

JUDGMENT OF THE COURT
7 FEBRUARY 1984 ¹

**Jongeneel Kaas BV and Others
v State of the Netherlands
and Stichting Centraal Orgaan Zuivelcontrole
(reference for a preliminary ruling
from the Arrondissementsrechtbank, The Hague)**

(National rules in the cheese sector)

Case 237/82

1. *Questions submitted for a preliminary ruling — Jurisdiction of the Court — Limits (EEC Treaty, Art. 177)*
2. *Agriculture — Common organization of the market — Member States — Adverse effect on Community rules — Prohibition (EEC Treaty, Art. 40)*
3. *Agriculture — Common organization of the market — Milk and milk products — Cheeses — National rules on quality — Prohibition of the production of certain types of cheese — Whether permissible (Regulation No 804/68 of the Council)*
4. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — Rules to improve the quality of domestic production — Whether permissible (EEC Treaty, Art. 30)*
5. *Free movement of goods — Quantitative restrictions on exports — Measures having equivalent effect — Standards of quality for cheese production — Whether permissible (EEC Treaty, Art. 34)*
6. *Free movement of goods — Quantitative restrictions on exports — Measures having equivalent effect — Compulsory use of stamps, marks or inspection documents — Whether permissible — Conditions (EEC Treaty, Art. 34)*

¹ — Language of the Case: Dutch.

7. *Agriculture — Common organization of the market — Milk and milk products — Cheese producers — National system of compulsory affiliation to an inspection agency — Whether permissible — Conditions*
 (Regulation No 804/68 of the Council)

1. Although the Court is not empowered under Article 177 of the Treaty to give a ruling on the compatibility of the provisions of a national law with the Treaty, it nevertheless has jurisdiction to provide the national court with all such matters relating to the interpretation of Community law as may enable it to determine whether such compatibility exists.
2. Once the Community has adopted, pursuant to Article 40 of the Treaty, regulations establishing a common organization of the market in a given sector, Member States are under an obligation to refrain from taking any measures which might undermine or create exceptions to it.
3. In the absence of any rule of Community law on the quality of cheese products the Member States retain the power to apply rules of that kind to cheese producers established within their territory. That power extends not only to rules considered necessary for the protection of the consumer or public health but also to rules which a Member State may wish to enact for the purpose of promoting the quality of domestic production. Such rules cannot however discriminate against imported products or hinder the importation of products from other Member States.

In view of the very limited scope of the Community market support measures in the cheese sector, it is not incompatible with those measures to

adopt national measures concerning quality which prohibit the production of cheeses of a type or quality other than those provided for by national legislation.

4. Article 30 does not prevent the adoption of national rules which, whilst leaving imported products unaffected, have as their purpose to improve the quality of domestic production so as to make it more attractive to consumers. A measure of that kind complies with the requirement of sound and fair competition laid down by the Treaty.
5. Article 34 of the Treaty concerns national measure which have as their specific object or effect the restriction of patterns of exports and thereby the establishment of a difference in treatment between the domestic trade of a Member State and its export trade, in such a way as to provide a special advantage for national production or for the domestic market of the State in question.

That is not the case, however, where certain provisions lay down minimum standards of quality for cheese production, without making any distinction as to whether the cheese is intended for the domestic market or for export.

6. Article 34 of the Treaty does not preclude the adoption of a national rule requiring producers to place on

cheese a control stamp attesting compliance with national rules on quality, provided that such requirement applies without distinction to domestic production marketed in the Member State concerned and production intended for export.

Nor does Article 34 preclude the adoption of a national rule providing for samples to be taken, by an inspection agency which subsequently issues a document setting out the results of that inspection, of all cheese products intended for domestic consumption or for export.

7. Regulation No 804/68 must be interpreted as meaning that it does not prevent a Member State from requiring cheese producers to become affiliated to an inspection agency provided that the objectives pursued by that agency are consistent with Community law and that the marketing, re-sale, import, export or offering for export of cheese products is not reserved exclusively to persons affiliated to that agency.

In Case 237/82

REFERENCE to the Court under Article 177 of the EEC Treaty by the Arrondissementsrechtbank [District Court], The Hague, for a preliminary ruling in the proceedings pending before that court between

JONGENEEL KAAS BV, Bodegraven, and 14 other plaintiffs,

and

STATE OF THE NETHERLANDS AND STICHTING CENTRAAL ORGAAN ZUIVEL-CONTROLE [Central Agency for the Inspection of Dairy Produce]

on the interpretation of Regulation (EEC) No 804/68 of the Council of 27 June 1968 (Official Journal, English Special Edition 1968 (I), p. 176) and Articles 30 and 34 of the EEC Treaty,

THE COURT

composed of: J. Mertens de Wilmars, President, T. Koopmans, K. Bahlmann and Y. Galmot (Presidents of Chambers), Lord Mackenzie Stuart, A. O'Keefe, G. Bosco, O. Due and U. Everling, Judges,

Advocate General: G. F. Mancini
Registrar: P. Heim

gives the following