

- it is for the operator to prove that the conditions necessary for a case of force majeure to exist have been satisfied and for the national court to verify the facts alleged and to determine whether, having regard to the circumstances, the operators took every care that could have been expected of them to observe the time-limits for making the declaration provided for by the Community legislation;
- the sudden death of the sole director of a family holding in the form of community of property ('comunidad de bienes'), who was connected to the members of that community by close family ties, may, in principle, be regarded as a case of force majeure.

(¹) OJ C 227 of 11.8.2001.

JUDGMENT OF THE COURT

of 22 October 2002

in Case C-241/01 (Reference for a preliminary ruling from the Conseil d'État): National Farmers' Union v Secrétariat général du gouvernement (¹)

(Agriculture — Combating bovine spongiform encephalopathy — Decisions 98/692/EC and 1999/514/EC ending the ban on beef and veal from the United Kingdom — Whether a Member State to which those decisions are addressed may challenge the legality thereof after the time-limit for bringing proceedings has expired or invoke Article 30 EC to justify its refusal to end the ban)

(2002/C 305/08)

(Language of the case: French)

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

In Case C-241/01: Reference to the Court under Article 234 EC by the Conseil d'État (France) for a preliminary ruling in the proceedings pending before that court between National Farmers' Union and Secrétariat général du gouvernement, on the validity of Commission Decision 98/692/EC of 25 November 1998 amending Decision 98/256/EC as regards certain emergency measures to protect against bovine spongiform encephalopathy (OJ 1998 L 328, p. 28) and of Commission Decision 1999/514/EC of 23 July 1999 setting the date on which dispatch from the United Kingdom of bovine products

under the date-based export scheme may commence by virtue of Article 6(5) of Council Decision 98/256/EC (OJ 1999 L 195, p. 42) and on the interpretation of Community law, in particular Article 30 EC, the Court, composed of: G.C. Rodríguez Iglesias, President, J.-P. Puissochet, M. Wathelet and R. Schintgen (Presidents of Chambers), C. Gulmann, D.A.O. Edward, P. Jann, V. Skouris, F. Macken, N. Colneric, S. von Bahr, J.N. Cunha Rodrigues and A. Rosas (Rapporteur), Judges; J. Mischo, Advocate General; L. Hewlett, Principal Administrator, for the Registrar, has given a judgment on 22 October 2002, in which it has ruled:

1. A Member State which is an addressee of Commission Decision 98/692/EC of 25 November 1998 amending Decision 98/256/EC as regards certain emergency measures to protect against bovine spongiform encephalopathy and of Commission Decision 1999/514/EC of 23 July 1999 setting the date on which dispatch from the United Kingdom of bovine products under the date-based export scheme may commence by virtue of Article 6(5) of Council Decision 98/256/EC and which has not challenged the legality of those decisions within the time-limit laid down by the fifth paragraph of Article 230 EC does not have standing subsequently before a national court to invoke their unlawfulness in order to dispute the merits of an action brought against it.
2. Since Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market and Decision 98/256, as amended by Decision 98/692, lay down the rules necessary for the protection of public health upon the resumption of exports of beef and veal from the United Kingdom to the other Member States, lay down a Community procedure to monitor compliance with that decision and a procedure for amending it in the light of new scientific information and provide the appropriate legal framework for the adoption of interim protective measures by a Member State of destination for the purpose of protecting public health, a Member State is not entitled to invoke Article 30 EC in order to prevent the resumption of imports to its territory of beef and veal from the United Kingdom which were carried out in accordance with Decisions 98/256, as amended by Decision 98/692, and 1999/514.

(¹) OJ C 245 of 1.9.2001.