

Operative part of the judgment

1. Regulation (EC) No 854/2004 and of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, as amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004, and Regulation No 882/2004 must be interpreted as precluding national legislation under which, where an official veterinarian refuses to affix a health mark to a carcass and the owner of that carcass does not concur with that decision, the official veterinarian must bring the matter before a court so that the latter may give a decision on the merits and on the basis of the evidence of experts called by each side whether a carcass fails to comply with food safety requirements, without being able formally to annul decisions of the official veterinarian or order the lifting of the effects of such decisions.
2. Article 54 of Regulation No 882/2004, read in conjunction with recital 43 thereof and in the light of Article 47 of the Charter, must be interpreted as not precluding national legislation according to which the decision made by the official veterinarian, in accordance with Article 5(2) of Regulation No 854/2004, as amended by Regulation No 882/2004, not to affix a health mark to a carcass may be subject to limited judicial review only, in the context of which the court seised may annul that decision on any ground rendering it unlawful, including where that veterinarian has acted for a purpose other than that for which his or her powers have been conferred on him or her, fails to apply the correct legal test or reaches a decision that is irrational or has no sufficient evidential basis.

⁽¹⁾ OJ C 328, 30.9.2019.

Judgment of the Court (Fourth Chamber) of 2 September 2021 — *Ja zum Nürburgring eV v European Commission*

(Case C-647/19 P) ⁽¹⁾

(Appeal — State aid — Aid in favour of the Nürburgring complex (Germany) — Decision declaring the aid in part incompatible with the internal market — Sale of the assets of the beneficiaries of the State aid declared to be incompatible — Open, transparent, non-discriminatory and unconditional tender process — Decision declaring that the reimbursement of the incompatible aid did not concern the new owner of the Nürburgring complex and that the latter did not receive new aid for the acquisition of that complex — Admissibility — Status as an interested party — Person individually concerned — Infringement of the procedural rights of the interested parties — Difficulties requiring the initiation of a formal investigation procedure — Justification — Distortion of the evidence)

(2021/C 431/16)

Language of the case: German

Parties

Appellant: Ja zum Nürburgring eV (represented by: D. Frey and M. Rudolph, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: L. Flynn, B. Stromsky and T. Maxian Rusche, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 19 June 2019, *Ja zum Nürburgring v Commission* (T-373/15, EU:T:2019:432), in so far as, by that judgment, the General Court of the European Union dismissed the action for annulment of the last indent of Article 1 of Commission Decision (EU) 2016/151 of 1 October 2014 on the State aid SA.31550 (2012/C) (ex 2012/NN) implemented by Germany for Nürburgring;
2. Dismisses the appeal as to the remainder;

3. Annuls the last indent of Article 1 of Commission Decision (EU) 2016/151 of 1 October 2014 on the State aid SA.31550 (2012/C) (ex 2012/NN) implemented by Germany for Nürburgring;
4. Orders Ja zum Nürburgring eV and the European Commission to bear their own costs.

⁽¹⁾ OJ C 372, 4.11.2019.

Judgment of the Court (Fourth Chamber) of 2 September 2021 — NeXovation Inc. v European Commission

(Case C-665/19 P) ⁽¹⁾

(Appeal — State aid — Aid in favour of the Nürburgring complex (Germany) — Decision declaring the aid partly incompatible with the internal market — Sale of the assets of the beneficiaries of the State aid found to be incompatible — Open, transparent, non-discriminatory and unconditional tender process — Decision declaring that the reimbursement of incompatible aid did not concern the new owner of the Nürburgring complex and that the latter did not receive new aid for the acquisition of that complex — Admissibility — Status as an interested party — Person individually concerned — Infringement of the procedural rights of the interested parties — Difficulties requiring the initiation of a formal investigation procedure — Justification)

(2021/C 431/17)

Language of the case: English

Parties

Appellant: NeXovation Inc. (represented: initially by A. von Bergwelt, M. Nordmann and L. Hettstedt, and subsequently by A. von Bergwelt and M. Nordmann, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: L. Flynn, T. Maxian Rusche and B. Stromsky, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 19 June 2019, NeXovation v Commission (T-353/15, EU:T:2019:434), in so far as, by that judgment, the General Court of the European Union dismissed the action for annulment of the last indent of Article 1 of Commission Decision (EU) 2016/151 of 1 October 2014 on State aid SA.31550 (2012/C) (ex 2012/NN) implemented by Germany for Nürburgring;
2. Dismisses the appeal as to the remainder;
3. Annuls the last indent of Article 1 of Commission Decision (EU) 2016/151 of 1 October 2014 on the State aid SA.31550 (2012/C) (ex 2012/NN) implemented by Germany for Nürburgring;
4. Orders NeXovation Inc. and the European Commission to bear their own costs.

⁽¹⁾ OJ C 372, 4.11.2019.