

## JUDGMENT OF THE COURT

(Sixth Chamber)

of 15 April 1997

in Case C-27/95 (reference for a preliminary ruling from the High Court of Justice): Woodspring District Council v. Bakers of Nailsea Ltd <sup>(1)</sup>

*(Ante-mortem health inspections in slaughterhouses — Validity — Role of official veterinarians — Charges passed on to slaughterhouse operators)*

(97/C 166/02)

*(Language of the case: English)*

In Case C-27/95: reference to the Court under Article 177 of the EC Treaty from the High Court of Justice (Bristol Mercantile Court, United Kingdom), for a preliminary ruling in the proceedings pending before that court between Woodspring District Council and Bakers of Nailsea Ltd — on the validity of Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat (OJ, English Special Edition 1963—1964, p. 185), as amended and consolidated by Council Directive 91/497/EEC of 29 July 1991 (OJ No L 268, 1991, p. 69), having regard to Articles 39 and 40 (3) of the EC Treaty and the general principles of proportionality and non-discrimination, — the Court (Sixth Chamber), composed of: J. L. Murray (Rapporteur), President of the Fourth Chamber, acting as President of the Sixth Chamber, C. N. Kakouris, P. J. G. Kapteyn, G. Hirsch and H. Ragnemalm, Judges; A. La Pergola, Advocate-General; H. von Holstein, Deputy Registrar, for the Registrar, has given a judgment on 15 April 1997, in which it has ruled:

1. A private individual may plead in proceedings before a national court an infringement of Articles 39 and 40 (3) of the EC Treaty and of the general principles of proportionality and non-discrimination in order to challenge the validity of an act of the Community institutions.
2. Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat, as amended and consolidated by Council Directive 91/497/EEC of 29 July 1991, is not invalid having regard to Articles 39 and 40 (3) of the EC Treaty and the general principle of proportionality, in so far as it requires and/or permits Member States to require health inspections at slaughterhouses to be carried out by official veterinarians and/or in so far as it requires ante-mortem inspections to be carried out.
3. The obligation under Directive 64/433 for the costs of health inspections by official veterinarians to be borne by the slaughterhouse at which the animals are to be slaughtered is not contrary either to Articles 39 and 40

(3) of the EC Treaty or to the general principles of equal treatment and/or proportionality.

<sup>(1)</sup> OJ No C 101, 22. 4. 1995.

## JUDGMENT OF THE COURT

(Fourth Chamber)

of 15 April 1997

in Case C-105/95 (reference for a preliminary ruling from the Oberverwaltungsgericht für das Land Nordrhein-Westfalen, Münster): Paul Daut GmbH & Co. KG v. Oberkreisdirektor des Kreises Gütersloh <sup>(1)</sup>

*(Mechanically recovered meat — Heat treatment — Health conditions for production and marketing — Intra-Community trade)*

(97/C 166/03)

*(Language of the case: German)*

*(Provisional translation; the definitive translation will be published in the European Court Reports)*

In Case C-105/95: reference to the Court under Article 177 of the EC Treaty from the Oberverwaltungsgericht für das Land Nordrhein-Westfalen (Higher Administrative Court, North Rhine Westphalia), Münster (Germany), for a preliminary ruling in the proceedings pending before that court between Paul Daut GmbH & Co. KG and Oberkreisdirektor des Kreises Gütersloh — on the interpretation of Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat (OJ, English Special Edition 1963—1964, p. 185), as amended and consolidated by Council Directive 91/497/EEC of 29 July 1991 (OJ No L 268, 1991, p. 69), Council Directive 89/608/EEC of 21 November 1989 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of legislation on veterinary and zootechnical matters (OJ No L 351, 1989, p. 34), and Articles 30 and 36 of the EC Treaty — the Court (Fourth Chamber), composed of: C. N. Kakouris (Rapporteur), acting as President of the Chamber, P. J. G. Kapteyn and H. Ragnemalm, Judges; D. Ruiz-Jarabo Colomer, Advocate-General; D. Louterman-Hubeau, Principal Administrator, for the Registrar, has given a judgment on 15 April 1997, in which it has ruled:

1. Article 6 (1) (c) and (g) of Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat, as amended and consolidated by Council Directive 91/497/EEC of 29 July 1991, preclude national rules that prohibit the import of mechanically recovered meat which has not been subjected to heat treatment in the Member State of origin but is intended to be subjected to such treatment in an approved establishment in the Member State of importation designated by the official veterinarian in the State of origin.

2. *The competent veterinary authority of the Member State of origin may, under Council Directive 89/608/EEC of 21 November 1989 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of legislation on veterinary and zootechnical matters, seek the assistance of the competent veterinary authority of the Member State of importation, without such a request affecting the right of the official veterinarian in the Member State of origin to designate, for the purposes of the heat treatment to be carried out, an establishment in the Member State of importation.*

(<sup>1</sup>) OJ No C 159, 24. 6. 1995.

### JUDGMENT OF THE COURT

(Fourth Chamber)

of 15 April 1997

in Case C-272/95 (reference for a preliminary ruling from the Bundesverwaltungsgericht): *Bundesanstalt für Landwirtschaft und Ernährung v. Deutsches Milch-Kontor GmbH* (<sup>1</sup>)

*(Aid for skimmed-milk powder — Systematic inspections — Costs of inspections)*

(97/C 166/04)

*(Language of the case: German)*

*(Provisional translation; the definitive translation will be published in the European Court Reports)*

In Case C-272/95: reference to the Court under Article 177 of the EC Treaty from the Bundesverwaltungsgericht (Federal Administrative Court) for a preliminary ruling in the proceedings pending before that court between Bundesanstalt für Landwirtschaft und Ernährung and Deutsches Milch-Kontor GmbH — on the interpretation of Article 2 (1) and (4) of Commission Regulation (EEC) No 1624/76 of 2 July 1976 concerning special arrangements for the payment of aid for skimmed-milk powder denatured or processed into compound feedingstuffs in the territory of another Member State (OJ No L 180, 1976, p. 9), as amended by Article 1 of Commission Regulation (EEC) No 1726/79 of 26 July 1979 (OJ No L 199, 1979, p. 10), on the interpretation of Article 10 of Commission Regulation (EEC) No 1725/79 of 26 July 1979 on the rules for granting aid to skimmed milk processed into compound feedingstuffs and skimmed-milk powder intended for feed for calves (OJ No L 199, 1979, p. 1) and on the interpretation of Articles 9, 12, 16 and 95 of the EC Treaty — the Court (Fourth Chamber), composed of: J. L. Murray, President of the Chamber (Rapporteur), C. N. Kakouris and P. J. G. Kapteyn, Judges; P. Léger, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 15 April 1997, in which it has ruled:

1. *Article 2 (1) and (4) of Commission Regulation (EEC) No 1624/76 of 2 July 1976 concerning special arrangements for the payment of aid for skimmed-milk powder denatured or processed into compound feedingstuffs in the territory of another Member State, as amended by Article 1 of Commission Regulation (EEC) No 1726/79 of 26 July 1979, and Article 10 of Commission Regulation (EEC) No 1725/79 of 26 July 1979 on the rules for granting aid to skimmed milk processed into compound feedingstuffs and skimmed-milk powder intended for feed for calves, in conjunction with Article 34 of the EC Treaty, preclude systematic inspections to verify compliance with the conditions as to the composition and quality of skimmed-milk powder intended for processing into compound feedingstuffs in another Member State on which entitlement to export refunds depends, where those inspections are carried out, with a view to subsequent export of the goods inspected, inside the exporting State and not at the frontier. However, those provisions do not preclude such inspections if they are carried out only by means of spot checks.*

2. *A charge levied in respect of systematic inspections carried out inside the exporting State with a view to subsequent export of the goods inspected constitutes a charge having an effect equivalent to customs duties on exports, prohibited under Articles 9 and 12 of the EC Treaty, even if it corresponds to the actual cost of each inspection.*

(<sup>1</sup>) OJ No C 248, 23. 9. 1995.

### JUDGMENT OF THE COURT

(Sixth Chamber)

of 15 April 1997

in Case C-292/95: *Kingdom of Spain v. Commission of the European Communities* (<sup>1</sup>)

*(Action for annulment — Framework on State aid to the motor vehicle industry — Retroactive prolongation — Article 93 (1) of the EC Treaty)*

(97/C 166/05)

*(Language of the case: Spanish)*

*(Provisional translation; the definitive translation will be published in the European Court Reports)*

In Case C-292/95: Kingdom of Spain (Agents: Alberto Navarro González and Miguel Bravo-Ferrer Delgado) v. Commission of the European Communities (Agents: Gérard Rozet and Francisco Enrique González Díaz) — application for annulment of the Commission's decision, notified by letter of 6 July 1995 and published in the *Official Journal of the European Communities* (OJ No C 284, 1995, p. 3), to prolong, with retroactive effect from 1 January 1995, its decision of 23 December 1992