JUDGMENT OF THE COURT (First Chamber)

16 December 2004 *

In Case C-277/02,

REFERENCE for a preliminary ruling under Article 234 EC from the Oberverwaltungsgericht Rheinland-Pfalz (Germany), made by decision of 3 July 2002, received on 29 July 2002, in the proceedings:

EU-Wood-Trading GmbH

v

Sonderabfall-Management-Gesellschaft Rheinland-Pfalz mbH,

THE COURT (First Chamber),

composed of: P. Jann, President of the Chamber, A. Rosas, R. Silva de Lapuerta, K. Lenaerts and K. Schiemann (Rapporteur), Judges,

* Language of the case: German.

Advocate General: P. Léger,
Registrar: L. Hewlett, Administrator,

having regard to the written procedure and further to the hearing on 27 May 2004,

after considering the observations submitted on behalf of:

— EU-Wood-Trading GmbH, by T. Pschera and B. Enderle, Rechtsanwälte,

— Sonderabfall-Management-Gesellschaft Rheinland-Pfalz mbH, by C. v. der Lühe, Rechtsanwalt,

— the Danish Government, by J. Molde, acting as Agent,

— the Austrian Government, by E. Riedl, acting as Agent,

— the Commission of the European Communities, by U. Wölker and M. Konstantinidis, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 23 September 2004,

gives the following

Judgment

1 The request for a preliminary ruling concerns the interpretation of the first and second indents of Article 7(4)(a) of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ 1993 L 30, p. 1), as amended by Commission Decisions 98/368/EC of 18 May 1998 (OJ 1998 L 165, p. 20) and 1999/816/EC of 24 November 1999 (OJ 1999 L 316, p. 45), (hereinafter 'the Regulation').

2 That request was submitted in the course of an action between EU-Wood-Trading GmbH, established in Bürstadt (Germany) (hereinafter 'EU-Wood-Trading') against Sonderabfall-Management-Gesellschaft Rheinland-Pfalz mbH, regarding objections raised by the latter against the shipment of 3 500 tonnes of wood waste which EU-Wood-Trading was envisaging making to Italy.

Legal framework

Community legislation

3 The essential objective of Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March

1991 (OJ 1991 L 78, p. 32), and by Commission Decision 96/350/EC of 24 May 1996 (OJ 1996 L 135, p. 32), (hereinafter 'the Directive') is the protection of human health and the environment against harmful effects caused by the collection, transport, treatment, storage and tipping of waste. In particular, the fourth recital in the preamble to that Directive states that the recovery of waste and the use of recovered materials should be encouraged in order to conserve natural resources.

4 Article 1(e) of the Directive defines 'disposal' as 'any of the operations provided for in Annex II A' and Article 1(f) defines 'recovery' as 'any of the operations provided for in Annex II B'.

5 The first subparagraph of Article 4 of the Directive provides:

'Member States shall take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment, and in particular:

— without risk to water, air, soil and plants and animals,

— without causing a nuisance through noise or odours,

— without adversely affecting the countryside or places of special interest.'

6 Under Article 7(1) of the Directive the competent authorities designated by the Member States must, in order to attain the objectives referred to in, among others, Article 4, draw up as soon as possible one or more waste management plans. Under Article 7(3) Member States may take the measures necessary to prevent movements of waste which are not in accordance with their waste management plans.

7 The Regulation governs, in particular, the supervision and control of shipments of waste between Member States.

8 The ninth recital in the preamble to the Regulation states:

'... shipments of waste must be subject to prior notification to the competent authorities enabling them to be duly informed in particular of the type, movement and disposal or recovery of the waste, so that these authorities may take all necessary measures for the protection of human health and the environment, including the possibility of raising reasoned objections to the shipment'.

9 Article 2 of the Regulation provides:

'For the purposes of this Regulation:

...

(b) competent authorities means the competent authorities designated by either the Member States in accordance with Article 36 or non-Member States;

(c) competent authority of dispatch means the competent authority, designated by the Member States in accordance with Article 36, for the area from which the shipment is dispatched ...;

(d) competent authority of destination means the competent authority, designated by the Member States in accordance with Article 36, for the area in which the shipment is received ...;

(e) competent authority of transit means the single authority designated by Member States in accordance with Article 36 for the State through which the shipment is in transit;

...

(g) notifier means any natural person or corporate body to whom or to which the duty to notify is assigned, that is to say the person ... who proposes to ship waste or have waste shipped ...;

(i) disposal is as defined in Article 1(e) of Directive 75/442/EEC;

...

(k) recovery is as defined in Article 1(f) of Directive 75/442/EEC;

...'

10 Title II of the Regulation, entitled 'Shipments of waste between Member States', contains, among other things, two separate chapters, one dealing with the procedure which applies to shipments of waste for disposal (Chapter A, Articles 3 to 5) and the other dealing with the procedure which applies to shipments of waste for recovery (Chapter B, Articles 6 to 11).

11 Under the provisions of Article 6(1) of the Regulation, where the waste producer or holder intends to ship waste for recovery listed in Annex III to the Regulation (orange waste list) from one Member State to another and/or pass it in transit through one or several other Member States, he shall notify the competent authority of destination and send copies of the notification to the competent authorities of dispatch and transit and to the consignee.

12 Under Article 6(3) of the Regulation, notification is to be effected by means of the consignment note which is to be issued by the competent authority of dispatch. Article 6(5) specifies the information which the notifier must supply on the consignment note, among which is information concerning the operations involving recovery as contained in Annex II B to the Directive.

13 Under Article 6(6) of the Regulation, the notifier must conclude a contract with the consignee for the recovery of the waste and a copy of this contract must be supplied to the competent authority at its request.

14 Under Article 6(8) of the Regulation, a competent authority of dispatch may, in accordance with national legislation, decide to transmit the notification itself instead of the notifier to the competent authority of destination, with copies to the consignee and to the competent authority of transit.

15 Article 7(2) of the Regulation lays down the time-limit and the rules and procedures with which the competent authorities of destination, dispatch and transit must comply to object to notified planned shipments of waste for recovery. That provision provides, in particular, that objections must be based on Article 7(4).

16 Article 7(4) of the Regulation provides:

'(a) The competent authorities of destination and dispatch may raise reasoned objections to the planned shipment:

— in accordance with Directive 75/442/EEC, in particular Article 7 thereof, or

— if it is not in accordance with national laws and regulations relating to environmental protection, public order, public safety or health protection, or

— if the notifier or the consignee has previously been guilty of illegal trafficking. In this case, the competent authority of dispatch may refuse all shipments involving the person in question in accordance with national legislation, or

— if the shipment conflicts with obligations resulting from international conventions concluded by the Member State or Member States concerned, or

— if the ratio of the recoverable and non-recoverable waste, the estimated value of the materials to be finally recovered or the cost of the recovery and the cost of the disposal of the non-recoverable fraction do not justify the recovery under economic and environmental considerations.

(b) The competent authorities of transit may raise reasoned objections to the planned shipment based on the second, third and fourth indents of (a).'

17 Article 26 of the Regulation provides:

'1. Any shipment of waste effected:

...

(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or

...

(e) which results in disposal or recovery in contravention of Community or international rules;

... shall be deemed to be illegal traffic.'

18 Under Article 30(1) of the Regulation:

'Member States shall take the measures needed to ensure that waste is shipped in accordance with the provisions of this Regulation. Such measures may include inspections of establishments and undertakings, in accordance with Article 13 of Directive 75/442/EEC, and spot checks of shipments.'

19 Article 34 of the Regulation provides:

'1. Without prejudice to the provisions of Article 26 and to Community and national provisions concerning civil liability and irrespective of the point of disposal or recovery of the waste, the producer of that waste shall take all the necessary steps to dispose of or recover or to arrange for disposal or recovery of the waste so as to protect the quality of the environment ...

2. Member States shall take all necessary steps to ensure that the obligations laid down in paragraph 1 are carried out.'

20 Article 36 of the Regulation provides:

'Member States shall designate the competent authority or authorities for the implementation of this Regulation. A single competent authority of transit shall be designated by each Member State.'

National legislation

21 Paragraph 5(3) of the Gesetz zur Förderung der Kreislaufwirtschaft und Sicherung der umweltverträglichen Beseitigung von Abfällen (Law to promote recycling and to ensure environmentally friendly waste disposal) of 27 September 1994 (BGBl. 1994 I, p. 2705, hereinafter 'the Law of 27 September 1994') prohibits any recovery of waste which leads to an increase in the concentration of pollutants in the closed substance cycle.

22 For the Land Rhineland-Palatinate, Sonderabfall-Management-Gesellschaft Rheinland-Pfalz mbH is responsible for organising the disposal of toxic waste.

The main proceedings and the questions referred for a preliminary ruling

23 On 23 November 1999, EU-Wood-Trading notified Sonderabfall-Management-Gesellschaft Rheinland-Pfalz mbH, as competent authority of dispatch, of its intention to transport 3 500 tonnes of wood waste to the undertaking Frati Luigi de Pomponesco, established in Italy.

24 According to that notification, the waste in question consisted, particularly, of treated or painted wood from demolitions, from furniture or from joinery off-cuts. It was intended that it be recovered for the production of chipboard panels.

25 The documents annexed to the notification included a description of the recovery operation, statements certifying that the Italian authorities of destination had no objections to the import of that used wood and a laboratory report in which an analysis of the waste showed a lead content of 47 mg per kilogram of dry material.

26 By decision of 17 January 2000, the competent authority of dispatch objected to that shipment under the first and second indents of Article 7(4)(a) of the Regulation. The objection was based on the fact that, in view of the lead content of the waste in question, which exceeded a reference value fixed in a guideline of the Environment Ministry of the Land Rhineland-Palatinate, the recovery of that waste could not be carried out without endangering human health and harming the environment, contrary to the requirements both of the Directive and of the Law of 27 September 1994.

27 EU-Wood-Trading lodged an opposition with the competent authority of dispatch against those objections and produced another analysis of the waste showing, per kilogram of dry material, a lead content of 23 mg and an arsenic content of 3.4 mg. That opposition was rejected on 5 July 2000.

28 The action brought against that decision by EU-Wood-Trading before the Verwaltungsgericht (Administrative Court) Mainz (Germany) was dismissed by judgment of 16 October 2001. EU-Wood-Trading appealed against that judgment to the Oberverwaltungsgericht (Higher Administrative Court) Rheinland-Pfalz. It claimed, in essence, that the competent authority of dispatch could not raise, against a shipment of waste for recovery, objections which relate, not to the transport of that waste, but to its recovery in another Member State.

29 In those circumstances, the Oberverwaltungsgericht Rheinland-Pfalz, considering that the outcome of the action before it depended on an interpretation of Community law, decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. Under the first indent of Article 7(4)(a) of Council Regulation (EEC) No 259/93 ... can an objection to the shipment of waste for recovery be raised on the ground that the planned recovery contravenes the requirement arising from the first paragraph of Article 4 of Directive 75/442 ... for waste to be recovered in a manner which is compatible with health and environmental imperatives?

2. If so, can such an objection be raised not only by the authority of destination but also by the authority of dispatch?

3. If so, is the authority of dispatch entitled to base its assessment of whether the planned recovery of the waste at the place of destination is compatible with health and environmental imperatives on the standards applicable in the State of dispatch even where they are higher than the standards applicable in the State of destination?

4. Under the second indent of Article 7(4)(a) of Regulation No 259/93, can an objection to the shipment of waste for recovery be raised on the ground that the planned recovery contravenes national laws and regulations relating to environmental protection, public order, public safety or health protection?

5. If so, can the authority of dispatch raise such an objection on the ground that the recovery contravenes national laws and regulations in force at the place of dispatch?'

The questions referred for a preliminary ruling

The first and second questions

30 By its first and second questions, which it is appropriate to consider together, the referring court is asking, in essence, whether the objections to a shipment of waste which the competent authorities of dispatch and destination are entitled to raise under the first indent of Article 7(4)(a) of the Regulation can be based on considerations connected not only to the actual transport of the waste in each competent authority's area of jurisdiction, but also to the recovery planned for that shipment.

31 It must be noted at the outset that the Regulation does not define the term 'shipment'. Since other provisions of the Regulation, particularly Article 7(3), use the expression 'transport of waste', the term 'shipment' in Article 7(4) of the Regulation cannot necessarily be confined to the transport of the waste.

32 It is appropriate, therefore, to place the term 'shipment' in its context and to interpret it according to the spirit and purpose of the provisions in question in order to determine whether they permit the raising of objections to a shipment of waste based on the recovery planned in the State of destination.

33 It must be observed, as a preliminary point, that the question of shipments of waste is regulated by harmonisation at Community level by the Regulation, in order to ensure the protection of the environment (Case C-324/99 *DaimlerChrysler* [2001] ECR I-9897, paragraph 42).

34 The conditions and procedures laid down by the Regulation were adopted with a view to ensuring the protection of the environment, taking account of objectives falling within the scope of environmental policy such as the principles of proximity, priority for recovery and self-sufficiency at Community and national levels. In particular, they enable the Member States, for the purposes of implementing those principles, to take measures to prohibit generally or partially or to object systematically to and oppose shipments of waste which are not in conformity with the Directive. The Regulation falls within the framework of the environmental policy pursued by the Community and cannot be regarded as seeking to implement the free movement of waste within the Community (Case C-187/93 *Parliament* v *Council* [1994] ECR I-2857, paragraphs 22 and 23).

35 In the Community system thus established by the Regulation, it is clear that the objectives with which the Community legislature invested it seeking the protection of health and the environment could be compromised if, having regard to its purpose, the shipment of waste between Member States was not perceived in its entirety, that is to say from the point of departure of the waste in the State of dispatch to the end of its processing in the State of destination.

36 In that regard, it is clear from the ninth recital in the preamble that the Regulation establishes a procedure of prior notification of shipments of waste to the competent authorities enabling them to be duly informed not only of the type and movements of the waste but also of its disposal or recovery, so that those authorities may take all necessary measures for the protection of human health and the environment, including the possibility of raising reasoned objections.

37 For that purpose, the notifier must, under Article 6(5) of the Regulation, supply in the consignment note in support of the notification information relating not only to the composition and quantity of the waste for recovery and the details of its transport, but also to the conditions in which that waste is to be recovered. The Community legislature therefore intended that all the competent authorities be informed of the whole process of treatment of the waste up to the point when it no longer poses a risk to health or the environment.

38 Moreover, the Regulation contains provisions, other than those at issue in the main action, the implementation of which implies that the authorities with power to control the shipment of waste for recovery may take into account factors relating to its recovery. Thus, the fifth indent of Article 7(4)(a) of the Regulation gives lack of justification of the recovery by economic and environmental considerations as a ground of objection to such a shipment. Likewise, the combined provisions of Articles 26(1)(e) and 26(5) of the Regulation provide that the Member States are to take all appropriate legal action to prohibit and penalise the illegal traffic constituted by any waste shipment which results in disposal or recovery in contravention of Community or international rules.

39 From those considerations, it is clear that the Regulation, taken as a whole, permits all the competent authorities responsible for the control of shipments of waste to take account of matters connected not only to the transport of that waste but also to the conditions in which the waste is recovered.

40 As regards the first indent of Article 7(4)(a) of the Regulation, it is appropriate, first, to observe, as did the Advocate General in point 36 of his Opinion, that those provisions, which provide that the competent authorities of destination and of

dispatch may raise reasoned objections to the planned shipment 'in accordance with Directive 75/442/EEC, in particular Article 7 thereof', must be interpreted as enabling those authorities to raise such objections on the basis of the Directive and, in particular, Article 7 thereof.

41 The use of the words 'in particular' before the mention of Article 7 of the Directive implies that the reference to that article is purely as an example, so that objections may also be raised on the basis of the Directive's other provisions. Therefore, the fact that Article 7(3) of the Directive provides that the Member States may take the measures necessary to prevent 'movements' of waste which are not in accordance with their waste management plans cannot limit to the transport alone of such waste the considerations on which the competent authorities may base objections which they raise under the first indent of Article 7(4)(a) of the Regulation.

42 Finally, since under Article 4 of the Directive the Member States are to take the measures necessary to ensure that waste is recovered or disposed of without endangering human health and without the use of processes or methods capable of harming the environment, the provisions of the first indent of Article 7(4)(a) of the Regulation must be interpreted as authorising the competent authorities of destination and of dispatch to raise objections to a shipment of waste for recovery on the ground that the planned recovery disregards the requirements arising from Article 4 of the Directive.

43 In view of the foregoing, the reply to the first and second questions must be that the first indent of Article 7(4)(a) of the Regulation is to be interpreted as meaning that the objections to a shipment of waste for recovery which the competent authorities of dispatch and of destination are empowered to raise may be based on

considerations connected not only to the actual transport of the waste in each competent authority's area of jurisdiction but also on the recovery planned for that shipment.

The third question

44 By its third question, the referring court is asking, in essence, whether the first indent of Article 7(4)(a) of the Regulation must be interpreted as meaning that the competent authority of dispatch, for the purposes of an objection to a shipment of waste, may, in assessing the effects on health and the environment of the recovery envisaged at the destination, rely on the criteria to which, in order to avoid such effects, the recovery of waste is subject in the State of dispatch, even where those criteria are stricter than those in force in the State of destination.

45 In that regard, as was stated in paragraph 33 of this judgment, the Regulation harmonised the question of shipments of waste in order to ensure the protection of the environment. On the other hand, as the Advocate General states in point 60 of his Opinion, the requirements governing the recovery of waste have not been the object of harmonisation measures. Therefore, under the first paragraph of Article 4 of the Directive, the Member States must take the necessary measures to ensure that waste is recovered without endangering human health and without using processes or methods which could harm the environment and, in particular, without risk to water, air, soil, plants and animals, without causing a nuisance through noise or odours, and without adversely affecting the countryside or places of special interest. Whilst that provision does not specify the actual content of the measures which must be taken, it is binding on the Member States as to the objective to be achieved, whilst leaving to the Member States a margin of discretion in assessing the need for

such measures (Case C-365/97 *Commission* v *Italy* [1999] ECR I-7773, paragraphs 66 and 67).

46 In exercising that discretion, the Member States may, in setting their waste recovery standards, be led to adopt national measures whose requirement levels with regard to the objectives of protection of human health and the environment laid down by the Directive may differ substantially from one State to another. It is precisely in those circumstances that the questions referred by the national court arise and particularly the question whether, where the standards set by the Member State of dispatch to attain the abovementioned objectives are higher than those applicable in the State of destination, the competent authority of dispatch may, on the basis of the Regulation, raise an objection to the envisaged shipment by invoking the higher level of protection under its national standards. Since it must be accepted that the competent authorities of dispatch are empowered to raise objections to the shipment taking account of matters connected to the conditions in which the recovery of waste is carried out in the State of destination, the provisions of the first indent of Article 7(4)(a) of the Regulation imply that those authorities, in assessing the risks which such recovery would entail for human health and the environment, may take account of all relevant criteria in that regard, including those which are in force in the State of dispatch, even if they are stricter than those of the State of destination, and provided they are intended to avoid those risks. The competent authorities of dispatch cannot, however, be bound by the criteria of their State if such criteria are no more apt to avoid those risks than those of the State of destination.

47 That interpretation of the Regulation is evident, since it forms part of the environment policy of the Community, one of whose tasks is, according to Article 2 EC, to promote a high level of protection and improvement of the quality of the environment. That objective might be undermined if the competent authority of dispatch were prevented from relying on its own standards, representing a high level of environmental protection, and from opposing consequently a shipment of waste

the conditions of recovery for which in the State of destination could harm human health or the environment.

48 It is true that such opposition may, as in the main proceedings, conflict with the position taken by the competent authority of destination where that authority, taking the view that the recovery meets the requirements of its own national standards, raises no objection to the envisaged shipment of waste. However, such a situation is inherent in the system established by the Regulation, which confers simultaneously on all the competent authorities the responsibility of ensuring that shipments are carried out in accordance with the Regulation (Case C-6/00 *ASA* [2002] ECR I-1961, paragraph 44). That divergence in the assessments of the different competent authorities cannot therefore be validly invoked, as being contrary to the principle of cooperation expressed in Article 10 EC, in order to require a different interpretation of the Regulation.

49 However, since the Community legislature stipulated that waste for recovery should be able to move freely between Member States for processing (Case C-203/96 *Dusseldorp and Others* [1998] ECR I-4075, paragraph 33), opposition by the competent authority of dispatch on the basis of its national waste recovery standards to a shipment can only be lawful in so far as those standards, in compliance with the principle of proportionality, are apt to attain the objectives pursued which are intended to prevent risks for human health and the environment, and do not go beyond what is necessary to attain them.

50 In that regard, the risks must be measured, not by the yardstick of general considerations, but on the basis of relevant scientific research (see to that effect, in particular, Case C-17/93 *Van der Veldt* [1994] ECR I-3537, paragraph 17).

51 Furthermore, the fact that one Member State imposes less strict rules than another Member State does not necessarily mean that the stricter rules are disproportionate and hence incompatible with Community law (see Case C-294/00 *Gräbner* [2002] ECR I-6515, paragraph 46).

52 The mere fact that a Member State has chosen a system of protection different from that adopted by another Member State cannot affect the appraisal as to the need for and proportionality of the provisions adopted (Case C-67/98 *Zenatti* [1999] ECR I-7289, paragraph 34, and *Gräbner*, paragraph 47).

53 It is for the national court seised of an action challenging the opposition of the competent authority of dispatch to assess whether those national standards have been used in circumstances contrary to the principle of proportionality (see to that effect Case C-314/98 *Snellers* [2000] ECR I-8633, paragraph 59).

54 In view of the foregoing, the reply to the third question must be that the first indent of Article 7(4)(a) of the Regulation is to be interpreted as meaning that for the purposes of an objection to a shipment of waste the competent authority of dispatch may, in assessing the effects on health and the environment of the recovery envisaged at the destination, provided it complies with the principle of proportionality, rely on the criteria to which, in order to avoid such effects, the

recovery of waste is subject in the State of dispatch, even where those criteria are stricter than those in force in the State of destination.

The fourth and fifth questions

55 By its fourth and fifth questions, which it is appropriate to consider together, the referring court is asking, in essence, whether the second indent of Article 7(4)(a) of the Regulation, under which reasoned objections may be raised against a planned shipment if it is not in accordance with the national laws and regulations relating to environmental protection, public order, public safety or health protection, enables the competent authority of dispatch to raise an objection based on the fact that the recovery envisaged does not comply with the national provisions.

56 As was said in paragraph 39 of this judgment, the Regulation, taken as a whole, permits all the competent authorities responsible for the control of shipments of waste to take account of matters connected not only to the transport of that waste but also to the conditions in which the waste is recovered. However, consideration of all the provisions of Article 7(4) of the Regulation cannot lead to such a conclusion as regards the application of the second indent of Article 7(4)(a) of the Regulation without undermining the cohesion of that article.

57 It is important to note that Article 7(4)(b) of the Regulation enables competent authorities of transit to raise reasoned objections against the planned shipment based on the second, third and fourth indents of subparagraph (a) of that article, but not on the first and fifth indents thereof.

58 Thus the Regulation does not permit the competent authorities of transit, in contrast to the competent authorities of dispatch and of destination, to check that the waste will be processed in compliance with the Directive or that the recovery is properly justified from the economic and environmental point of view.

59 In that context, by providing in the second indent of Article 7(4)(a) of the Regulation that the competent authorities may raise objections to the planned shipment if it does not comply with national laws and regulations, the Community legislature sought to safeguard, at each stage of the shipment, the efficacy of each Member State's own provisions with regard to waste which is within the territory of that State. Thus, those provisions which govern shipment cover only operations relating to that shipment which occur during the time when it is within the respective territory of each of the competent authorities concerned. It follows that the competent authorities of dispatch cannot rely on those provisions to raise an objection to a recovery operation in the State of destination.

60 In those circumstances, the reply to the fourth and fifth questions must be that the second indent of Article 7(4)(a) of the Regulation is to be interpreted as meaning that a competent authority of dispatch cannot rely on those provisions to raise an objection to a shipment of waste based on the fact that the planned recovery does not comply with the national laws and regulations for the protection of the environment, public order, public safety or health protection.

Costs

61 Since these proceedings are, for the parties to the main action, a step in the proceedings before the referring court, it is for that court to decide as to the costs. Costs incurred in submitting observations to the Court, other than those of the said parties, cannot be recovered.

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

1. **The first indent of Article 7(4)(a) of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community, as amended by Commission Decisions 98/368/EC of 18 May 1998 and 1999/816/EC of 24 November 1999, is to be interpreted as meaning that the objections to a shipment of waste for recovery which the competent authorities of dispatch and of destination are empowered to raise may be based on considerations connected not only to the actual transport of the waste in each competent authority's area of jurisdiction but also on the recovery planned for that shipment.**

2. **The first indent of Article 7(4)(a) of Regulation No 259/93, as amended by Decisions 98/368 and 1999/816, is to be interpreted as meaning that for the purposes of an objection to a shipment of waste the competent authority of dispatch may, in assessing the effects on health and the environment of the recovery envisaged at the destination, provided it complies with the**

principle of proportionality, rely on the criteria to which, to avoid such effects, the recovery of waste is subject in the State of dispatch, even where those criteria are stricter than those in force in the State of destination.

3. **The second indent of Article 7(4)(a) of Regulation No 259/93, as amended by Decisions 98/368 and 1999/816, is to be interpreted as meaning that a competent authority of dispatch may not rely on those provisions to raise an objection to a shipment of waste based on the fact that the planned recovery does not comply with the national laws and regulations for protection of the environment, public order, public safety or health protection.**

Signatures.