

Customs Law: ECJ clarifies ex officio reimbursement



Trade
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In its judgment C-206/24 of 1 August 2025, the European Court of Justice (ECJ) ruled on the conditions under which a customs authority is obliged to reimburse import duties levied without legal basis *ex officio*. The ECJ clarified: *Ex officio* reimbursement requires that the customs authority itself determines within three years of the entry in the accounts that the duties were levied without legal basis – and that it also knows the identity of the affected person and the reimbursement amount. If this information is missing, the authority must take reasonable, but not disproportionate, measures to obtain it. If unsuccessful, the obligation to reimburse terminates after the deadline – even if the authority determined within the deadline that the duties were not legally owed.

1. Historical development of reimbursement provisions

The decision is based on the interpretation of Article 2(2), third subparagraph of Regulation No. 1430/79, applicable in the underlying case. This provision was valid until the entry into force of the Customs Code of the Communities (CC), effective from 1 January 1994. The CC was later replaced by the so-called Modernized Customs Code (Regulation (EC) No. 450/2008), which in turn was superseded by the currently applicable Union Customs Code (UCC) (Regulation (EU) No. 952/2013).

The reimbursement of import duties paid without legal basis is now governed by Articles 116 et seq. in conjunction with Article 121 UCC. Since the conditions for *ex officio* reimbursement in Article 116(4) UCC remain essentially unchanged, the ECJ's judgment on Article 2(2) of Regulation No. 1430/79 has direct implications for the current legal situation.

2. Unlawful collection of customs duties as the starting point of the legal dispute

Between 1988 and 1991, the French customs administration levied duties on goods imported from third countries into Andorra – although these imports should have been duty-free under Union law. It was not until 1991 that the European Commission recognized the legal violation and France discontinued the practice. However, the affected importers did not file claims for reimbursement of the unlawfully levied duties until 2008. The French customs authorities refused *ex officio* reimbursement, citing the three-year deadline under Article 2(2), third subparagraph of Regulation

No. 1430/79. This deadline had long expired; moreover, the customs authority had not made a complete determination within the three-year period regarding the unlawful collection of import duties – in particular, it lacked knowledge of the identity of the customs debtors and the specific reimbursement amounts.

3. Legal requirements for ex officio reimbursement

Customs law – both under Article 2(2) of Regulation No. 1430/79 and under Articles 116 in conjunction with 121 UCC – recognizes two reimbursement modalities: reimbursement upon application and ex officio reimbursement. The subject of the ECJ judgment C-206/24 is exclusively ex officio reimbursement under Article 2(2), third subparagraph of Regulation No. 1430/79, now governed by Article 116(4) UCC.

The ECJ clarified that ex officio reimbursement is contingent upon the competent authority itself determining within the three-year period following the entry in the accounts that the duties were levied without legal basis. However, this determination is only effective if the authority knows both the identity of the person who paid the duties and the specific reimbursement amount.

If the authority lacks this information, it is obliged, as part of its review, to take reasonable measures (e.g., investigations) to obtain it. It may not invoke administrative or financial difficulties, but it is not required to take measures that are disproportionately burdensome.

If the authority undertook such reasonable but unsuccessful measures within the three-year period, the statutory obligation for ex officio reimbursement terminates after the deadline – even if the illegality of the duty collection was recognized within the period.

4. Implications for practice

On the one hand, the ECJ judgment C-206/24 strengthens the position of customs debtors, as the court clarifies the scope of ex officio reimbursement and requires reasonable investigations by customs authorities regarding the extent of reimbursement claims. On the other hand, customs debtors should not overly rely on the statutory obligation for ex officio reimbursement, but rather take timely action themselves if there are doubts about the legality of paid import duties. Customs debtors

should review their customs transactions and ensure that relevant applications are submitted in a timely manner.

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