

Non-acceptance of declared transaction values

(Article 70(1) of the Code)

1. Where the customs authorities have reasonable doubts that the declared transaction value represents the total amount paid or payable as referred to in Article 70(1) of the Code, they may ask the declarant to supply additional information.

- The declarant was asked to provide more information and provided (paragraphs 13 \$ 14):
 - Commercial Invoice
 - Proof of payment (Bank certificate)
 - Accounting records

2. If their doubts are not dispelled, the customs authorities may decide that the value of the goods cannot be determined in accordance with Article 70(1) of the Code.



The GATT Ministerial Decision regarding cases where customs administrations have reasons to doubt the truth or accuracy of the declared value

Ministers invite the Committee on Customs Valuation established under the Agreement on Implementation of Article VII of GATT 1994 to take the following decision:


“Before taking a final decision, the customs administration shall communicate to the importer, in writing if requested, its **grounds** for doubting the truth or accuracy of the particulars or documents produced and the importer shall be given a **reasonable opportunity to respond**. When a final decision is made, the customs administration shall communicate to the importer in writing its decision and the grounds therefor.”

The Court's approach

- Recalls its jurisprudence (Christodoulou, C-116/12)
- Confirms the power of the customs authorities to reject the declared price of the goods and not accept the transaction value when:
 - after having requested additional information from the declarant
 - doubts persist about the veracity of the declared value (Carboni e derivati, C-263/06)
- The CJEU considers that the practice of the customs authorities is correct because it meets the two fundamental requirements required by article 181.a:
 - the existence of well-founded doubts from the customs authorities and
 - the granting of the interested party of a reasonable period to respond



Considerations

- CJEU understands that the doubts of the customs authorities about the declared transaction value must be considered founded in the sense of this provision:
 - The declared price was lower by more than 50% than the statistical average price of those same goods
 - This significant difference is sufficient to justify the doubts of the customs authorities
 - CJEU considers that the customs authorities provided the interested party with a reasonable opportunity to assert their point of view on the reasons on which these doubts are based
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Conclusions

CJEU concludes that the practice of the customs authorities by which the declared transaction value is not accepted is a correct practice within the meaning of article 181, since:

- There were well-founded doubts not to admit said value
- The interested party was granted a reasonable opportunity to clarify such doubts



Final remarks

- Worst solution
- Customs authorities:
 - Never asked what other evidence should be provided
 - Should have given any evidence



Thank you !



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