

Case 118/86

Openbaar Ministerie

v

Nertsvoederfabriek Nederland BV

(reference for a preliminary ruling
from the Gerechtshof, Arnhem)

(Free movement of goods — Poultry offal)

Report for the Hearing	3884
Opinion of Mr Advocate General da Cruz Vilaça delivered on 14 May 1987	3894
Judgment of the Court (Fifth Chamber), 6 October 1987	3903

Summary of the Judgment

Free movement of goods — Quantitative restrictions — Measures having equivalent effect — Obligation of producers of poultry offal to deliver it to approved rendering plants — Compatibility with the Treaty and the common organization of the markets — Conditions — Prohibition of exports of offal — Disproportionate measure

(EEC Treaty, Arts 30, 34 and 36; Regulation No 827/68 of the Council, Art. 4, and Council Regulation No 2777/75, Art. 11)

It is not incompatible with Articles 30 and 34 of the Treaty or the corresponding provisions of Regulations Nos 827/68 and 2777/75 on the common organization of the markets in the sectors likely to be affected for national rules laid down in the interests of the protection of the health and life of humans and animals to provide that only holders of a licence to operate a rendering plant issued by the administrative

authorities may collect and process all products of animal origin and that producers of poultry offal must dispose of it, as a waste product of animal origin, only to authorized licence-holders, but only in so far as those rules do not place in the way of imports from and exports to other Member States barriers other than those justified under Article 36 of the Treaty by a concern to secure compliance, in the national

territory, with health provisions governing the collection and transportation of products regarded as harmful to health. A prohibition of exports of offal does not

appear to be necessary for that purpose provided that the requirements laid down by those provisions are observed.

REPORT FOR THE HEARING delivered in Case 118/86 *

I — Facts and procedure

1. The Netherlands Destructiewet (Law on the destruction of cattle carcasses and animal offal) of 21 February 1957 (*Staatsblad*, 1957/84, p. 155) regulates the operations intended to render animal offal innocuous by converting it into useful products, with the object, according to its preamble, of preventing any risk or damage to or impairment of public health.

According to Article 2 (1) (f), the Destructiewet applies to poultry offal which is manifestly unfit for human consumption and which comes from premises where poultry is slaughtered by way of trade, with the exception of products put to another useful purpose.

Article 4 provides that it is prohibited to withhold animal offal from destruction.

Article 5 (1) provides that it is prohibited to set up, bring into operation, keep in operation, extend or alter a rendering plant without a licence.

According to Article 12, any owner or holder of offal which is to be processed must make a declaration to that effect and hand it over to the local authority. The local authority is obliged to pass the offal on to a licensed rendering-plant operator; the latter is obliged to collect, transport and process the offal in accordance with the Destructiewet.

2. At present there are four rendering plants in the Netherlands, each operating within the area assigned to it.

3. Poultry offal which is unfit for human consumption is covered by Regulation No 827/68 of the Council of 28 June 1968 on the common organization of the market in certain products listed in Annex II to the Treaty (Official Journal, English Special Edition 1968 (I), p. 209).

Poultry declared unfit for human consumption is not in principle covered by the common organization provided for by Council Regulation No 2777/75 of 29 October 1975 on the common organization of the market in the poultry-meat sector (Official Journal 1975, L 282, p. 77), but

* Language of the Case: Dutch.