

Judgment of the Court (Fourth Chamber) of 19 December 2019 (requests for a preliminary ruling from the College van Beroep voor het Bedrijfsleven — Netherlands) — Exportslachterij J. Gosschalk en Zn. BV (C-477/18), Compaxo Vlees Zevenaar BV, Ekro BV, Vion Apeldoorn BV, Vitelco BV (C-478/18) v Minister van Landbouw, Natuur en Voedselkwaliteit

(Joined Cases C-477/18 and C-478/18) ⁽¹⁾

(Reference for a preliminary ruling — Regulation (EC) No 882/2004 — Article 27(1) and (4) — Points 1 and 2 of Annex VI — Official controls on feed and food — Financing — Fees payable in relation to official controls — Calculation — Definition of ‘staff involved in the official controls’ — Inclusion of administrative and support staff — Possibility of charging for quarter-hour periods requested by the slaughterhouse for the purposes of official controls but not worked — Conditions)

(2020/C 61/12)

Language of the case: Dutch

Referring court

College van Beroep voor het bedrijfsleven

Parties to the main proceedings

Applicants: Exportslachterij J. Gosschalk en Zn. BV (C-477/18), Compaxo Vlees Zevenaar BV, Ekro BV, Vion Apeldoorn BV, Vitelco BV (C-478/18)

Defendant: Minister van Landbouw, Natuur en Voedselkwaliteit

Operative part of the judgment

1. Article 27(1) and (4)(a) of Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, read in conjunction with point 1 and 2 of Annex VI thereto, must be interpreted as meaning that Member States may consider the salaries and costs of administrative and support staff as being costs occasioned by official controls, for the purposes of those provisions, and as not exceeding the costs borne by the competent authorities, within the meaning of Article 2(4) of that regulation, in proportion to the time objectively required of that staff for activities inextricably linked to the performance of official controls;
2. Article 27(4)(a) of Regulation No 882/2004, read in conjunction with Annex VI thereto, must be interpreted as not precluding slaughterhouses from being charged fees in relation to official controls for quarter-hour periods requested by such slaughterhouses from the competent authority, within the meaning of Article 2(4) of Regulation No 882/2004, but not actually worked, where the slaughterhouse subject to the control did not inform that authority sufficiently in advance of its intention to shorten the duration of that control vis-à-vis the period originally planned;
3. Point 2 of the operative part of the present judgment may also apply in the case where, first, official controls have been carried out by contracted official veterinarians who are not paid for quarter-hour periods requested by slaughterhouses but not worked and, second, the share of the fee corresponding to those quarter-hour periods requested but not worked is allocated to covering the general overhead costs of the competent authority, within the meaning of Article 2(4) of Regulation No 882/2004, if it is established that the share of the fee relating to those quarter-hour periods does not include the unpaid salary costs of contracted official veterinarians and genuinely corresponds to general overhead costs falling within one or more cost categories referred to in Annex VI to that regulation;
4. Article 27(4)(a) and (b) of Regulation No 882/2004 must be interpreted as not precluding slaughterhouses being charged an average rate not only when the official controls are performed by veterinarians employed by the competent authority, within the meaning of Article 2(4) of that regulation, but also where those controls are carried out by contracted veterinarians, who are paid less, provided that the fees collected for the purposes of official controls are not, in general, higher than the costs borne by the responsible competent authorities in relation to the items listed in Annex VI to that regulation;

5. Article 27(4)(a) of Regulation No 882/2004 must be interpreted as precluding account being taken, when calculating fees for official controls, of the costs for building up buffer reserves for a private company which the competent authority, within the meaning of Article 2(4) of that regulation, uses to source official auxiliaries where those reserves are intended to be used to pay the salaries and training costs of staff who actually perform official controls as well as of staff who make it possible for official controls to be carried out, in the event of a health crisis.

(¹) OJ C 373, 15.10.2018.

Judgment of the Court (Fifth Chamber) of 19 December 2019 (request for a preliminary ruling from the Audiencia Nacional — Spain) — Engie Cartagena SL v Ministerio para la Transición Ecológica, formerly Ministerio de Industria, Energía y Turismo

(Case C-523/18) (¹)

(Reference for a preliminary ruling — Internal market in electricity — Common rules — Directive 2003/54/EC — Article 3(2) — Directive 2009/72/EC — Article 3(2) — Public service obligations — Meaning — National rules — Financing of energy efficiency plans — Designation of electricity generating undertakings — Mandatory contribution)

(2020/C 61/13)

Language of the case: Spanish

Referring court

Audiencia Nacional

Parties to the main proceedings

Applicant: Engie Cartagena SL

Defendant: Ministerio para la Transición Ecológica, formerly Ministerio de Industria, Energía y Turismo

Interveners in support of the defendant: Endesa Generación, SA, EDP España SAU, Bizkaia Energía, SL, Iberdrola Generación SAU, Tarragona Power SL, Bahía de Bizkaia Electricidad SL, Viesgo Generación SL

Operative part of the judgment

Article 3(2) of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC must be interpreted as meaning that a financial contribution imposed on certain electricity generating undertakings for the purpose of financing savings and energy efficiency plans managed by a public authority does not constitute a public service obligation falling within that provision.

(¹) OJ C 408, 12.11.2018.