



Reports of Cases

Case C-469/14

Masterrind GmbH
v
Hauptzollamt Hamburg-Jonas

(Request for a preliminary ruling
from the Finanzgericht Hamburg)

(Reference for a preliminary ruling — Agriculture — Regulation (EC) No 1/2005 — Protection of animals during transport — Long journeys — Annex I, Chapter V, point 1.4(d) — Journey times and animal resting periods during transport — Transport of cattle — Concept of ‘rest period of at least one hour’ — Possibility of interrupting the transport several times — Article 22 — Delays during transport — Regulation (EC) No 1234/2007 and Regulation (EU) No 817/2010 — Export refunds — Requirements of the welfare of live bovine animals during transport — Regulation No 817/2010 — Article 2(2) to (4) of Regulation No 817/2010 — Official veterinarian at the exit point — Report and entry on the document evidencing the exit of the animals from the customs territory of the European Union regarding compliance or non-compliance with the relevant provisions of Regulation No 1/2005 — Unsatisfactory result of the checks carried out — Article 5(1)(c) of Regulation No 817/2010 — Whether or not that entry is binding on the national authority competent for the export refund)

Summary — Judgment of the Court (Third Chamber), 28 July 2016

1. *Agriculture — Approximation of laws — Protection of animals during transport — Regulation No 1/2005 — Technical specifications — Journey times and resting periods — Minimum requirements*

(Council Regulation No 1/2005, Annex I, Chapter V, point 1.4(d))

2. *Agriculture — Common organisation of the markets — Export refunds — Conditions for granting — Compliance with the EU legislation on the welfare of live animals during transport — Competence of the national administrative authority to conclude, contrary to the declaration of the official veterinarian, that EU legislation was complied with*

(Council Regulation No 1/2005; Commission Regulation No 817/2010, Recital 5)

1. Annex I, Chapter V, point 1.4(d) to Regulation No 1/2005 on the protection of animals during transport and related operations must be interpreted as meaning that, in the context of the transport by road of the animals belonging to the species referred to, in particular the bovine species except calves, first, the rest period between the periods of movement may, in principle, be longer than one hour. However, that length of time, if it exceeds one hour, must not be such that, in the specific conditions in which that rest and the transport occur together, it constitutes a risk of injury or undue suffering for the transported animals. Furthermore, the combined journey time and resting periods, as provided for under point 1.4(d) of that chapter, must not exceed 29 hours, subject to the possibility of

extending those periods by 2 hours in the interests of the animals, in accordance with point 1.8 of that chapter and without prejudice to the application of Article 22 of that regulation in the event of unforeseeable circumstances. Second, the periods of movement of a maximum of 14 hours may each include 1 or more stop periods. Those break periods must be in addition to the periods of movement that count towards the overall period of movement of a maximum of 14 hours to which they belong.

(see para. 43, operative part 1)

2. Regulation No 817/2010 laying down detailed rules pursuant to Regulation No 1234/2007 as regards requirements for the granting of export refunds related to the welfare of live bovine animals during transport must be interpreted as meaning that the authority competent for the payment of export refunds for bovine animals is not bound by the entry made by the official veterinarian at the exit point on the document constituting evidence of exit from the customs territory of the European Union of the animals concerned, according to which the applicable provisions of Regulation No 1/2005 on the protection of animals during transport and related operations were not adhered to in the context of the transport of those animals, in relation to all or some of those animals.

In accordance with the provisions of Regulation No 817/2010, the decision on the adherence to the conditions to which the entitlement to payment of the exports refund is subject, in particular as regards compliance with the relevant provisions of Regulation No 1/2005, falls within the remit of the national authority competent for that payment. In that regard, the indications provided by the official veterinarian at the exit point, in the context of the cooperation between the two parties laid down in Regulation No 817/2010, indeed constitute an item of evidence, but are refutable. That finding is supported when the assessment of that veterinarian does not concern the assessment of the physical condition and state of health of animals, which, under recital 5 of Regulation No 817/2010, requires specific expertise and experience, providing justification that the checks are to be carried out by a veterinarian.

(see paras 50-52, operative part 2)