

Case 1130: CISG 1
Spain: Supreme Court
Previously heard by Lérida Court of First Instance, 15 January 1999 and
Lérida Provincial High Court, 16 June 1999
8 June 2006
Complete text: www.uc3m.es/cisg/sespan71.htm, Aranzadi/Westlaw (2006/3355)

Abstract prepared by María del Pilar Perales Viscasillas, National Correspondent

A contract had been concluded between a Spanish seller and a Spanish buyer for the sale of 19,806.20 kilograms of frozen pork shoulder.

スペインの売主とスペインの買主の間で冷凍豚肩肉 19,806.20kg の売買契約が締結された。

The parties were in dispute over the lack of conformity of the goods, namely the poor sanitary conditions in which they were delivered .

両当事者は、物品の不適合すなわち物品が引き渡された際の粗悪な衛生状態について争っていた。

The buyer claimed that the contract was an international contract, subject to CISG and the provisions of article 39 thereof.

買主は、本件契約は国際的な契約であり、CISG とその第 39 条の規定の適用を受けると主張した。

The Court considered, however, that the contract had been concluded between two Spanish parties through application of article 1 of CISG, as the buyer was registered in writing through a notary in Barcelona and was domiciled there.

しかしながら、裁判所は、買主はバルセロナの公証人を通じて書面で登録されており、そこに住所を有していたので、この契約は CISG1 条を適用することによってスペインの当事者間で締結されたと考えた。

As a result, national law was applicable, namely the Commercial Code, regardless of the fact that the final recipient of the goods was a business registered in Germany, on account of the nature of the relationship between that company and the buyer, which was distinct from the contractual relations between the litigants.

その結果、物品の最終受取人がドイツで登録された会社であるという事実にもかかわらず、訴訟当事者間の契約関係とは区別されるものの、その会社と買主の関係性に鑑み、国家法すなわち商法典が適用された。