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Press and Information

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Judgment of the Court of Justice in Case C-377/02

*Léon Van Parys NV v. Belgisch Interventie- en Restitutiebureau*

**A LEGAL PERSON CANNOT PLEAD BEFORE A NATIONAL COURT THE  
INCOMPATIBILITY OF COMMUNITY LEGISLATION WITH CERTAIN RULES  
OF THE WORLD TRADE ORGANISATION (WTO)**

*That principle is not affected by the fact that the Dispute Settlement Body of the WTO has declared there to be such incompatibility, given the Commission's discretion to remedy the situation*

Van Parys NV, a company established in Belgium, has imported bananas into the European Community from Ecuador for more than 20 years. In 1998 and 1999 the relevant Belgian authority (Belgisch Interventie- en Restitutiebureau) refused to issue it with import licences for the full quantity applied for. Those refusals were based on the Community regulations governing imports of bananas into the European Community.

Van Parys challenged those decisions before the Belgian Raad van State (Council of State), arguing that the Community regulations in question<sup>1</sup> are unlawful in light of certain rules of the World Trade Organisation (WTO). The WTO's Dispute Settlement Body declared that the legislation adopted by the Community was incompatible with the WTO rules on the matter.

In response to questions from the Raad van State in that regard, the Court of Justice of the European Communities first examined the question whether the WTO agreements give Community nationals a right to rely on those agreements in legal proceedings challenging the validity of Community legislation.

The Court points out that the WTO agreements are not in principle among the rules which the Court must take into account when reviewing the legality of measures adopted by the Community institutions. It is only where the Community has intended to implement a particular obligation assumed in the context of the WTO, or where the Community measure refers expressly to particular provisions of the WTO agreements, that it is for the Court to review the legality of a Community measure in light of the WTO rules.

<sup>1</sup> Regulation (EEC) No 404/93, as amended, and Regulations Nos 2362/98, 2806/98, 102/1999 and 608/1999.

However, in the present case, the Community did not intend to assume a particular obligation in the context of the WTO, enabling the Community Court to exercise judicial review of the Community provisions in the light of the WTO rules in question. Nor do the regulations in question expressly refer to particular provisions of the WTO agreements.

First, the Court points out that even where there is a decision of the Dispute Settlement Body holding that the measures adopted by a member are incompatible with the WTO rules, the WTO dispute settlement system nevertheless accords considerable importance to negotiation between the parties.

In those circumstances, to require the Community Courts directly to ensure the conformity of Community law with the WTO rules would deprive the legislative or executive bodies of the Community of the possibility afforded by the WTO rules concerning the settlement of disputes of reaching a negotiated settlement, even on a temporary basis. The Court finds that a settlement was negotiated in this case between the Community, on the one hand, and the United States and Ecuador, on the other.

Second, the Court emphasises the need not to deprive the Community's legislative or executive bodies of the discretion which the equivalent bodies of the Community's commercial partners enjoy. Some of the contracting parties, which are amongst the Community's most important commercial partners, have concluded that the WTO agreements are not among the rules applicable by their courts when reviewing the lawfulness of their domestic rules. Such lack of reciprocity would risk introducing an anomaly into the application of the WTO rules.

**Accordingly, a legal person may not, in principle, rely in proceedings before a court of a Member State on the fact that Community legislation is incompatible with certain rules of the WTO even where the Dispute Settlement Body has declared that legislation to be incompatible with such rules.**

*Unofficial document for media use, not binding on the Court of Justice.*

*Languages available: FR, EN, DE, NL*

*The full text of the judgment may be found on the Court's internet site*

*<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>*

*It can usually be consulted after midday (CET) on the day judgment is delivered.*

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