

YX and Logistica i Gestió Caves Andorranes i Vidal SA

v

Directeur général des douanes et droits indirects and Ministre de l'Économie, des Finances et de la Relance

(Request for a preliminary ruling from the Cour de cassation (France))

Judgment of the Court (Fifth Chamber) of 1 August 2025

(Reference for a preliminary ruling – Customs union – Repayment or remission of import or export duties – Regulation (EEC) No 1430/79 – Customs duties collected in infringement of EU law – Third subparagraph of Article 2(2) – Conditions for repayment on their own initiative – Finding that those duties were wrongly collected before the expiry of a period of three years from the date on which they were entered in the accounts – Finding that the national customs authorities are aware of the identity of the operators concerned and of the amount to be repaid to each of them – Obligation on those authorities to take the necessary and appropriate measures to obtain the information necessary to make such repayment)

Own resources of the European Union – Repayment or remission of import or export duties – Customs duties collected in infringement of EU law – Repayment on their own initiative – Conditions – Finding, by the national customs authority, that those duties were wrongly collected before the expiry of a period of three years from the date on which they were entered in the accounts – Finding that the national customs authorities are aware of the identity of the operators concerned and of the amount to be reimbursed – Obligation on those authorities to take the necessary and appropriate measures to obtain the information necessary to make such repayment)

Council Regulation No 1430/79, Arts 1(2)(e), 2 and 15)

(see paragraphs 25-38, 42, 43, operative part)

Résumé

Ruling on a request for a preliminary ruling from the Cour de cassation (Court of Cassation, France), the Court of Justice clarifies the scope of the obligation imposed on a national customs authority to repay on its own initiative customs duties wrongly collected, and the conditions relating thereto, in the light of the third subparagraph of Article 2(2) of Regulation No 1430/79. ([1](#))

Between the years 1988 and 1991, companies incorporated under Andorran law imported into Andorra, through the company Ysal, a customs agent established in France, goods originating, in particular, from third countries. Those imports resulted in the payment of customs duties in France. At that time, the French customs authorities required that goods originating from third countries and destined for Andorra be released for free circulation when they crossed French territory.

In January 1991, the European Commission found, by reasoned opinion, ([2](#)) that, by imposing such a requirement that goods be released for free circulation, the French Republic had failed to fulfil its obligations under certain provisions of EU law. It therefore called upon the French Republic to take the necessary measures to correct the situation.

By a ministerial opinion, ([3](#)) the French authorities then put an end to that practice as regards all goods from third countries destined for Andorra.

In 2015, those Andorran importers, from whose rights Caves Andorranes and YX are derived, brought legal proceedings against the French customs authorities seeking the payment of a sum corresponding to the customs duties which the French customs authorities had wrongly collected in respect of imports of goods from third countries into Andorra between 1988 and 1991. As that application was dismissed at

first instance and on appeal, Caves Andorranes and YX brought an appeal before the Cour de cassation (Court of Cassation), which is the referring court.

That court has referred two questions to the Court for a preliminary ruling seeking, in essence, to ascertain whether the third subparagraph of Article 2(2) of Regulation No 1430/79 must be interpreted as meaning that the existence of an obligation on a national customs authority to repay customs duties on its own initiative is subject, first, to the fact that that authority has itself established, before the expiry of a period of three years from the entry in the accounts of those duties, that those duties have been wrongly collected and, second, to the knowledge, by that authority, of the identity of the operators concerned and of the amount to be repaid to each of them. In that context, the referring court raises the question of the measures which that authority must, where appropriate, take in order to obtain such information.

Findings of the Court

The Court finds, first of all, that the third subparagraph of Article 2(2) of Regulation No 1430/79, in so far as it provides in categorical terms that the national customs authorities are to ‘repay ... on their own initiative’, establishes an obligation of repayment on the part of those authorities without the importer concerned having to request it. That obligation to repay customs duties on its own initiative is subject to the fact that the national customs authority concerned has itself established, before the expiry of a period of three years from the date of entry in the accounts of the customs duties concerned, ([4](#)) that those duties have been wrongly collected. In contrast, repayment as such does not necessarily have to be made within that period, with the result that it may be made after the expiry of that period.

Furthermore, in so far as customs duties are imposed in respect of specific amounts, established by the national customs authority on the basis of customs declarations submitted on behalf of a specific person, the finding, by that authority, that such duties have been wrongly collected necessarily implies a finding that a person known to that authority has unduly paid a specific amount, also known to that authority. Consequently, where the national customs authority finds that customs duties have been wrongly collected and must be repaid, it is, in principle, aware both of the identity of the person whom it must repay and of the exact amount to be repaid.

That authority cannot rely on the fact that it no longer has in its possession the customs declarations submitted by the persons concerned, or the individual decisions adopted in relation to them, in order to justify a possible failure to repay to those persons the customs duties which it has found, within the three-year period laid down in the third subparagraph of Article 2(2) of Regulation No 1430/79, to have been wrongly collected because, as long as that period has not expired, such a customs authority is required to retain any documents and information which may be relevant for the purpose of proceeding with any repayment.

That said, where that customs authority does not have, through no fault of its own, the information necessary to repay customs duties wrongly collected, it is for that authority, in order to comply with its repayment obligation arising from that provision, to take the necessary and appropriate measures to obtain that information. It is true that such measures do not include disproportionate research, namely research which would require the use of human and material resources unrelated to what may reasonably be expected of a diligent administration. However, a passive attitude on the part of the customs authority, on the pretext that it does not have that information, is not compatible either with its abovementioned repayment obligation or with the requirements arising from the right to good administration, which is a general principle of EU law intended to apply to the Member States when they implement that law.

The Court concludes that the third subparagraph of Article 2(2) of Regulation No 1430/79 must be interpreted as meaning that the existence of an obligation on a national customs authority to repay customs duties on its own initiative is subject to the fact that that authority has itself established, before the expiry of a period of three years from the entry in the accounts of those duties, that those duties have been wrongly collected. That finding implies that that authority is aware of the identity of the persons who paid those duties and of the amount to be repaid to each of them. Where that authority does not have, and could not have, at its disposal all of the information necessary to make such a repayment to the person who paid the customs duties wrongly collected or to the persons who succeeded him or her in his or her rights and obligations, it is for that authority, in order to comply with its repayment

obligation, to take the measures which, without being disproportionate, are necessary and appropriate in order to obtain that information and to make the repayment.

(¹) Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties ([OJ 1979 L 175, p. 1](#)), as amended by Council Regulation (EEC) No 3069/86 of 7 October 1986 ([OJ 1986 L 286, p. 1](#)) ('Regulation No 1430/79').

(²) Reasoned opinion COM(90) 2042 final.

(³) Notice to importers and exporters from the ministère de l'Économie, des Finances et du Budget (Ministry of the Economy, Finance and Budget (France)), published in the *Journal officiel de la République française* (Official Journal of the French Republic) on 6 June 1991.

(⁴) In accordance with Article 1(2)(e) of Regulation No 1430/79, that date corresponds to the date of adoption of the official act by which the amount of those duties was initially established by the competent authorities.