

Case C-2/92

The Queen

v

Ministry of Agriculture, Fisheries and Food,
ex parte Dennis Clifford Bostock

(Reference for a preliminary ruling
from the High Court of Justice, Queen's Bench Division)

(Additional levy on milk — Expiry of a lease of a holding —
Transfer of the reference quantity to the landlord —
No obligation to compensate the outgoing tenant)

Opinion of Mr Advocate General Gulmann delivered on 20 April 1993	I - 958
Judgment of the Court, 24 March 1994	I - 976

Summary of the Judgment

1. *Community law — Principles — Fundamental rights — Observance by Member States when implementing Community rules*
2. *Agriculture — Common organization of the markets — Milk and milk products — Additional levy on milk — Allocation of reference quantities exempt from the levy — Transfer to the lessor, on expiry of a lease, of the reference quantity allocated to the tenant — No obligation for Member States to introduce a system for compensation of an outgoing tenant by a*

lessor — Entitlement to such compensation not conferred directly by Community law — Right to property — Principle of non-discrimination — Prohibition of unjust enrichment — Breach — None

(EEC Treaty, Art. 40 (3); Council Regulations Nos 856/84 and 857/84; Commission Regulation No 1371/84)

1. The requirements flowing from the protection of fundamental rights in the Community legal order are also binding on Member States when they implement Community rules, with the result that Member States must, as far as possible, apply those rules in accordance with those requirements.

Where reference is made to the Court for a preliminary ruling, it must provide all the criteria of interpretation needed by the national court to determine whether rules falling within the scope of Community law are compatible with the fundamental rights whose observance the Court ensures.

2. The Community rules on the additional levy on milk introduced by Regulations No 856/84, No 857/84 and No 1371/84 do not require a Member State to introduce a scheme for the payment by a landlord of compensation to an outgoing tenant and do not confer directly on a tenant a right to such compensation in respect of the reference quantity transferred to the landlord on the expiry of a lease.

The general principles of Community law do not provide for an obligation or right of that kind either.

The right to property safeguarded by the Community legal order does not include the right to dispose, for profit, of an advantage, such as the reference quantities allocated in the context of the common organization of a market, which does not derive from the assets or occupational activity of the person concerned.

The fact that other tenants may have received compensation later as a result of an amendment to national legislation cannot allow the principle of equal treatment to be successfully pleaded. That principle, which is expressly set out in Article 40 (3) of the Treaty, cannot bring about retroactive modification of the relations between the parties to a lease to the detriment of the lessor by imposing on him an obligation to compensate the outgoing lessee, whether under national provisions which the Member State in question might be required to adopt, or by means of direct effect.

BOSTOCK

In view of the fact that legal relations between lessees and lessors, in particular on the expiry of a lease, are, as Community law now stands, still governed by the

law of the Member State in question, any consequences of unjust enrichment of the lessor on the expiry of a lease are not a matter for Community law.