



Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

12 September 2019*

(Reference for a preliminary ruling — Protection of health — Hygiene Package — Regulation (EC) No 853/2004 — Regulation (EC) No 854/2004 — Hygiene of food of animal origin — Poultry meat — Post-mortem inspection of carcasses — Visible contamination of a carcass — Zero-tolerance approach)

In Case C-347/17,

REQUEST for a preliminary ruling under Article 267 TFEU from the Rechtbank Rotterdam (District Court, Rotterdam, Netherlands), made by decision of 8 June 2017, received at the Court on 12 June 2017, in the proceedings

A and Others,

v

Staatssecretaris van Economische Zaken,

THE COURT (Third Chamber),

composed of M. Vilaras, President of the Fourth Chamber, acting as President of the Third Chamber, J. Malenovský, L. Bay Larsen, M. Safjan and D. Šváby (Rapporteur), Judges,

Advocate General: M. Bobek,

Registrar: C. Strömholm, Administrator,

having regard to the written procedure and further to the hearing on 4 October 2018,

after considering the observations submitted on behalf of:

- A and Others, by E. Dans, advocaat,
- the Netherlands Government, by M.K. Bulterman, M.L. Noort, C.S. Schillemans and J.M. Hoogveld, acting as Agents,
- the Danish Government, by J. Nymann-Lindegren, M. Wolff and P. Ngo, acting as Agents,
- the German Government, initially by T. Henze and S. Eisenberg, and subsequently by S. Eisenberg, acting as Agents,
- the Finnish Government, by H. Leppo, acting as Agent,

* Language of the case: Dutch.

– the European Commission, by A. Bouquet and F. Moro, acting as Agents,
after hearing the Opinion of the Advocate General at the sitting on 29 November 2018,
gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Annex III, Section II, Chapter IV, points 5 and 8, to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ 2004 L 139, p. 55, and corrigenda OJ 2004 L 226, p. 22, and OJ 2013 L 160, p. 15), and Annex I, Section I, Chapter II, Part D, point 1, to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ 2004 L 139, p. 206, and corrigenda OJ 2004 L 226, p. 83, and OJ 2013 L 160, p. 17), as amended by Commission Implementing Regulation (EU) No 739/2011 of 27 July 2011 (OJ 2011 L 196, p. 3) ('Regulation No 854/2004').
- 2 The request has been made in proceedings between A and Others, seven poultry slaughterhouses established in the Netherlands, and the Staatssecretaris van Economische Zaken (State Secretary for Economic Affairs, Netherlands; 'the State Secretary') concerning administrative fines imposed by the latter for infringements of the Dutch Law on Animals.

Legal context

European Union law

Regulation (EC) No 178/2002

- 3 Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1) provides, in Article 3, points 9 and 14:

'For the purposes of this Regulation:

...

9. "risk" means a function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard;

...

14. "hazard" means a biological, chemical or physical agent in, or condition of, food or feed with the potential to cause an adverse health effect.'

- 4 Article 14 of that regulation, entitled 'Food safety requirements', states:

'1. Food shall not be placed on the market if it is unsafe.

2. Food shall be deemed to be unsafe if it is considered to be:

- (a) injurious to health;
- (b) unfit for human consumption.

3. In determining whether any food is unsafe, regard shall be had:

- (a) to the normal conditions of use of the food by the consumer and at each stage of production, processing and distribution, and
- (b) to the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods.

...

5. In determining whether any food is unfit for human consumption, regard shall be had to whether the food is unacceptable for human consumption according to its intended use, for reasons of contamination, whether by extraneous matter or otherwise, or through putrefaction, deterioration or decay.

...'

5 Article 17 of that regulation, entitled 'Responsibilities', provides as follows:

'1. Food and feed business operators at all stages of production, processing and distribution within the businesses under their control shall ensure that foods or feeds satisfy the requirements of food law which are relevant to their activities and shall verify that such requirements are met.

2. Member States shall enforce food law, and monitor and verify that the relevant requirements of food law are fulfilled by food and feed business operators at all stages of production, processing and distribution.

For that purpose, they shall maintain a system of official controls and other activities as appropriate to the circumstances, including public communication on food and feed safety and risk, food and feed safety surveillance and other monitoring activities covering all stages of production, processing and distribution.

Member States shall also lay down the rules on measures and penalties applicable to infringements of food and feed law. The measures and penalties provided for shall be effective, proportionate and dissuasive.'

Regulation (EC) No 852/2004

6 Article 2(1)(f) of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ 2004 L 139, p. 1) provides as follows:

'For the purposes of this Regulation:

...

(f) "contamination" means the presence or introduction of a hazard.'

7 Article 3 of that regulation, entitled ‘General obligation’, is worded as follows:

‘Food business operators shall ensure that all stages of production, processing and distribution of food under their control satisfy the relevant hygiene requirements laid down in this Regulation.’

8 Article 4 of that regulation, entitled ‘General and specific hygiene requirements’, provides:

‘1. Food business operators carrying out primary production and those associated operations listed in Annex I shall comply with the general hygiene provisions laid down in Part A of Annex I and any specific requirements provided for in Regulation (EC) No 853/2004.

2. Food business operators carrying out any stage of production, processing and distribution of food after those stages to which paragraph 1 applies shall comply with the general hygiene requirements laid down in Annex II and any specific requirements provided for in Regulation (EC) No 853/2004.

3. Food business operators shall, as appropriate, adopt the following specific hygiene measures:

- (a) compliance with microbiological criteria for foodstuffs;
- (b) procedures necessary to meet targets set to achieve the objectives of this Regulation;
- (c) compliance with temperature control requirements for foodstuffs;
- (d) maintenance of the cold chain;
- (e) sampling and analysis.

...’

9 Article 5 of Regulation No 852/2004, entitled ‘Hazard analysis and critical control points’, provides, in paragraph 1 thereof:

‘Food business operators shall put in place, implement and maintain a permanent procedure or procedures based on the [Hazard Analysis Critical Control Point (HACCP)] principles.’

Regulation No 853/2004

10 Recitals 1, 2, 4, 9 and 10 of Regulation No 853/2004 read as follows:

‘(1) By Regulation (EC) No 852/2004, the European Parliament and the Council laid down general rules for food business operators on the hygiene of foodstuffs.

(2) Certain foodstuffs may present specific hazards to human health, requiring the setting of specific hygiene rules. This is in particular the case for food of animal origin in which microbiological and chemical hazards have frequently been reported.

...

(4) With regard to public health, these rules contain common principles, in particular in relation to the manufacturers’ and competent authorities’ responsibilities, structural, operational and hygiene requirements for establishments, procedures for the approval of establishments, requirements for storage and transport and health marks.

...

- (9) The principal objectives of the recasting are to secure a high level of consumer protection with regard to food safety, in particular by making food business operators throughout the Community subject to the same rules, and to ensure the proper functioning of the internal market in products of animal origin, thus contributing to the achievement of the objectives of the common agricultural policy.
- (10) It is necessary to maintain and, where required to ensure consumer protection, to tighten detailed hygiene rules for products of animal origin.'

11 Article 2 of Regulation No 853/2004, entitled 'Definitions', provides:

'The following definitions shall apply for the purposes of this Regulation:

- 1) the definitions laid down in Regulation (EC) No 178/2002;
- 2) the definitions laid down in Regulation (EC) No 852/2004;
- 3) the definitions laid down in Annex I; and
- 4) any technical definitions contained in Annexes II and III.'

12 Article 3 of Regulation No 853/2004, entitled 'General obligations', provides, in paragraph 1 thereof:

'Food business operators shall comply with the relevant provisions of Annexes II and III.'

13 Annex III, Section I, entitled 'Meat of domestic ungulates', Chapter IV, point 10, to that regulation provides:

'The carcasses must not contain visible faecal contamination. Any visible contamination must be removed without delay by trimming or alternative means having an equivalent effect.'

14 Annex III, Section II, entitled 'Meat from poultry and lagomorphs', Chapter II, entitled 'Requirements for slaughterhouses', to that regulation provides:

'Food business operators must ensure that the construction, layout and equipment of slaughterhouses in which poultry or lagomorphs are slaughtered meet the following requirements.

- 1. They must have a room or covered space for the reception of the animals and for their inspection before slaughter.
- 2. To avoid contaminating meat, they must:
 - (a) have a sufficient number of rooms, appropriate to the operations being carried out;
 - (b) have a separate room for evisceration and further dressing, including the addition of seasonings to whole poultry carcasses, unless the competent authority authorises separation in time of these operations within a specific slaughterhouse on a case-by-case basis;
 - (c) ensure separation in space or time of the following operations:
 - (i) stunning and bleeding;
 - (ii) plucking or skinning, and any scalding; and
 - (iii) dispatching meat;
 - (d) have installations that prevent contact between the meat and the floors, walls and fixtures;

and

- (e) have slaughter lines (where operated) that are designed to allow a constant progress of the slaughter process and to avoid cross-contamination between the different parts of the slaughter line. Where more than one slaughter line is operated in the same premises, there must be adequate separation of the lines to prevent cross-contamination.

...

- 6. There must be a separate place with appropriate facilities for the cleaning, washing and disinfection of:
 - (a) transport equipment such as crates;
 - and
 - (b) means of transport.

These places and facilities are not compulsory for (b) if officially authorised places and facilities exist nearby.

...'

- 15 Annex III, Section II, Chapter IV, to Regulation No 853/2004, entitled 'Slaughter hygiene', provides:

'Food business operators operating slaughterhouses in which poultry or lagomorphs are slaughtered must ensure compliance with the following requirements.

...

- 2. Slaughterhouse operators must follow the instructions of the competent authority to ensure that ante-mortem inspection is carried out under suitable conditions.
- 3. Where establishments are approved for the slaughter of different animal species or for the handling of farmed ratites and small wild game, precautions must be taken to prevent cross contamination by separation either in time or in space of the operations carried out on the different species. Separate facilities for the reception and storage of carcasses of farmed ratites slaughtered at the farm and for small wild game must be available.
- 4. Animals brought into the slaughter room must be slaughtered without undue delay.
- 5. Stunning, bleeding, skinning or plucking, evisceration and other dressing must be carried out without undue delay in such a way that contamination of the meat is avoided. In particular, measures must be taken to prevent the spillage of digestive tract contents during evisceration.
- 6. Slaughterhouse operators must follow the instructions of the competent authority to ensure that the post-mortem inspection is carried out under suitable conditions, and in particular that slaughtered animals can be inspected properly.
- 7. After post-mortem inspection:
 - (a) parts unfit for human consumption must be removed as soon as possible from the clean sector of the establishment;
 - (b) meat detained or declared unfit for human consumption and inedible by-products must not come into contact with meat declared fit for human consumption; and
 - (c) viscera or parts of viscera remaining in the carcase, except for the kidneys, must be removed entirely, if possible, and as soon as possible, unless otherwise authorised by the competent authority.

8. After inspection and evisceration, slaughtered animals must be cleaned and chilled to not more than 4°C as soon as possible, unless the meat is cut while warm.
9. When carcasses are subjected to an immersion chilling process, account must be taken of the following.
 - (a) Every precaution must be taken to avoid contamination of carcasses, taking into account parameters such as carcass weight, water temperature, volume and direction of water flow and chilling time.
 - (b) Equipment must be entirely emptied, cleaned and disinfected whenever this is necessary and at least once a day.
10. Sick or suspect animals, and animals slaughtered in application of disease eradication or control programmes, must not be slaughtered in the establishment except when permitted by the competent authority. In that event, slaughter must be performed under official supervision and steps taken to prevent contamination; the premises must be cleaned and disinfected before being used again.'

Regulation No 854/2004

- 16 Regulation No 854/2004 states, in recitals 4 and 8 thereof:

'(4) Official controls on products of animal origin should cover all aspects that are important for protecting public health and, where appropriate, animal health and animal welfare. They should be based on the most recent relevant information available and it should therefore be possible to adapt them as relevant new information becomes available.

...

(8) Official controls on the production of meat are necessary to verify that food business operators comply with hygiene rules and respect criteria and targets laid down in Community legislation. These official controls should comprise audits of food business operators' activities and inspections, including checks on food business operators' own controls.'

- 17 Article 4 of that regulation, entitled 'General principles for official controls in respect of all products of animal origin falling within the scope of this Regulation', provides:

'1. Member States shall ensure that food business operators offer all assistance needed to ensure that official controls carried out by the competent authority can be performed effectively.

They shall in particular:

- give access to all buildings, premises, installations or other infrastructures;

...

2. The competent authority shall carry out official controls to verify food business operators' compliance with the requirements of:

- (a) Regulation (EC) No 852/2004;
- (b) Regulation (EC) No 853/2004; ...

...

3. The official controls referred to in paragraph 1 shall include:

(a) audits of good hygiene practices and hazard analysis and critical control point (HACCP)-based procedures;

...

and

(c) any particular auditing tasks specified in the Annexes.

...

5. Audits of HACCP-based procedures shall verify that food business operators apply such procedures continuously and properly, having particular regard to ensuring that the procedures provide the guarantees specified in Section II of Annex II to Regulation (EC) No 853/2004. They shall, in particular, determine whether the procedures guarantee, to the extent possible, that products of animal origin:

(a) comply with microbiological criteria laid down under Community legislation;

...'

18 Article 5 of Regulation No 854/2004 reads as follows:

'Member States shall ensure that official controls with respect to fresh meat take place in accordance with Annex I.

(1) The official veterinarian shall carry out inspection tasks in slaughterhouses, game handling establishments and cutting plants placing fresh meat on the market in accordance with the general requirements of Section I, Chapter II, of Annex I, and with the specific requirements of Section IV, in particular as regards:

- (a) food chain information;
- (b) ante-mortem inspection;
- (c) animal welfare;
- (d) post-mortem inspection;
- (e) specified risk material and other animal by-products;

and

(f) laboratory testing.

...'

19 Annex I, Section I, Chapter I, to that regulation, entitled 'Auditing tasks', provides:

'1. In addition to the general requirements of Article 4(4) concerning audits of good hygiene practices, the official veterinarian is to verify continuous compliance with food business operators' own procedures concerning any collection, transport, storage, handling, processing and use or disposal of animal by-products, including specified risk material, for which the food business operator is responsible.

2. In addition to the general requirements of Article 4(5) concerning audits of HACCP-based principles, the official veterinarian is to check that the operators' procedures guarantee, to the extent possible, that meat:

...
(b) does not bear faecal or other contamination; ...

...'

20 Annex I, Section I, Chapter II, Part D, to that regulation, entitled 'Post-mortem inspection', provides:

'1. Carcasses and accompanying offal must be subjected without delay after slaughter to post-mortem inspection. All external surfaces must be viewed. Minimal handling of the carcasses and offal or special technical facilities may be required for that purpose. Particular attention must be paid to the detection of zoonotic diseases and animal diseases for which animal health rules are laid down in Union legislation. The speed of the slaughter line and the number of inspection staff present must be such as to allow for proper inspection.

2. Additional examinations are to take place, such as palpation and incision of parts of the carcass and offal and laboratory tests, whenever considered necessary:

...
(b) to detect the presence of:

- ...
(ii) residues or contaminants in excess of the levels laid down under Community legislation,
(iii) non-compliance with microbiological criteria,

or

- (iv) other factors that might require the meat to be declared unfit for human consumption or restrictions to be placed on its use,

particularly in the case of animals having undergone emergency slaughter.

...'

21 Annex I, Section II, Chapter V, to that regulation, entitled 'Decisions concerning meat', provides:

'1. Meat is to be declared unfit for human consumption if it:

...
(g) is not in conformity with microbiological criteria laid down under Community legislation to determine whether food may be placed on the market;

...
(i) contains residues or contaminants in excess of the levels laid down in Community legislation. Any overshooting of the relevant level should lead to additional analyses whenever appropriate;

...
(s) shows soiling, faecal or other contamination;

...

- (u) in the opinion of the official veterinarian, after examination of all the relevant information, it may constitute a risk to public or animal health or is for any other reason not suitable for human consumption.

...'

22 Annex I, Section IV, Chapter V, Part B, to Regulation No 854/2004 provides:

- '1. All birds are to undergo post-mortem inspection in accordance with Sections I and III. In addition, the official veterinarian is personally to carry out the following checks:
 - (a) daily inspection of the viscera and body cavities of a representative sample of birds;
 - (b) a detailed inspection of a random sample, from each batch of birds having the same origin, of parts of birds or entire birds declared unfit for human consumption following post-mortem inspection;
- and
- (c) any further investigations necessary where there is reason to suspect that the meat from the birds concerned could be unfit for human consumption.

...'

Netherlands law

23 Article 6.2(1) of the Wet houdende een integraal kader voor regels over gehouden dieren en daaraan gerelateerde onderwerpen (Law containing an integral framework for rules on kept animals and related subjects) of 19 May 2011 (Stb. 2011, No 345; 'the Law on Animals') provides:

'It is forbidden to act contrary to the provisions of EU regulations concerning matters governed by this Law designated by or pursuant to a general administrative order or ministerial order.'

24 Article 8.7 of the Law on Animals provides:

'The Minister can impose an administrative fine on a person who commits an infringement.'

25 Article 2.4(1)(d) of Regeling van de Minister van Economische Zaken, nr. WJZ/12346914, houdende regels met betrekking tot dierlijke producten (Order of the Minister for Economic Affairs No WJZ/12346914 containing rules relating to animal products) of 7 December 2012 (Stcrt. 2012, No 25949) provides:

'The provisions of EU regulations as referred to in Article 6.2(1)(d) of the Law on Animals are:

...

(d) Articles 3, 4(1) to (4), 5 and 7(1) of Regulation ... No 853/2004.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

26 As part of the controls carried out by the Nederlandse Voedsel- en Warenautoriteit (Netherlands Food and Consumer Products Authority, Netherlands) at several poultry slaughterhouses, contamination of poultry carcasses by faeces, crop contents and bile was found at the end of the ready-to-cook chain, just before chilling. That authority produced reports of its findings from which it emerges that the contamination stemmed from insufficient measures to prevent contamination and that those

slaughterhouses had committed an infringement under Article 6.2(1) of the Law on Animals and Article 2.4(1) of Order of the Minister for Economic Affairs No WJZ/12346914 and, accordingly, Article 3(1) of Regulation No 853/2004 and Annex III, Section II, Chapter IV, points 5 and 8, to that regulation.

- 27 On the basis of those reports of findings, the State Secretary, by decisions of 27 November, 11 December and 18 December 2015, imposed various fines on the slaughterhouses concerned in the main proceedings, each amounting to EUR 2 500, for infringement of the Law on Animals. Those slaughterhouses lodged complaints against those decisions with the State Secretary, who rejected them on 29 April, 2 May and 3 May 2016 respectively.
- 28 The slaughterhouses concerned in the main proceedings brought an appeal against those decisions before the Rechtbank Rotterdam (District Court, Rotterdam, Netherlands).
- 29 The slaughterhouses concerned in the main proceedings claim that it cannot be inferred from either the wording or the context of the provisions of Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004 that they impose a ‘zero tolerance’ standard in order to avoid any contamination. They submit that carcasses should still be able to be cleaned at the chilling stage or at a later stage, at the time of cutting and packaging. They also dispute whether contamination may be caused by faeces, crop contents and bile. Furthermore, they call the control procedures into question by emphasising that, during inspections, carcasses may not be removed from the chain and that only the external surfaces may be visually examined.
- 30 On the other hand, the State Secretary submits that those provisions contain the ‘zero tolerance’ standard, according to which poultry carcasses may contain no visible contamination whatsoever after the evisceration and cleaning stage and before the chilling stage. In that regard, he emphasises that the stage before chilling is a stage during which the control should take place. He argues that the concept of ‘contamination’ also covers contamination by faeces, crop contents and bile. As regards the controls, the State Secretary contends that carcasses may be removed from the chain and that the insides and the underside of fat tissue may also be examined.
- 31 In those circumstances the Rechtbank Rotterdam (District Court, Rotterdam), which has doubts as to the interpretation to be given to the applicable EU law, decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- ‘(1) Must the provisions of Annex III, Section II, Chapter IV, point 5 and point 8, to Regulation [No 853/2004] be interpreted as meaning that a poultry carcass, after evisceration and cleaning, may no longer contain any visible contamination whatsoever?
 - (2) Do the provisions of Annex III, Section II, Chapter IV, point 5 and point 8, to Regulation [No 853/2004] apply to contamination by faeces, bile and crop contents?
 - (3) If the first question is answered in the affirmative, must the provisions of Annex III, Section II, Chapter IV, point 8, to Regulation [No 853/2004] then be interpreted as meaning that the cleaning must take place immediately after evisceration, or may the removal of any visible forms of contamination, on the basis of that provision, also take place during chilling, cutting or packaging?
 - (4) Does Annex I, Section I, Chapter II, Part D, point 1, to Regulation [No 854/2004] allow the competent authority, when carrying out controls, to remove carcasses from the slaughter line, and to check both the outside and the inside and under the fat tissue for visible contamination?

- (5) If the first question is answered in the negative, and visible contamination may therefore remain on a poultry carcass, how must the provisions of points 5 and 8 in Annex III, Section II, Chapter IV, to Regulation [No 853/2004] then be interpreted? How then will the aim of that regulation, namely, guaranteeing a high level of protection of public health, be achieved?

Consideration of the questions referred

- 32 It should be observed as a preliminary point that, according to the Court's settled case-law, in the procedure laid down by Article 267 TFEU, providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the referring court with an answer which will be of use to it and enable it to determine the case before it. With that in mind, the Court may have to reformulate the questions referred to it. Further, the Court may decide to take into consideration rules of EU law to which the national court has made no reference in the wording of its questions (judgment of 1 February 2017, *Município de Palmela*, C-144/16, EU:C:2017:76, paragraph 20 and the case-law cited).
- 33 In the present case, in order to provide an answer that will be of use to the referring court, it is appropriate to change the order of the questions and to examine the second question first, then the first, third and, if necessary, fifth questions together and, lastly, the fourth question, as reformulated.

The second question

- 34 By its second question, the referring court asks, in essence, whether Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004 must be interpreted as meaning that the concept of 'contamination' includes not only contamination by faeces, but also contamination by crop contents and by bile.
- 35 It should be noted that neither point 5 nor point 8 of Annex III, Section II, Chapter IV, to Regulation No 853/2004 specifies what the sources of contamination of carcasses during slaughter could be. Indeed, point 5 is confined to stating that 'stunning, bleeding, skinning or plucking, evisceration and other dressing must be carried out without undue delay in such a way that contamination of the meat is avoided. In particular, measures must be taken to prevent the spillage of digestive tract contents during evisceration'. As for point 8, it does not mention the word 'contamination'.
- 36 The referring court has doubts as to whether faeces, crop contents and bile are part of the 'digestive tract' within the meaning of Annex III, Section II, Chapter IV, point 5, to Regulation No 853/2004 and, as such, whether they may be regarded as sources of contamination for the purposes of that regulation.
- 37 In that regard, it should be noted that the language versions of that regulation differ as to the terms used in Annex III, Section II, Chapter IV, point 5, second sentence, to Regulation No 853/2004. Thus, while the Dutch, German and Swedish language versions of that provision, which use the terms '*inhoud van maag en darmen*', '*Magen- und Darminhalt*' and '*mag- och tarminnehåll*' respectively, refer to the content of the stomach and intestines, the Danish, English and French language versions of that provision, which use the terms '*førdøjelseskanalens indhold*', 'digestive tract contents' and '*contenu du tractus digestif*' respectively, are clearly more broadly defined.
- 38 In that context, it must be borne in mind that, according to the Court's settled case-law, the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision or be made to override the other language versions. Provisions of EU law must be interpreted and applied uniformly in the light of the versions existing in all languages of the European Union. Where there is divergence between the various language versions of an EU

legislative text, the provision in question must be interpreted by reference to the general scheme and the purpose of the rules of which it forms part (see, *inter alia*, judgment of 25 October 2018, *Tänzer & Trasper*, C-462/17, EU:C:2018:866, paragraph 20 and the case-law cited).

- 39 As regards, in the first place, the general scheme of the provision at issue, it should be noted that, in accordance with Article 2 of Regulation No 853/2004, the definitions referred to in Regulation No 178/2002 and Regulation No 852/2004 are to apply for the purposes of Regulation No 853/2004. In that regard, Article 2(1)(f) of Regulation No 852/2004 defines the term ‘contamination’ as ‘the presence or introduction of a hazard’. As for the concept of ‘hazard’, it is defined in point 14 of Article 3 of Regulation No 178/2002 as ‘a biological, chemical or physical agent in, or condition of, food or feed with the potential to cause an adverse health effect’.
- 40 As the Advocate General observed in point 51 of his Opinion, the EU legislature clearly wished to encourage attainment of a high standard of food safety by retaining a broad definition of the concept of contamination.
- 41 That analysis is confirmed by the very wording of Annex III, Section II, Chapter IV, point 5, to Regulation No 853/2004. The use of the wording ‘any’ contamination in French or German and that of ‘the contamination’ in Dutch or even Spanish, as well as the use, in that point, of the phrase ‘in particular’, show that the EU legislature has taken care not to limit the obligation to avoid any contamination to a particular form of contamination. Similarly, Annex III, Section II, Chapter IV, point 8, to that regulation provides for the procedure to be followed after inspection and evisceration, namely, *inter alia*, the cleaning of carcasses, without however limiting that obligation to the removal of certain forms of contamination.
- 42 Furthermore, it follows from Annex I, Section I, Chapter I, point 2, to Regulation No 854/2004 that the official veterinarian, when carrying out checks on the procedures of food business operators, such as slaughterhouses, must ensure that they guarantee, to the extent possible, that meat ‘does not bear faecal or other contamination’. It must be noted that the terms used regarding the nature of the contamination are also very broad, the use of the term ‘other’ confirming that sources of contamination are not subject to any particular limitation.
- 43 In the second place, as regards the purpose of Regulation No 853/2004, it should be recalled that recital 9 of that regulation states that the main objective of its recasting is to secure a high level of consumer protection with regard to food safety. In addition, recital 10 of that regulation clearly demonstrates that the EU legislature makes consumer health its primary concern, in so far as that recital states that ‘it is necessary to maintain and, where required to ensure consumer protection, to tighten detailed hygiene rules for products of animal origin’.
- 44 Therefore, both the general scheme of Regulation No 853/2004 and the objective of a high level of consumer protection that it aims to achieve require all sources of contamination to be covered. Accordingly, the concept of ‘digestive tract’ cannot be restricted to the intestines and their contents. As the Advocate General observed in point 50 of his Opinion, the digestive tract includes all the organs that make up the digestive system and also the content of those organs, from the mouth to the anus. Faeces, crop contents and bile thus form part of the digestive tract and must therefore be regarded as falling under the obligations laid down in Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004.
- 45 In the light of the foregoing, the answer to the second question is that Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004 must be interpreted as meaning that the concept of ‘contamination’ includes not only contamination by faeces, but also contamination by crop contents and by bile.

The first, third and fifth questions

- 46 By its first and third questions, which it is appropriate to examine together, the referring court asks, in essence, whether points 5 and 8 of Annex III, Section II, Chapter IV, to Regulation No 853/2004 must be interpreted as meaning that a poultry carcass must no longer contain any visible contamination after the cleaning stage and whether that stage must take place before the chilling stage. If that provision is interpreted as meaning that it does not require an absence of visible contamination, the referring court, by its fifth question, asks the Court, in essence, whether that provision, read in conjunction with the provisions of Regulation No 852/2004, must be interpreted as meaning that, in order to achieve the aim of a high level of protection of public health, the control carried out by the competent authorities must be limited to verifying slaughterhouses' compliance with HACCP standards.
- 47 First, the referring court seeks to ascertain, in fact, whether Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004 provides for a zero-tolerance standard, namely that poultry carcasses must not contain any contamination, whether visible or invisible, immediately after the evisceration stage. Secondly, it asks whether, should that standard be applicable, its application must take place at the end of the slaughter line, that is to say, before the chilling stage.
- 48 It must be noted that neither the definition of 'contamination' in Article 2(1)(f) of Regulation No 852/2004 nor Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004 distinguish between visible contamination and invisible contamination.
- 49 However, it follows from paragraphs 39 to 41 of the present judgment that the concept of 'contamination', within the meaning of Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004, is defined broadly. It cannot, therefore, be limited to the concept of visible contamination alone.
- 50 In that regard, it should be noted that the EU legislature has taken care to distinguish between different animal species, inter alia by distinguishing meat of domestic ungulates from meat from poultry and lagomorphs. In Annex III, Section I, Chapter IV, to that regulation, on slaughter hygiene in respect of meat of domestic ungulates, the EU legislature expressly stated, in point 10, that carcasses in that category 'must not contain visible faecal contamination' and that 'any visible contamination must be removed without delay by trimming or alternative means having an equivalent effect'.
- 51 It must be noted that there is no such clarification in the chapter on slaughter hygiene in respect of meat from poultry and lagomorphs. Thus, the EU legislature wished to keep a broad definition of the concept of contamination in Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004, covering both visible and invisible contamination.
- 52 Consequently, in accordance with Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004, the concept of 'contamination' covers both visible and invisible contamination.
- 53 As regards the question of at what stage the absence of any contamination, whether visible or not, is required, it should be noted that the applicants in the main proceedings claim, inter alia, that it is impossible to comply with a zero-tolerance standard and that any potential contamination present on the carcass at the stage of the ready-to-cook chain is removed during the chilling process or during cutting and packaging. According to the applicants, slaughterhouses therefore have a mere obligation to use best endeavours regarding the absence of contamination throughout the slaughter process.
- 54 Such an argument cannot succeed.

- 55 It is clear from the wording of Annex III, Section II, Chapter IV, point 5, to Regulation No 853/2004 that, at the slaughter stage, every measure must be taken to avoid contamination, in particular through spillage of the digestive tract during evisceration. The use of the verb ‘avoid’ shows that the EU legislature did not wish to impose an obligation as to the result to be achieved at that stage of the process, but instead encouraged slaughterhouses to implement all possible measures to ensure that carcasses are not contaminated. Indeed, the absence of any visible contamination at that stage would impose an unreasonable obligation on slaughterhouses.
- 56 That analysis is confirmed, as the Advocate General observed in points 62 and 63 of his Opinion, by the fact that post-mortem inspection, intended to remove contaminated carcasses unfit for human consumption, takes place after the evisceration stage, in accordance with what emerges from a combined reading of Annex III, Section II, Chapter IV, points 6 and 7, to Regulation No 853/2004 and Annex I, Section IV, Chapter V, Part B, point 1, to Regulation No 854/2004. In particular, the latter point provides that all birds are to undergo post-mortem inspection in accordance with Sections I and III of Annex I to Regulation No 854/2004 and that, in addition, the official veterinarian is personally to carry out a daily inspection of the viscera and body cavities of a representative sample of birds. In that regard, the official veterinarian is to check, in accordance with Annex I, Section I, Chapter I, point 2, to that regulation, that operators’ procedures guarantee, to the extent possible, that meat does not bear faecal or other contamination.
- 57 The purpose of post-mortem inspection is precisely to separate parts unfit for human consumption from other parts that may proceed to the cleaning stage, in order to remove all residual contamination, such as blood or intestinal content. That stage would then appear to be totally superfluous if a zero-tolerance threshold were applied immediately after the evisceration stage, not tolerating any visible contamination.
- 58 By contrast, it appears from the order of processing stages adopted by the EU legislature in Annex III, Section II, Chapter IV, point 8, to Regulation No 853/2004 that cleaning must take place before chilling and therefore before cutting, packaging and being made available to the consumer. No visible contamination can therefore remain after the cleaning stage.
- 59 Thus, at the cleaning stage, the check carried out by the official veterinarian has already made it possible to implement the necessary measures to reduce the hazard to an acceptable level, by cleaning the parts that can still be cleaned, and, if the hazard cannot be reduced to an acceptable level, to adopt appropriate corrective measures to remove that hazard, that is, to declare, in accordance with the ‘HACCP principles’, the parts concerned unfit for human consumption within the meaning of Article 5 of Regulation No 852/2004.
- 60 Moreover, keeping the cleaning stage under control by presenting a carcass free of any visible contamination during the chilling, cutting and packaging stages is all the more essential as those stages alone already constitute a critical juncture owing to the many points of contact of the meat with soiled surfaces or materials. If the hazard from the previous stage is not kept under control, it might be carried over or even intensify during the next stage. The objective of achieving a high level of consumer protection would therefore be seriously compromised.
- 61 Thus, contrary to what is claimed by the applicants in the main proceedings, the chilling stage is not intended to clean carcasses in order to remove any visible contamination, but aims, *inter alia*, to prevent the spread of germs and to preserve the meat in order to proceed to the cutting and packaging stage under the best conditions.
- 62 Consequently, the answer to the first and third questions that Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004 must be interpreted as meaning that a poultry carcass must no longer contain any visible contamination after the cleaning stage and before the chilling stage.

63 In view of the answer to the first and third questions, it is unnecessary to answer the fifth question.

The fourth question

64 By its fourth question, the referring court asks, in essence, whether Annex I, Section I, Chapter II, Part D, point 1, to Regulation No 854/2004 must be interpreted as precluding the competent authority, for the purposes of inspecting poultry carcasses, from removing them from the slaughter line and carrying out both an external and internal examination of those carcasses, if necessary by lifting their fat tissue.

65 It follows from recital 4 of that regulation that official controls on products of animal origin should cover all aspects that are important for protecting public health.

66 Furthermore, Article 4(1) of that regulation states that ‘Member States shall ensure that food business operators offer all assistance needed to ensure that official controls carried out by the competent authority can be performed effectively’.

67 It should also be recalled that Annex I, Section I, Chapter II, Part D, point 1, to Regulation No 854/2004 provides that, for the purposes of post-mortem inspection, ‘all external surfaces must be viewed’ and that ‘minimal handling of the carcasses and offal or special technical facilities may be required for that purpose’, ‘the speed of the slaughter line and the number of inspection staff present [having to] be such as to allow for proper inspection’. Furthermore, in accordance with Annex I, Section IV, Chapter V, Part B, point 1(a), to that regulation, in addition to the post-mortem inspection provided for all fresh meat, ‘the official veterinarian is personally to carry out ... [the] daily inspection of the viscera and body cavities of a representative sample of birds’.

68 Moreover, Annex I, Section I, Chapter II, Part D, point 2, to Regulation No 854/2004 provides that the competent authority may carry out additional examinations, such as palpation or incision of parts of the carcass and offal, and laboratory tests, if considered necessary.

69 It follows from the foregoing that, in order to achieve a high level of protection of public health, the EU legislature has laid down minimum control standards for poultry meat, namely the external examination of carcasses and the internal examination of a sample of carcasses, while granting the competent authority broad discretion in order to be able to carry out further controls, such as analyses, if the competent authority considers it necessary.

70 In that regard, the removal of a poultry carcass from the slaughter line in order to examine fat tissue may, inter alia, be necessary for the purposes of detecting a disease harmful to human health, such as avian influenza, and proportionate in view of the importance of the objective of protecting public health.

71 In any event, it will be for the referring court, in the light of the evidence before it, to ascertain whether the means used for the inspection of poultry carcasses were appropriate for attaining the legitimate objective pursued by the legislation at issue and did not go beyond what was necessary to achieve it.

72 Therefore, the answer to the fourth question is that Annex I, Section I, Chapter II, Part D, point 1, to Regulation No 854/2004 must be interpreted as not precluding the competent authority, for the purposes of inspecting poultry carcasses, from removing them from the slaughter line and carrying out both an external and internal examination of those carcasses, if necessary by lifting their fat tissue, provided that that examination does not go beyond what is necessary in order to ensure the effectiveness of that control, which it is for the referring court to verify.

Costs

- ⁷³ Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

1. **Annex III, Section II, Chapter IV, points 5 and 8, to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin must be interpreted as meaning that the concept of ‘contamination’ includes not only contamination by faeces, but also contamination by crop contents and by bile.**
2. **Annex III, Section II, Chapter IV, points 5 and 8, to Regulation No 853/2004 must be interpreted as meaning that a poultry carcass must no longer contain any visible contamination after the cleaning stage and before the chilling stage.**
3. **Annex I, Section I, Chapter II, Part D, point 1, to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, as amended by Commission Implementing Regulation (EU) No 739/2011 of 27 July 2011, must be interpreted as not precluding the competent authority, for the purposes of inspecting poultry carcasses, from removing them from the slaughter line and carrying out both an external and internal examination of those carcasses, if necessary by lifting their fat tissue, provided that that examination does not go beyond what is necessary in order to ensure the effectiveness of that control, which it is for the referring court to verify.**

[Signatures]