



Reports of Cases

Case C-443/13

Ute Reindl

v

Bezirkshauptmannschaft Innsbruck

(Request for a preliminary ruling from the Unabhängiger Verwaltungssenat in Tirol)

(Reference for a preliminary ruling — Approximation of laws on animal health — Regulation (EC) No 2073/2005 — Annex I — Microbiological criteria applicable to foodstuffs — Salmonella in fresh poultry meat — Failure to comply with microbiological criteria found at the distribution stage — National legislation imposing a penalty on a food business operator active only at the stage of retail sale — Compatibility with EU law — Effective, dissuasive and proportionate nature of the penalty)

Summary — Judgment of the Court (Fourth Chamber), 13 November 2014

1. *Agriculture — Approximation of laws on animal health — Fresh poultry meat — Control of salmonella and other specified food-borne zoonotic agents in the food chain — Obligation to satisfy the microbiological criteria applicable to foodstuffs — Scope*

(European Parliament and Council Regulation No 2160/2003, as amended by Regulation No 1086/2011, Annex II E, point 1; Commission Regulation No 2073/2005, as amended by Regulation No 1086/2011, Recital 1 and Annex I, Chapter I, Row 1.28)

2. *Agriculture — Approximation of laws on animal health — Fresh poultry meat — Control of salmonella and other specified food-borne zoonotic agents in the food chain — Obligation to satisfy microbiological criteria applicable to foodstuffs — National rules penalising a food business operator which is active only at the distribution stage — Lawfulness — Condition — Proportionality of the penalty — Assessment by the national court*

(European Parliament and Council Regulation No 178/2002, Art. 17(2); Commission Regulation No 2073/2005, as amended by Regulation No 1086/2011, Annex I, Chapter I, Row 1.28)

1. Annex II E. 1 to Regulation No 2160/2003 on the control of salmonella and other specified food-borne zoonotic agents in the food chain, as amended by Regulation No 1086/2011, must be interpreted as meaning that fresh poultry meat from the animal populations listed in Annex I to that regulation must satisfy the microbiological criterion set out in Annex I, Chapter I, Row 1.28 of Regulation No 2073/2005 on microbiological criteria for foodstuffs, as amended by Regulation No 1086/2011, at all the stages of distribution including the retail sale stage.

If there was no requirement for fresh poultry meat to comply with the microbiological criterion at all stages of distribution, including retail sale, one of the fundamental objectives of food law, which is to attain a high level of protection of public health, to which recital 1 in the preamble to Regulation No 2073/2005 refers, would be undermined if foodstuffs, containing micro-organisms in quantities which present an unacceptable risk to human health were placed on the market.

(see paras 28, 30, operative part 1)

2. EU law, in particular Regulation No 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety and Regulation No 2073/2005 on microbiological criteria for foodstuffs, as amended by Regulation No 1086/2011, must be interpreted in principle, as not precluding national law which imposes a penalty on a food business operator which is active only at the distribution stage for placing foodstuff on the market, on account of the failure to comply with the microbiological criterion laid down in Annex I, Chapter I, Row 1.28 of Regulation No 2073/2005. It is for the national court to determine whether the penalty observes the principle of proportionality referred to in Article 17(2) of Regulation No 178/2002.

In that regard, the imposition of a system of strict liability is not disproportionate in relation to the objectives pursued if that system is such as to encourage the persons concerned to comply with the provisions of a regulation and where the objective pursued is a matter of public interest which may justify the introduction of such a system.

(see paras 36, 37, 42, 44, operative part 2)