



## Reports of Cases

OPINION OF ADVOCATE GENERAL  
WAHL  
delivered on 20 September 2018<sup>1</sup>

**Case C-497/17**

**Œuvre d'assistance aux bêtes d'abattoirs (OABA)**

v

**Ministre de l'Agriculture et de l'Alimentation,  
Bionoor,  
Ecocert France,  
Institut national de l'origine et de la qualité (INAO)**

(Request for a preliminary ruling  
from the cour administrative d'appel de Versailles (Administrative Court of Appeal, Versailles, France))

(Reference for a preliminary ruling — Protection of animals at the time of killing — Regulation (EC) No 1099/2009 — Particular methods of slaughter prescribed by religious rites — Slaughter without stunning — Compatibility with organic production of livestock within the meaning of Regulation (EC) No 834/2007)

### Introduction

1. Do the applicable rules of EU law permit or, on the contrary, do they prohibit the issue of the European 'organic farming' label to products from animals which have been subject to ritual slaughter without pre-stunning carried out in the conditions defined by Regulation (EC) No 1099/2009?<sup>2</sup>
2. That, in essence, is the question that arises in the present request for a preliminary ruling from the cour administrative d'appel de Versailles (Administrative Court of Appeal, Versailles, France).
3. That request was submitted in the context of an action brought by the association Œuvre d'Assistance aux Bêtes d'Abattoirs ('OABA')<sup>3</sup> seeking to have set aside a judgment whereby the tribunal administratif de Montreuil (Administrative Court, Montreuil, France) dismissed its action alleging misuse of powers against the implicit refusal of Ecocert France ('Ecocert'), the private-law certification body now operating on behalf of the Institut national de l'origine et de la qualité ('INAO'), to take, in application of Article 30 of Regulation (EC) No 834/2007,<sup>4</sup> measures putting an end to the advertising and marketing of products bearing the brand 'Tendre France' certified 'halal' and bearing the indication 'organic farming'.

<sup>1</sup> Original language: French.

<sup>2</sup> Council Regulation of 24 September 2009 on the protection of animals at the time of killing (OJ 2009 L 303, p. 1).

<sup>3</sup> The object of this French association, founded in 1961, is, according to its statutes, to 'assist, defend and protect, by all appropriate lawful means, animals intended for butchery, meat, rendering, and also backyard livestock, cold-blooded animals and by extension all animals whose flesh is intended for consumption, at the various stages of their existence, in particular the stages of breeding, housing, transport and killing'.

<sup>4</sup> Council Regulation of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ 2007 L 189, p. 1).

## Legal framework

### *Regulation No 834/2007*

4. Regulation No 834/2007 states in recitals 1, 3, 5, 17 and 22:

(1) Organic production is an overall system of farm management and food production that combines best environmental practices, a high level of biodiversity, the preservation of natural resources, the application of high animal welfare standards and a production method in line with the preference of certain consumers for products produced using natural substances and processes. The organic production method thus plays a dual societal role, where it on the one hand provides for a specific market responding to a consumer demand for organic products, and on the other hand delivers public goods contributing to the protection of the environment and animal welfare, as well as to rural development.

...

(3) The Community legal framework governing the sector of organic production should pursue the objective of ensuring fair competition and a proper functioning of the internal market in organic products, and of maintaining and justifying consumer confidence in products labelled as organic. It should further aim at providing conditions under which this sector can progress in line with production and market developments.

...

(5) It is therefore appropriate to define more explicitly the objectives, principles and rules applicable to organic production, in order to contribute to transparency and consumer confidence as well as to a harmonised perception of the concept of organic production.

...

(17) Organic stock farming should respect high animal welfare standards and meet animals' species-specific behavioural needs while animal-health management should be based on disease prevention. In this respect, particular attention should be paid to housing conditions, husbandry practices and stocking densities. Moreover, the choice of breeds should take account of their capacity to adapt to local conditions. The implementing rules for livestock production and aquaculture production should at least ensure compliance with the provisions of the European Convention for the Protection of Animals kept for Farming purposes and the subsequent recommendations by its standing committee (T-AP).

...

(22) It is important to maintain consumer confidence in organic products. Exceptions from the requirements applicable to organic production should therefore be strictly limited to cases where the application of exceptional rules is deemed to be justified.'

5. Article 1 of Regulation No 834/2007, entitled 'Aim and scope', provides:

'1. This Regulation provides the basis for the sustainable development of organic production while ensuring the effective functioning of the internal market, guaranteeing fair competition, ensuring consumer confidence and protecting consumer interests.

It establishes common objectives and principles to underpin the rules set out under this Regulation concerning:

- (a) all stages of production, preparation and distribution of organic products and their control;
- (b) the use of indications referring to organic production in labelling and advertising.

2. This Regulation shall apply to the following products originating from agriculture, including aquaculture, where such products are placed on the market or are intended to be placed on the market:

- (a) live or unprocessed agricultural products;
- (b) processed agricultural products for use as food;
- (c) feed;
- (d) vegetative propagating material and seeds for cultivation.

...

3. This Regulation shall apply to any operator involved in activities, at any stage of production, preparation and distribution, relating to the products set out in paragraph 2.

...

4. This Regulation shall apply without prejudice to other community provisions or national provisions, in conformity with Community law concerning products specified in this Article, such as provisions governing the production, preparation, marketing, labelling and control, including legislation on foodstuffs and animal nutrition.'

6. Article 3 of Regulation No 834/2007 sets out the 'Objectives' of that regulation, in the following terms:

'Organic production shall pursue the following general objectives:

- (a) establish a sustainable management system for agriculture that:

...

- (iv) respects high animal welfare standards and in particular meets animals' species-specific behavioural needs;

- (b) aim at producing products of high quality;

...'

7. Under the heading 'Specific principles applicable to farming', Article 5(h) of Regulation No 834/2007 states that organic farming is to be based on the specific principle of 'the observance of a high level of animal welfare respecting species-specific needs'.

8. Article 14 of Regulation No 834/2007, on 'Livestock production rules', provides:

'1. In addition to the general farm production rules laid down in Article 11, the following rules shall apply to livestock production:

...

(b) with regard to husbandry practices and housing conditions:

...

(viii) any suffering, including mutilation, shall be kept to a minimum during the entire life of the animal, including at the time of slaughter;

...'

***Regulation (EC) No 889/2008***

9. Recital 10 of Regulation No 889/2008<sup>5</sup> states:

'Organic stock farming should ensure that specific behavioural needs of animals are met. In this regard, housing for all species of livestock should satisfy the needs of the animals concerned as regards ventilation, light, space and comfort and sufficient area should accordingly be provided to permit ample freedom of movement for each animal and to develop the animal's natural social behaviour. Specific housing conditions and husbandry practices with regard to certain animals, including bees, should be laid down. These specific housing conditions should serve a high level of animal welfare, which is a priority in organic livestock farming and therefore may go beyond Community welfare standards which apply to farming in general. Organic husbandry practices should prevent poultry from being reared too quickly. Therefore specific provisions to avoid intensive rearing methods should be laid down. In particular poultry shall either be reared until they reach a minimum age or else shall come from slow-growing poultry strains, so that in either case there is no incentive to use intensive rearing methods.'

10. Article 18 of Regulation No 889/2008, entitled 'Management of animals', provides:

'1. Operations such as attaching elastic bands to the tails of sheep, tail-docking, cutting of teeth, trimming of beaks and dehorning shall not be carried out routinely in organic farming. However, some of these operations may be authorised by the competent authority for reasons of safety or if they are intended to improve the health, welfare or hygiene of the livestock on a case-by-case basis.

Any suffering to the animals shall be reduced to a minimum by applying adequate anaesthesia and/or analgesia and by carrying out the operation only at the most appropriate age by qualified personnel.

2. Physical castration is allowed in order to maintain the quality of products and traditional production practices but only under the conditions set out in the second subparagraph of paragraph 1.

3. Mutilation such as clipping the wings of queen bees is prohibited.

<sup>5</sup> Commission Regulation of 5 September 2008 laying down detailed rules for the implementation of Council Regulation No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ 2008 L 250, p. 1).

4. Loading and unloading of animals shall be carried out without the use of any type of electrical stimulation to coerce the animals. The use of allopathic tranquillisers, prior to or during transport, is prohibited.'

11. Article 20 of Regulation No 889/2008, which relates to 'Feed meeting animals' nutritional requirements', prohibits force-feeding in paragraph 5.

### ***Regulation No 1099/2009***

12. The recitals of Regulation No 1099/2009 state, in particular:

'(2) Killing animals may induce pain, distress, fear or other forms of suffering to the animals even under the best available technical conditions. Certain operations related to the killing may be stressful and any stunning technique presents certain drawbacks. Business operators or any person involved in the killing of animals should take the necessary measures to avoid pain and minimise the distress and suffering of animals during the slaughtering or killing process, taking into account the best practices in the field and the methods permitted under this Regulation. Therefore, pain, distress or suffering should be considered as avoidable when business operators or any person involved in the killing of animals breach one of the requirements of this Regulation or use permitted practices without reflecting the state of the art, thereby inducing by negligence or intention, pain, distress or suffering to the animals.

...

(4) Animal welfare is a Community value that is enshrined in the Protocol (No 33) on protection and welfare of animals annexed to the Treaty establishing the European Community (Protocol (No 33)). The protection of animals at the time of slaughter or killing is a matter of public concern that affects consumer attitudes towards agricultural products. In addition, improving the protection of animals at the time of slaughter contributes to higher meat quality and indirectly has a positive impact on occupational safety in slaughterhouses.

...

(18) Derogation from stunning in case of religious slaughter taking place in slaughterhouses was granted by [Council] Directive 93/119/EC [of 22 December 1993 on the protection of animals at the time of slaughter or killing (OJ 1993 L 340, p. 21)]. Since Community provisions applicable to religious slaughter have been transposed differently depending on national contexts and considering that national rules take into account dimensions that go beyond the purpose of this Regulation, it is important that derogation from stunning animals prior to slaughter should be maintained, leaving, however, a certain level of subsidiarity to each Member State. As a consequence, this Regulation respects the freedom of religion and the right to manifest religion or belief in worship, teaching, practice and observance, as enshrined in Article 10 of the Charter of Fundamental Rights of the European Union ['the Charter'].

...

(20) Many killing methods are painful for animals. Stunning is therefore necessary to induce a lack of consciousness and sensibility before, or at the same time as, the animals are killed. Measuring the lack of consciousness and sensibility of an animal is complex and needs to be performed under scientifically approved methodology. Monitoring through indicators, however, should be carried out to evaluate the efficiency of the procedure under practical conditions.

(21) Monitoring stunning efficiency is mainly based on the evaluation of consciousness and sensibility of the animals. The consciousness of an animal is essentially its ability to feel emotions and control its voluntary mobility. Despite some exceptions, such as electro-immobilisations or other provoked paralysis, an animal can be presumed to be unconscious when it loses its natural standing position, is not awake and does not show signs of positive or negative emotions such as fear or excitement. Sensibility of an animal is essentially its ability to feel pain. In general, an animal can be presumed to be insensitive when it does not show any reflexes or reactions to stimulus such as sound, odour, light or physical contact.

...

(33) Animals may suffer when stunning procedures fail. This Regulation should therefore provide for appropriate back-up stunning equipment to be available to minimise pain, distress or suffering to the animals.

...

(37) The Community seeks to promote high welfare standards in animal livestock populations worldwide, particularly in relation to trade. It supports the specific standards and recommendations on animal welfare of the OIE [World Organisation for Animal Health], including on the slaughter of animals. ...

...

(43) Slaughter without stunning requires an accurate cut of the throat with a sharp knife to minimise suffering. In addition, animals that are not mechanically restrained after the cut are likely to endure a slower bleeding process and, thereby, prolonged unnecessary suffering. Animals of bovine, ovine and caprine species are the most common species slaughtered under this procedure. Therefore, ruminants slaughtered without stunning should be individually and mechanically restrained.

...'

13. Article 1 of Regulation No 1099/2009 provides that that regulation is to lay down rules for the killing of animals bred or kept for, in particular, the production of food.

14. It follows from Article 2 of Regulation No 1099/2009, entitled 'Definitions', that:

'...

(f) "stunning" means any intentionally induced process which causes loss of consciousness and sensibility without pain, including any process resulting in instantaneous death;

(g) "religious rite" means a series of acts related to the slaughter of animals and prescribed by a religion;

...

(j) "slaughtering" means the killing of animals intended for human consumption;

...'



15. In the words of Article 3(1) of Regulation No 1099/2009, entitled 'General requirements for killing and related operations':

'Animals shall be spared any avoidable pain, distress or suffering during their killing and related operations.'

16. Article 4 of Regulation No 1099/2009, which is devoted to 'Stunning methods', provides:

'1. Animals shall only be killed after stunning in accordance with the methods and specific requirements related to the application of those methods set out in Annex I. The loss of consciousness and sensibility shall be maintained until the death of the animal.

The methods referred to in Annex I which do not result in instantaneous death ... shall be followed as quickly as possible by a procedure ensuring death such as bleeding, pithing, electrocution or prolonged exposure to anoxia.

...

4. In the case of animals subject to particular methods of slaughter prescribed by religious rites, the requirements of paragraph 1 shall not apply provided that the slaughter takes place in a slaughterhouse.'

#### **The facts giving rise to the dispute, the question for a preliminary ruling and the procedure before the Court**

17. On 24 September 2012, OABA submitted to the ministre de l'Agriculture, de l'Agroalimentaire et de la Forêt (Minister for Agriculture, Agrifood and Forestry; 'the Minister for Agriculture') a request to end the advertising and marketing of minced beef patties of the 'Tendre France' brand, certified 'halal' and bearing the indication 'organic farming'. On the same date OABA requested INAO to exclude the 'organic farming' label from beef and veal from animals slaughtered without pre-stunning.

18. Those requests having been implicitly rejected, OABA, by application of 23 January 2013, brought an action alleging misuse of powers before the Conseil d'État (Council of State, France).

19. By decision No 365447 of 20 October 2014 (FR:CESSR:2014:365447.20141020), the Conseil d'État (Council of State) held that the EU legislation defined exhaustively, without reference to the adoption of implementing measures by the Member States and without such measures being made necessary in order to render the legislation fully effective, the rules on the organic farming of bovine animals. Accordingly, the regulatory authority lacked jurisdiction to lay down national provisions reiterating, clarifying or supplementing that legislation. The Conseil d'État (Council of State) therefore rejected OABA's claims for annulment of the national regulatory authority's refusal to prohibit the use of the indication 'organic farming' for products of beef or veal from animals slaughtered without being stunned, since the issue of that label and its use are wholly governed by EU law. Last, the Conseil d'État (Council of State) referred the matter to the tribunal administratif de Montreuil (Administrative Court, Montreuil) for determination of the remaining claims in the application, which sought annulment of Ecocert's refusal to take, in application of Article 30 of Regulation No 834/2007, measures putting an end to the advertising and marketing of products of the 'Tendre France' brand certified 'halal' and bearing the indication 'organic farming'.

20. By judgment of 21 January 2016, the tribunal administratif de Montreuil (Administrative Court, Montreuil) dismissed that application.

21. OABA then appealed against that judgment before the referring court. It maintains that Ecocert was required, pursuant to Article 30 of Regulation No 834/2007, to put an end to the advertising and marketing of the products at issue, since they do not fulfil the requirements laid down by EU law in order to bear that indication.

22. The Minister for Agriculture, Bionoor, which distributes products obtained from organic farming ('Bionoor'), Ecocert and INAO contend that OABA's appeal should be dismissed.

23. In the referring court's view, the legal framework of the case seems to consist, so far as EU law is concerned, in (i) Article 13 TFEU, (ii) recitals 1 and 17, Article 3, Article 14(1)(b) and Article 22 of Regulation No 834/2007 and (iii) Article 4(1) and (4) and Article 5(2) of Regulation No 1099/2009.

24. The cour administrative d'appel de Versailles (Administrative Court of Appeal, Versailles) observes, however, that neither any provision of Regulation No 1099/2009 nor any provision of Regulation No 889/2008 expressly defines the method or methods of slaughtering animals that would fulfil the objectives of animal welfare and reduction of animal suffering, thus assigned to organic production.

25. In the absence of any provision establishing a link between, on the one hand, Regulation No 1099/2009 and, on the other hand, Regulations No 834/2007 and No 889/2008, it cannot be determined on a mere comparison of those measures whether ritual slaughter without prior stunning, which, by way of derogation, is authorised by Article 4(4) of Regulation No 1099/2009 provided that all the technical specifications to which it is subject are met, allows the specific objectives of animal welfare and the reduction of animal suffering which are assigned to organic production by Regulations No 834/2007 and No 889/2008 to be satisfied. The question would then arise whether the interpretation thus given to those regulations is compatible with the requirements of Article 13 TFEU.

26. The referring court therefore considers that the answer to the claim that the European 'organic farming' label cannot be used for meat from animals which have been ritually slaughtered without prior stunning, which is decisive for the outcome of the dispute, presents a serious difficulty of interpretation of EU law.

27. It was in those circumstances that the referring court decided to stay proceedings and to refer the following question:

'Must the applicable rules of [EU] law, deriving from, inter alia:

- Article 13 [TFEU],
- Regulation [No 834/2007], the detailed rules for the implementation of which are laid down by [Regulation No 889/2008], and
- [Regulation No 1099/2009]

be interpreted as permitting or prohibiting approval of the use of the European label "organic farming" in relation to products derived from animals which have been slaughtered in accordance with religious rites without first being stunned, where such slaughter is conducted in accordance with the requirements laid down by Regulation [No 1099/2009]?'

28. Written observations were lodged by OABA, Bionoor and Ecocert, and also by the French Republic, the Hellenic Republic, the Kingdom of Norway and the European Commission.

29. A hearing, in which OABA and Bionoor, and also the French Republic, the Hellenic Republic and the Commission participated, took place on 19 June 2018.



## Analysis

### *Position of the problem*

30. By the present request for a preliminary ruling, the Court is asked to answer what, all things considered, is a simple question: may meat from animals slaughtered without first being stunned be certified 'organic farming'?

31. The difficulty arises from the fact that, whereas the legislation on organic farming applicable to the facts of the case — consisting essentially in Regulations No 834/2007 and No 889/2008 — is intended to ensure the observance of 'high animal welfare standards',<sup>6</sup> during the entire life of the animal,<sup>7</sup> which means that 'any suffering of the animals including [at] the time of slaughter shall be kept to a minimum',<sup>8</sup> it does not precisely define the procedures that allow the suffering of the animals to be kept to a minimum at the time of killing.

32. The case thus relates only to the interpretation of the technical standards that must be observed at the stage of the slaughter of the animals in order for the 'organic farming' certification to be issued.

33. For the reasons which I shall set out below, it is important to make clear that the Court is therefore not strictly speaking required to rule on a question of interference with the freedom to manifest one's religion — as was at issue in the judgment of the European Court of Human Rights of 27 June 2000, *Cha'are Shalom Ve Tsedek v. France* (CE:ECHR:2000:0627JUD002741795). Nor is it invited to rule directly on the compatibility between the 'organic farming' standard and the 'halal' certification — as the latter does not thus far correspond to a precise specification, in particular as to whether or not the animals must be stunned before they are killed.

### *The case does not relate directly to a question of interference with the free exercise of religion*

34. In the main proceedings, and although the referring court did not intend to address that issue, the question of respect for the freedom to exercise a religion, from the aspect, in particular, of Article 10 of the Charter, was raised.

35. Bionoor, in particular, claimed in its written observations that if it should be concluded that the 'organic farming' and 'halal' certifications are incompatible, that would affect the collective right of Muslims to the free exercise of their religion, guaranteed by Article 9, read in conjunction with Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'), on the one hand, and Article 10 of the Charter, on the other hand. It refers in that regard in particular to the judgment in *Cha'are Shalom Ve Tsedek v. France*. In Bionoor's submission, by not prohibiting the placing of the 'organic farming' indication on products certified as 'kosher' or 'halal', the European legislature intended to guarantee a positive undertaking intended to ensure effective respect for freedom of religion.

36. I am by no means convinced by that argument, which, so far as the main proceedings are concerned, is based on the notion that Muslims would be subjected to a restriction of their religious freedom if it should be concluded that the certifications 'halal' and 'organic farming' could not both be applied together.

<sup>6</sup> See, in particular, recitals 1 and 17 and also Article 3(a)(iv) and Article 5(h) of Regulation No 834/2007.

<sup>7</sup> See, in particular, Article 1(1)(a) of Regulation No 834/2007.

<sup>8</sup> See, in particular, Article 14(1)(b)(viii) and Article 15(1)(b)(vi) of Regulation No 834/2007.

37. In that regard, it seems to me that the problem with which we are faced is quite distinct from that at issue in the judgment in *Cha'are Shalom Ve Tsedek v. France*.

38. I recall that by that judgment the European Court of Human Rights held that, 'by establishing an exception to the principle that animals must be stunned before slaughter, French law gave practical effect to a positive undertaking on the State's part intended to ensure effective respect for freedom of religion' (§ 76). In addition, it stated that 'there would be interference with the freedom to manifest one's religion only if the illegality of performing ritual slaughter made it impossible for ultra-orthodox Jews to eat meat from animals slaughtered in accordance with the religious prescriptions they considered applicable' (§ 80).

39. In this case, unlike the ritual slaughter carried out during the Muslim Feast of Sacrifice, within the meaning of Article 4(4) of Regulation No 1099/2009, which was referred to in the case that gave rise to the judgment of 29 May 2018, *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others*,<sup>9</sup> the possibility for Muslims to comply with a religious prescription is not at issue here. The possibility of eating products bearing the certifications 'organic farming' and 'halal' does not as such relate to the practice of a 'religious rite' and therefore does not come within the exercise of freedom of religion enshrined in Article 10 of the Charter and Article 9 ECHR as the expression of a religious belief.

40. In fact, those who, in order to comply with certain religious precepts, wish to obtain products from animals slaughtered without pre-stunning always have an alternative that respects their religious belief.<sup>10</sup> If it were to be concluded that ritual slaughter without stunning was prohibited in the context of organic farming, citizens of the Jewish or Muslim faith would still be able to obtain kosher or halal meat and, accordingly, the very essence of the right to religion would not be impaired. They would merely be prevented from consuming kosher or halal meat certified 'organic farming'. The inability to obtain meat labelled 'organic farming' from slaughterhouses which do not practise stunning does not as such affect the religious prescriptions, which do not require the consumption solely of products of organic farming. Likewise, there is no 'right' of access to products bearing an 'organic farming' label. I observe, moreover, that the defendants did not claim in the main proceedings that the fact that they are prohibited from producing and marketing products certified both 'halal' and 'organic farming' is in itself incompatible with the religious beliefs of consumers of products labelled as 'halal'.

41. That conclusion seems to me to be all the more valid because, on due reflection, the question submitted is not so much whether the certifications 'organic farming' and 'halal' are compatible, but rather whether an 'organic farming' certification may be issued for products from animals killed without pre-stunning, which, ultimately, seems to me to be quite a different question.

*The case does not invite the Court to rule on the question of pre-stunning from the viewpoint of animal welfare<sup>11</sup> or on the scope of the 'halal' label*

42. Apart from the fact that the present case does not appear to relate directly to an interference with religious freedom, it does not concern the question of pre-stunning from the viewpoint of animal welfare, or the question of the compatibility *in general* of the certifications 'organic farming' and 'halal'.

<sup>9</sup> Judgment of 29 May 2018 (C-426/16, EU:C:2018:335, paragraph 45).

<sup>10</sup> See, more generally, as regards food precepts on religious grounds, ECtHR, 7 December 2010, *Jakóbski v. Poland* (CE:ECHR:2010:1207JUD001842906), and of 17 December 2013, *Vartic v. Romania* (CE:ECHR:2013:1217JUD001415008).

<sup>11</sup> See, in particular, observations of Bionoor, pp. 8 to 12.

43. In the first place, it seems to me to be accepted that, while every killing is problematic from the viewpoint of animal welfare, the use of pre-stunning methods when animals are slaughtered may, at least in theory, and as a considerable number of scientific studies show,<sup>12</sup> help to minimise that suffering when those methods are used in the proper conditions.

44. In the second place, even if the case in the main proceedings referred to the possibility of granting products labelled 'halal' an 'organic farming' certification, what is ultimately at issue in the present case is the possibility that products from animals killed without prior stunning, which to my mind is the possibility that is really problematic from the viewpoint of animal welfare, may benefit from 'organic farming' certification.<sup>13</sup>

45. In fact, it is apparent from the material in the file that to date the certification 'halal' says very little about the slaughtering method actually employed.

46. As the Commission stated in its written observations, and as it confirmed at the hearing, there are, in Europe<sup>14</sup> and throughout the world, in Muslim communities, divergent views on the acceptance of reversible stunning or stunning immediately following the bleeding of animals. There is at present, as regards the specific question of the compatibility of ritual slaughter with the use of certain methods of stunning, no uniformity in the practices followed by the 'halal' certification bodies in the Member States.

47. In that regard, it may readily be understood that, when it comes to translating religious requirements, the acceptance and scope of which are by definition subject to divergences in interpretation<sup>15</sup> and which do not readily lend themselves to standardisation, there is no European legislation defining and governing the requisite specifications for ritual slaughter, whether kosher or halal. In particular, while there seems to be consensus for the view that, according to the prescriptions of the Muslim religion, the animal to be slaughtered 'must be alive or be deemed to be alive' at the time of slaughter in order to be considered to be halal,<sup>16</sup> that does not necessarily mean that every form of stunning prior to slaughter is prohibited.

48. As has been pointed out in the context of these proceedings, certain representatives of the Muslim community<sup>17</sup> are of the view that electronarcosis or any other similar process of stunning prior to slaughter which does not affect the vital functions of the animal, and in particular the drainage of blood from the animal (which implies that it might regain consciousness if the bleeding did not take place), are consistent with the prescriptions of the Muslim religion.

12 Among the various studies cited by the interested parties, I shall mention, in particular, the 2004 opinion of the European Union's Scientific Panel on Animal Health and Welfare (AHAW), entitled 'Welfare aspects of the main systems of stunning and killing the main commercial species of animals', *The EFSA Journal* (2004), 45, pp. 1 to 29; the 2002 Position Paper of the Federation of Veterinarians of Europe, 'Slaughter of Animals Without Prior Stunning', available at the following address [http://www.fve.org/uploads/publications/docs/fve\\_02\\_104\\_slaughter\\_prior\\_stunning.pdf](http://www.fve.org/uploads/publications/docs/fve_02_104_slaughter_prior_stunning.pdf); and a 2010 study entitled 'Report on Good and Adverse Practices — Animal Welfare Concerns in Relation to Slaughter Practices from the Viewpoint of Veterinary Sciences', carried out within the framework of the European Dialrel project ('Encouraging Dialogue on issues of Religious Slaughter') and available at the following address: <http://www.dialrel.eu/dialrel-results/veterinary-concerns.html>.

13 The Commission has indicated that Ecocert is to its knowledge the only body that explicitly accepts ritual slaughter without any form of stunning.

14 Stunning thus seems to be generally accepted in Denmark and Sweden. In Belgium the Walloon and Flemish Parliaments decided in 2007 that a certain form of stunning would be compulsory for ritual slaughter.

15 The word 'halal' generally designates what is 'lawful' or 'permitted' by religious rules.

16 See in particular the general directives of the Codex Alimentarius Commission concerning the use of the word 'halal' (CAC/GL 24-1997), which may be consulted at the following address: <http://www.fao.org/docrep/005/y2770f/y2770f08.htm#fn26>. These directives were addressed to all Member States and Associated Members of the Food and Agriculture Organisation of the United Nations (FAO) and of the World Health Organisation (WHO) as advisory measures and it is for each government to decide on the use it intends to make of them.

17 According to OABA, in France that is the position of the Mosques in Paris, Lyons and Evry. Upon checking, it is apparent that 'halal' certification bodies attached to those mosques (such as the Société française de contrôle de viande halal (SFCVH), the Association rituelle de la Grande Mosquée de Lyon (ARGML), or the Association culturelle des musulmans d'Île-de-France (ACMIF)) actually allow forms of pre-slaughter stunning of animals (such as 'reversible' electronarcosis).

49. The national texts, too, do not define the concept of ritual slaughter. The references to certification relating to the kosher or halal nature of products are generally defined and administered by certification bodies linked with certain religious authorities and not by regulatory authorities.<sup>18</sup>

50. The practice followed by the certification bodies therefore varies widely. Thus, some certification bodies state in their specifications that the slaughter must be carried out with pre-stunning while others merely require a high standard of animal welfare, without further details as regards stunning. In addition, within the same certification body the use of prior stunning varies from one animal species to another.

51. Consequently, there are at present on the market products labelled 'halal' which come from the slaughter of animals carried out with prior stunning. Likewise, it has been shown that meat from animals slaughtered without being stunned is distributed through normal channels, without customers being informed.<sup>19</sup> Ultimately, the placing of a 'halal' label on products says very little about the use of stunning when the animals were slaughtered and, where relevant, about the method of stunning chosen.

### *Answer to the question for a preliminary ruling*

52. As the referring court has very correctly observed, there is no provision specifically establishing a link between the regulations governing, respectively, organic production and the slaughter of animals.

53. In the absence of such a link, two interpretations may be envisaged.

54. The *first*, defended by Ecocert, Bionoor and the French Government, consists in saying that the relevant provisions do not preclude the issue of an 'organic farming' label to products from animals slaughtered without being stunned.

55. Although Regulation No 834/2007 lays down the requirement of 'higher animal welfare standards' for organic production, neither that regulation nor its Implementing Regulation No 889/2008 expressly prohibits the rule on pre-stunning being disapplied in the particular context of ritual slaughter.

56. The ritual slaughter which, for the purpose of complying with certain religious rites, is exceptionally allowed under Regulation No 1099/2009, provided that all the technical requirements laid down are met, makes it possible to satisfy the objectives of animal welfare and the reduction of animal suffering, which are among the objectives pursued by organic production.

57. The *second* interpretation, which is that advocated by OABA, the Commission and the Greek and Norwegian Governments, is derived from a teleological and systemic reading of the applicable legislation. It is based, in essence, on the idea that the objectives of protecting animal welfare and reducing animal suffering, including at the time of slaughter, require, on the contrary, that such a label cannot be issued for products of animals resulting from ritual slaughter.

<sup>18</sup> In France, attempts by the Association française de normalisation (AFNOR) to define a 'halal' standard, which had been drawn up on an experimental basis for foodstuffs processed in 2017, were unsuccessful.

<sup>19</sup> See, for example, a report drawn up on behalf of the investigative committee of the French National Assembly on the conditions of slaughter of meat animals in French abattoirs of 20 September 2016, pp. 117 and 118 (<http://www2.assemblee-nationale.fr/14/autres-commissions/commissions-d-enquete/conditions-d-abattage-des-animaux-de-boucherie-dans-les-abattoirs-francais/>).

58. Those advocating the second approach maintain, in particular, that the protection of animal welfare is an objective of general interest, the importance of which is expressed in Article 13 TFEU. The need to respect animal welfare is referred to in both Regulation No 1099/2009, which enshrines, in particular, the principle of stunning prior to slaughter, and Regulation No 834/2007, which makes the reduction of animal suffering an important requirement of organic farming.

59. In their submission, the possibility, provided for in Article 4(4) of Regulation No 1099/2009, of carrying out ritual slaughter is intended to pursue and is conditional on objectives of health policy and of equal respect for religious beliefs and rites. That derogation is not among, and is not linked to, the 'higher animal welfare standards' that must govern the grant of the indication 'organic farming' under Regulation No 834/2007 (in particular Articles 3 and 5). The supporters of the second approach also submit that the grant of 'organic farming' certification to products from animals slaughtered without prior stunning constitutes a breach of the principle of consumer confidence in organic products, to which that regulation refers in Article 1 and in recitals 3, 5 and 22.

60. In what follows I shall begin by setting out the content of the norms governing organic animal production from the viewpoint of the protection of animal welfare, as resulting from the combined provisions of Regulations No 834/2007 and No 889/2008, and the links which they maintain with the rules on animal slaughter, as resulting in particular from Regulation No 1099/2009. On the basis of that presentation, I shall then explain the reasons why those rules, even when they are read in the light of the requirement to respect high levels of animal welfare, do not in my view preclude the issue of an 'organic farming' label to products of the slaughter of animals without stunning.

#### *The norms governing organic farming and the links with the rules on animal slaughter*

61. In order to keep pace with the constant evolution of the market for organic products,<sup>20</sup> the European Union has legislated since 1991 in the area of organic production, requiring operators to comply with an elaborate system of rules and controls.

62. Like its predecessors, Regulations (EEC) No 2092/91<sup>21</sup> and (EC) No 392/2004,<sup>22</sup> Regulation No 834/2007 aims to put in place an overall system of farm management and food production that combines best environmental practices in various areas (environment, biodiversity, preservation of natural resources and high animal welfare standards).

63. Just like Regulation No 834/2007, the new Regulation (EU) 2018/848,<sup>23</sup> which is to apply from 1 January 2021, states in recital 1 that, in particular, 'organic production ... plays a dual societal role, where, on the one hand, it provides for a specific market responding to consumer demand for organic products and, on the other hand, it delivers publicly available goods that contribute to the protection of the environment and animal welfare, as well as to rural development'.

64. It cannot be seriously disputed that, in EU law, organic products and non-organic products come under different legal regimes, as the former are subject to stricter production requirements than those applicable to the latter.<sup>24</sup>

20 Over the last decade the market for organic products has seen dynamic growth owing to a steep increase in demand. The world market for organic food has quadrupled since 1999. See, in particular, the working document of the services of the Commission, summary of the impact analysis, accompanying the document 'Proposal for a Regulation of the European Parliament and of the Council on organic production and labelling of organic products, amending Regulation (EU) No XXX/XXX of the European Parliament and of the Council (Regulation on official controls) and repealing Council Regulation (EC) No 834/2007', of 24 March 2014 (COM(2014) 180 final, p. 11 and references cited).

21 Council Regulation of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs (OJ 1991 L 198, p. 1).

22 Council Regulation of 24 February 2004 amending Regulation (EEC) No 2092/91 (OJ 2004 L 65, p. 1).

23 Regulation of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ 2018 L 150, p. 1).

24 See judgment of 4 June 2015, *Andechser Molkerei Scheitz v Commission* (C-682/13 P, not published, EU:C:2015:356, paragraph 36).



65. Among the objectives pursued by and the priorities of organic farming, the Court has already underlined the importance that must be afforded to those of food safety and consumer protection. It is necessary to preserve consumer confidence in products labelled as organic.<sup>25</sup> On that basis, and as stated in Article 23(1), Regulation No 834/2007 authorises, in the labelling of and advertising material relating to agricultural products, the use of terms referring to the organic production method only for products obtained in accordance with the rules laid down in that regulation.

66. From the aspect of the protection of animal welfare, it cannot be denied that Regulation No 834/2007 is intended to subject organic farming to a number of standards that guarantee a higher level of animal welfare protection than can be required in the context of conventional farming. Thus, Article 3(a)(iv) of that regulation provides that organic production is intended to establish a sustainable management system for agriculture that '*respects high animal welfare standards*'.<sup>26</sup> Article 5(h) of that regulation again states that organic farming is to be based on '*the observance of a high level of animal welfare*'<sup>27</sup> respecting species-specific needs'.

67. However, it must be stated that, while the relevant legislation is relatively detailed as regards the conditions of housing (see articles 10 to 12 of Regulation No 889/2008, which refer in particular to Annex III to that regulation) and husbandry (see, in particular, concerning the measures on 'management of animals', Article 18 of that regulation) of animals which organic farming must satisfy, in that it sets out standards that go far beyond the European standards applicable to 'conventional' farming, it says relatively little about the standards applicable to the slaughter of animals. In particular, none of the provisions of that regulation prohibits, as such, slaughter without stunning.

68. Article 14(1)(b)(viii) of Regulation No 834/2007 merely states that 'any suffering, including mutilation, shall be kept to a minimum during the entire life of the animal, *including at the time of slaughter*'.<sup>28</sup>

69. Such silence in Regulation No 834/2007 and its Implementing Regulation No 889/2008 on the methods of slaughter can in my view be interpreted only as suggesting that reference is made on that question to the general rules governing the killing of animals, in particular those applicable to animals bred or kept for the production of food which are laid down in Regulation No 1099/2009.<sup>29</sup>

70. That seems to follow implicitly but necessarily from Article 1(4) of Regulation No 834/2007, which provides that that regulation is to apply without prejudice to other provisions of EU law concerning products that come within its scope. In fact, the provisions of Regulation No 1099/2009 form part of those provisions.

71. Let me make clear at the outset that, as its wording indicates, Regulation No 1099/2009 aims to define the common rules for the protection of animal welfare at the time of slaughter or killing in the European Union. Unlike the legislation which forms part of the 2006 'Hygiene Package',<sup>30</sup> Regulation No 1099/2009 specifically deals with animal welfare at the time of killing.

72. As stated in recital 4, that regulation is based on the notion that the protection of animals at the time of slaughter is a matter of public concern.<sup>31</sup>

<sup>25</sup> See, in particular, judgments of 5 November 2014, *Herbaria Kräuterparadies* (C-137/13, EU:C:2014:2335, paragraph 42), and of 12 October 2017, *Kamin und Grill Shop* (C-289/16, EU:C:2017:758, paragraph 30).

<sup>26</sup> My emphasis.

<sup>27</sup> My emphasis.

<sup>28</sup> My emphasis.

<sup>29</sup> See Article 1(1) of Regulation No 1099/2009.

<sup>30</sup> See, to that effect, my Opinion in *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others* (C-426/16, EU:C:2017:926, points 35 and 64 to 68).

<sup>31</sup> See also recitals 24, 37 and 43 of that regulation.



73. Likewise, Article 3(1) lays down a general requirement that animals are to be spared any avoidable pain, distress or suffering during their killing and related operations.

74. In other words, Regulation No 1099/2009 itself sets out and incorporates requirements relating to animal welfare. In the absence of detailed information in the legislation relating specifically to organic farming, it is the general provisions of that regulation which must be applied.

75. While, under Article 4(1) of Regulation No 1099/2009, it is the principle of slaughter after stunning, according to the methods and requirements set out in Annex I to that regulation, that is to apply, Article 4(4) of that regulation provides for an exception for the ritual slaughter of animals without stunning in slaughterhouses.

76. As stated in recital 18 of Regulation No 1099/2009, Article 4(4) of that regulation, in providing for a derogation from the general rule that animals are to be killed only after stunning, established in paragraph 1 of that article, allows ritual slaughter without stunning provided that the slaughter takes place in a slaughterhouse, and does so in order to respect certain religious precepts.

77. As the Court has already held, 'the protection of animal welfare is the main objective pursued by Regulation No 1099/2009 and, in particular, by Article 4(4) thereof, as is clear from the title of the regulation and recital 2 thereof'.<sup>32</sup>

78. That derogation does not mean, however, that the exceptional arrangements applicable to ritual slaughter ignore animal welfare.

79. Such slaughter must, still under Regulation No 1099/2009, be carried out in conditions that ensure that the suffering of animals will be limited.

80. Thus, recital 2 of Regulation No 1099/2009 states, in particular, that 'business operators or any person involved in the killing of animals should take the necessary measures to avoid pain and minimise the distress and suffering of animals during the slaughtering or killing process, taking into account the best practices in the field and the methods permitted under this Regulation'. Recital 43 of that regulation states that 'slaughter without stunning requires an accurate cut of the throat with a sharp knife to minimise suffering'. Furthermore, in accordance with Article 9(3) and the first paragraph of Article 15(2) of that regulation, animals must be individually restrained and may be restrained only when 'the person in charge of stunning or bleeding is ready to stun or bleed them as quickly as possible'. Last, under Article 5(2) of Regulation No 1099/2009, 'where, for the purpose of Article 4(4), animals are killed without prior stunning, persons responsible for slaughtering shall carry out systematic checks to ensure that the animals do not present any signs of consciousness or sensibility before being released from restraint and do not present any sign of life before undergoing dressing or scalding'.

81. All in all, two regimes of animal welfare protection exist side by side: the general regime, which requires pre-stunning, and the exceptional regime (based on the desire to allow, on religious grounds, slaughter without stunning). It is within each of those regimes that business operators or any other person involved in the killing of animals must take the necessary measures to avoid pain and minimise the distress and suffering of animals during the slaughtering or killing process (see recital 2 of Regulation No 1099/2009).

<sup>32</sup> Judgment of 29 May 2018, *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others* (C-426/16, EU:C:2018:335, paragraph 63).

82. It would appear to be somewhat contradictory to refer to Regulation No 1099/2009 — even though that regulation makes no reference to ‘high levels of animal welfare’ — to support the assertion that stunning has, in accordance with Article 4(1) of that regulation, been established as a principle, and at the same time to consider that a reference to that regulation is no longer relevant in the case of the derogation from prior stunning set out in Article 4(4) of that regulation.

83. It follows that the general objective of respect for ‘high levels of animal welfare’ will still be met, whatever the slaughtering method employed. I do not think that the principle of prior stunning laid down in Regulation No 1099/2009 leads to the conclusion that the requirement of ‘high animal welfare standards’ necessarily means that slaughter is to take place with prior stunning.

84. To my mind, in the absence of information about the obligations imposed on the business operators concerned, such as the rather specific obligations which the legislature intended to define in relation to the housing of animals (see recital 10 of Regulation No 889/2008), organic production cannot be subject to more restrictive rules on the slaughtering of animals than those laid down in the general provisions governing animal welfare at the time of killing.

85. *In conclusion*, no provision of Regulations No 834/2007 and No 889/2008 expressly defines the method or methods of slaughtering animals that would meet the objectives of animal welfare or reducing animal suffering. In the absence of detail as to the slaughtering methods prescribed by the legislation on organic farming, it is necessary to refer to *the body of rules* governing animal welfare at the time of killing, in this instance to Regulation No 1099/2009. In that context, the rules governing ritual slaughter cannot be excluded.

*The possibility under the applicable rules of issuing an ‘organic farming’ label to products of slaughter without stunning*

86. As Regulations No 834/2007 and No 889/2008 impose no conditions in relation to stunning prior to killing in order to benefit from the indication ‘organic farming’, they cannot prohibit the practice of ritual slaughter.

87. As the objective of those regulations is to lay down specific standards which products must meet in order to be certified as being the products of organic farming, I find it difficult to see how it might be seriously maintained that the fact that they are silent on the possible use of slaughter without stunning might be regarded as purely fortuitous. To my mind the silence of the provisions on that point is not the result of oversight and a mere reference to the context in which they were drawn up<sup>33</sup> does not necessarily assist the interpretation defended by OABA in the main proceedings.

88. A number of additional reasons lead me to defend that conclusion.

89. First of all, and further to what I said above, it must be observed that certain husbandry practices are expressly prohibited or restricted in the provisions governing organic farming, in particular in Article 18 of Regulation No 889/2008. That provision provides, in effect, that certain animal management practices are, in principle, to be prohibited (mutilation) or severely restricted (attaching elastic bands to the tails of sheep, tail-docking, cutting of teeth, trimming of beaks, dehorning and physical castration). Likewise, Article 20 of that regulation, which concerns the feeding of animals, prohibits the force-feeding of animals.

<sup>33</sup> See judgment of 19 October 2017, *Vion Livestock* (C-383/16, EU:C:2017:783).

90. Next, it must also be emphasised that, although no obligation to carry out pre-stunning is laid down for farmed animals referred to in Regulation No 1099/2009, Article 25h(5) of Commission Regulation (EC) No 710/2009 of 5 August 2009 amending Regulation No 889/2008 as regards laying down detailed rules on organic aquaculture animal and seaweed production<sup>34</sup> provides that 'slaughter techniques shall render fish immediately unconscious and insensible to pain'.

91. Last, the fact that the legislation on organic farming is silent on the question of ritual slaughter seems to me to be even less the result of oversight because that question has long been known and recognised<sup>35</sup> in the provisions governing the slaughter of animals and because, furthermore, the 'slaughter' of animals is mentioned on several occasions in that legislation.<sup>36</sup>

92. It should be observed that, although some animal welfare protection associations have, in particular when the Commission's working document accompanying the proposal for an amendment of Regulation No 834/2007 was being drawn up,<sup>37</sup> called for the legislation on organic farming to be amended to make the stunning of animals prior to slaughter a general requirement,<sup>38</sup> Regulation 2018/848, which recently entered into force, remains silent on whether such stunning must be employed.

93. Having regard to the considerations set out above, I am of the view that 'organic farming' certification cannot be refused to products from the slaughter of animals without stunning.

94. In that regard, I am not convinced by the other arguments of a teleological and systemic nature put forward in the present case in support of the argument to the contrary.

95. In the first place, it seems to me that the argument based on respect for the 'principle of consumer confidence' in products labelled as organic, referred to in particular in recitals 3, 5 and 22 and in Article 1 of Regulation No 834/2007, cannot succeed. Since the alleged impossibility of placing the indication 'organic farming' on products from animals killed without being stunned does not follow expressly from the legislation governing the standards applicable to organic farming, there could be no breach of that principle, provided that a label was issued in accordance with the applicable law.

96. Admittedly, the protection of consumer confidence in products labelled as organic products requires, as stated in Article 6(c) of Regulation No 834/2007, the exclusion of substances and processing methods that might be misleading regarding the true nature of the product. However, that confidence is undermined only where the clear requirements to which organic farming is expressly subject are ignored. Yet, as I have already explained, with regard to the relevant legislation, the exclusion of the use of stunning at the time of the slaughter of animals does not seem to me to be capable of automatically entailing a total exclusion from the benefit of the indication 'organic farming' for the products concerned.

<sup>34</sup> OJ 2009 L 204, p. 15.

<sup>35</sup> The EU legislature's desire to reconcile the protection of freedom of religion with the protection of animal welfare was already evident in the adoption of Council Directive 74/577/EEC of 18 November 1974 on stunning of animals before slaughter (OJ 1974 L 316 p. 10) and may still be found in Regulation No 1099/2009, which is currently in force.

<sup>36</sup> See Article 2(i) and Article 14(1)(b)(viii) of Regulation No 834/2007, and also Article 12(5) and Article 76(b) of Regulation No 889/2008.

<sup>37</sup> Working document of the services of the Commission, summary of the impact analysis, accompanying the document 'Proposal for a Regulation of the European Parliament and of the Council on organic production and labelling of organic products, amending Regulation (EU) No XXX/XXX of the European Parliament and of the Council (Regulation on official controls) and repealing Council Regulation No 834/2007', of 24 March 2014 (COM(2014) 180 final/SWD(2014) 66 final, p. 91).

<sup>38</sup> In the present case, it is interesting to note that while OABA disputes the 'organic farming' certificate issued by Ecocert, which it maintains is contrary to the legislation on organic farming, at the same time it seeks an amendment of the legislation in force.

97. In addition, it should also be observed that, as matters now stand, and in spite of increasing consumer interest in the conditions in which animals are slaughtered,<sup>39</sup> the EU legislation concerning the provision of food information to consumers does not at present give any specific indication about the conditions in which animals are slaughtered.<sup>40</sup>

98. In those circumstances, to conclude that, under EU law, the certification 'kosher' and 'halal' is incompatible with the label 'organic farming' would be tantamount to adding a condition not provided for in the actual legislation. That would mean that practising Jews and Muslims wishing to do so would be denied the right to obtain organic products and to benefit from the guarantees which those products provide in terms of quality and food safety.

99. In fact, while the impossibility of combining the certification 'organic farming' and the indication 'kosher' or 'halal' is not directly problematic from the viewpoint of the exercise of religious freedom, it seems to me, on the other hand, to undermine the possibility for consumers of kosher or halal products to obtain products benefiting from the guarantees offered by the 'organic farming' certification.

100. In the second place, as the Court held in the judgment of 5 November 2014, *Herbaria Kräuterparadies* (C-137/13, EU:C:2014:2335, paragraph 46), while it cannot be denied that 'EU law does not guarantee that an economic operator will be allowed to market its products using any terms it finds to be most advantageous for promoting them', it cannot be used against an operator who has fulfilled all the requirements of the applicable legislation.

101. In that respect, it is impossible to ignore the argument, developed in particular by Ecocert, that a certification body is not in a position to impose conditions that do not appear in the relevant legislation in order to obtain an 'organic farming' certification. In particular, provided that the provisions governing the methods of raising and slaughtering of animals in order to obtain the 'organic farming' label are complied with, the certification body is in principle required to issue that label without adding conditions that are not laid down in the legislation. Its failure to do so would be problematic both from the aspect of the free movement of organic products within the European Union referred to in Article 34 of Regulation No 834/2007 and from the aspect of freedom of trade and industry.

102. That conclusion does not infringe Article 13 TFEU.

103. Admittedly, it is well established that the protection of animal welfare is a legitimate objective of general interest, the importance of which is reflected, in particular, in the adoption by the Member States of Protocol (No 33) on protection and welfare of animals, annexed to the EC Treaty, under which the Community and the Member States must pay full regard to the welfare requirements of animals when formulating and implementing Community policy, in particular in the agriculture and transport sectors. The corresponding provision is now Article 13 TFEU, a provision of general application of the FEU Treaty, which appears in the first part of that Treaty, devoted to principles.<sup>41</sup>

<sup>39</sup> Many animal protection associations thus argue in favour of labelling indicating the slaughtering method employed. However, the relevance of such labelling is open to debate (see the findings of the investigation report, cited in footnote 19, pp. 118 to 120).

<sup>40</sup> See, in particular, Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ 2011 L 304, p. 18). Recital 50 of Regulation No 1169/2011 states, however, that '... a study on the opportunity to provide consumers with the relevant information on the stunning of animals should be considered in the context of a future Union strategy for the protection and welfare of animals' (emphasis added). The results of that study, which was eventually carried out at the request of the Commission's Directorate-General 'Health and Food Safety', and the findings of which were published on 23 February 2015 ([https://ec.europa.eu/food/sites/food/files/animals/docs/aw\\_practice\\_slaughter\\_fci-stunning\\_report\\_en.pdf](https://ec.europa.eu/food/sites/food/files/animals/docs/aw_practice_slaughter_fci-stunning_report_en.pdf)), show, in particular, that for most consumers information about pre-slaughter stunning is not an important issue, provided that it is not brought to their attention.

<sup>41</sup> See, in particular, judgments of 23 April 2015, *Zuchtvieh-Export* (C-424/13, EU:C:2015:259, paragraph 35), and of 29 May 2018, *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others* (C-426/16, EU:C:2018:335, paragraph 64 and the case-law cited).

104. I am of the view that, by adopting the legislation in question, in particular Regulation No 1099/2009, which governs the standards relating to animal welfare at the time of killing, the legislature intended to strike a balance between freedom of religion and animal welfare. As I have already explained, not only does that regulation not ignore animal welfare, but it allows the use of ritual slaughter only by way of derogation and in the conditions strictly defined in Article 4(4).

## **Conclusion**

105. In the light of the foregoing considerations, I propose that the Court answer the question for a preliminary ruling submitted by the cour administrative d'appel de Versailles (Administrative Court of Appeal, Versailles, France) as follows:

Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing, read in the light of Article 13 TFEU, must be interpreted as not prohibiting the issue of the European 'organic farming' label to products from animals which have been the subject of ritual slaughter without prior stunning carried out in the conditions laid down in Regulation No 1099/2009.