JUDGMENT OF THE COURT (Second Chamber)

24 May 2007 *

In Case C-45/05,

REFERENCE for a preliminary ruling under Article 234 EC from the College van Beroep voor het bedrijfsleven (Netherlands), made by decision of 2 February 2005, received at the Court on 4 February 2005, in the proceedings

Maatschap Schonewille-Prins

v

Minister van Landbouw, Natuur en Voedselkwaliteit,

THE COURT (Second Chamber),

composed of C.W.A. Timmermans, President of the Chamber, R. Schintgen, R. Silva de Lapuerta, G. Arestis (Rapporteur) and L. Bay Larsen, Judges,

* Language of the case: Dutch.

Advocate General: P. Léger,
Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 27 April 2006,

after considering the observations submitted on behalf of:

— Maatschap Schonewille-Prins, by E. Buys, director of Denkavit Nederland BV,

— the Netherlands Government, by H.G. Sevenster and M. de Grave, acting as Agents,

— the Commission of the European Communities, by T. van Rijn, F. Erlbacher and M. van Heezik, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 13 July 2006,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the

market in beef and veal (OJ 1999 L 160, p. 21), Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ 2000 L 204, p. 1), Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes (OJ 1992 L 391, p. 36) and Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92 (OJ 2001 L 327, p. 11). As regards Regulation No 1254/1999, the reference also concerns the validity of Article 21 thereof.

2 The reference was submitted in the course of proceedings between the Maatschap Schonewille-Prins ('Schonewille'), a partnership consisting of farmers specialising in the rearing of bovine animals, and the Minister van Landbouw, Natuur en Voedselkwaliteit (Minister for Agriculture, Nature and Food Quality, 'the Minister') concerning the latter's refusal to grant Schonewille the slaughter premium for bovine animals for which it had previously applied.

Legal context

Community legislation

3 Under Article 11 of Regulation No 1254/1999, a producer keeping bovine animals may qualify for a slaughter premium granted on slaughter of eligible animals or on their export to a non-member country.

4 In this connection, Article 21 of that regulation states:

'To qualify for direct payments under this chapter, an animal shall be identified and registered in accordance with Regulation (EC) No 820/97.'

5 Recital (18) in the preamble to Regulation No 1254/1999 provides:

'... direct payments should be subject to compliance by the keepers of the animals concerned with the relevant Community rules on identification and registration of bovine animals; ...'

6 Council Regulation (EC) No 820/97 of 21 April 1997 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (OJ 1997 L 117, p. 1) was repealed, with effect from 1 September 2000, by Regulation No 1760/2000.

7 Recitals (4) to (7) in the preamble to Regulation No 1760/2000 state:

'Following the instability in the market in beef and beef products caused by the bovine spongiform encephalopathy crisis, the improvement in the transparency of the conditions for the production and marketing of the products concerned, particularly as regards traceability, has exerted a positive influence on consumption

of beef. In order to maintain and strengthen the confidence of consumers in beef and to avoid misleading them, it is necessary to develop the framework in which the information is made available to consumers by sufficient and clear labelling of the product.

To that end it is essential to establish, on the one hand, an efficient system for the identification and registration of bovine animals at the production stage ...

By virtue of the guarantees provided through this improvement, certain public interest requirements will also be attained, in particular the protection of human and animal health.

As a result, consumer confidence in the quality of beef and beef products will be improved, a higher level of protection of public health preserved and the lasting stability of the beef market will be reinforced.'

8 Article 7(1) of Regulation No 1760/2000 specifies:

'With the exception of transporters, each keeper of animals shall:

— keep an up-to-date register,

— once the computerised database is fully operational, report to the competent authority all movements to and from the holding and all births and deaths of animals on the holding, along with the dates of these events, within a period fixed by the Member State of between three and seven days of the event occurring. However, at the request of a Member State and in accordance with the procedure referred to in Article 23(2), the Commission may determine the circumstances in which Member States may extend the maximum period and provide for special rules applicable to movements of bovine animals when put out to summer grazing in different mountain areas.'

9 Article 22(1) of that regulation provides:

'Member States shall take all the necessary measures to ensure compliance with the provisions of this Regulation. ...

Any sanctions imposed by the Member State on a holder shall be proportionate to the gravity of the breach. ...'

10 Article 11(1) of Regulation No 3887/92 provides:

'The penalties laid down in this Regulation shall be without prejudice to additional penalties laid down at national level.'

11 Regulation No 3887/92 was repealed, with effect from 1 January 2002, by Regulation No 2419/2001.

12 Article 44 of Regulation No 2419/2001 states:

'1. The reductions and exclusions provided for in this Title shall not apply where the farmer submitted factually correct information or where he can show otherwise that he is not at fault.

2. The reductions and exclusions provided for in this Title shall not apply with regard to those parts of the aid application as to which the farmer informs the competent authority in writing that the aid application is incorrect or has become incorrect since it was lodged, provided that the farmer has not been informed of the competent authority's intention to carry out an on-the-spot check and that the authority has not already informed the farmer of any irregularity in the application.

The information given by the farmer as referred to in the first subparagraph shall have the effect that the aid application is adjusted to the actual situation.'

13 Article 45 of that regulation provides:

'1. In respect of claimed bovine animals, Article 44 shall apply from the time the aid application is submitted to errors and omissions in relation to entries in the computerised database.

2. In respect of unclaimed bovine animals the reductions and exclusions provided for in Article 39 shall not apply if the farmer communicates amendments and

adjustments of entries in the computerised database to the competent authority provided that the farmer has not been informed of the competent authority's intention to carry out an on-the-spot check.'

14 Article 47(2) of Regulation No 2419/2001 specifies:

'Subject to Article 6 of Council Regulation (EC) No 2988/95, the reductions and exclusions under this Regulation shall be without prejudice to additional sanctions pursuant to any other provisions under Community or national law.'

National legislation

15 The Bovine Animals Identification and Registration Regulations 1998 issued by the Livestock and Meat Board (Verordening identificatie en registratie runderen 1998 van het Productschap Vee en Vlees, 'the PVV regulations') provide as follows:

'*Article 12*

'1. A keeper, with the exception of a transporter, shall be obliged to record the information referred to in Article 4(3) and Article 7(1), second indent, of Regulation No 820/97 in the register accurately and completely.

...

Article 13

1. A keeper, with the exception of a transporter, shall be obliged to notify the information referred to in Article 12(1) of these Regulations ... to the service within a period of 3 working days.'

16 Entitlement to a slaughter premium is provided for in the Netherlands EC Animal Premiums Order (Regeling dierlijke EG-premies, *Staatscourant* 1996, No 80, hereinafter the 'Regeling').

17 Article 2.3(2) of the Regeling provides:

'On application, a premium shall be granted to producers in accordance with the provisions of this Regeling and Regulation No 1254/1999 and Regulation No 2342/1999 in respect of the slaughter or export to a non-member country of a bovine animal which, on the date of slaughter or export to a non-member country, is at least eight months old according to entries in the identification and registration register.'

18 Article 2.4b(2) of the Regeling specifies:

'Applications for premiums in respect of the slaughter of bovine animals in an abattoir situated in the Netherlands shall be submitted through notification of the slaughter to the identification and registration register by the abattoir in question in accordance with the provisions of the PVV regulations.'

19 Article 4.9 of the Regeling provides:

'1. No premium shall be granted for bovine animals in respect of which the producer has not complied within 25 days with the provisions incumbent on him under the PVV regulations regarding notification to the identification and registration register of the date of birth, the date of delivery to or removal from his holding or the date of slaughter or export to a non-member country, where the notification obligation in question arose on or after 1 January 2000.

2. The premium shall be reduced by 25% for bovine animals in respect of which the producer has not complied punctually, but has done so within 25 days of the event concerned, with the provisions incumbent on him under the PVV regulations regarding notification to the identification and registration register of the date of birth, the date of delivery to or removal from his holding or the date of slaughter or export to a non-member country, where the notification obligation in question arose on or after 1 January 2000.'

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

20 On 1 February 2001, Schonewille applied to the Minister for a slaughter premium pursuant to the Regeling in respect of 365 bovine animals.

21 By decision of 24 June 2002, the Minister stated that, of the bovine animals in respect of which Schonewille had applied for a slaughter premium for 2001, only 260 were wholly or partially eligible for that premium.

22 By letter of 23 July 2002, Schonewille lodged a complaint against that decision. On 19 August 2002, the Minister made an amendment by which he considered 15 more bovine animals to be fully eligible for that premium and another animal not to be fully eligible for it.

23 After various exchanges between the parties to the main proceedings, with Schonewille maintaining its complaint, the Minister took a fresh decision on 19 June 2003. He held the complaint to be inadmissible in so far as it concerned the slaughter premium relating to the 15 supplementary animals which were eventually considered to be eligible, and unfounded as regards the remainder of the animals.

24 Furthermore, in that decision the Minister rejected in its entirety the application for a premium for one bovine animal on the ground that notification to the identification and registration register had not been made within the period laid down in Article 4.9(1) of the Regeling. He also reduced by 25%, on the basis of Article 4.9(2) of the Regeling, the premium claimed in respect of a group of bovine animals.

25 On 30 September 2003, Schonewille appealed against the decision of 19 June 2003 to the College van Beroep voor het bedrijfsleven.

26 In the main proceedings, Schonewille maintains that the Minister was wrong to hold that late notification to the identification and registration register of the date of delivery of a bovine animal to a holding could justify a rejection or reduction of the slaughter premium. According to Schonewille, eligibility of bovine animals to the premium must be assessed solely on the basis of Article 21 of Regulation No 1254/1999. Since that article requires only that the animal be identified and registered in accordance with Regulation No 1760/2000, Schonewille takes the view that the Minister may not lay down, in the context of the identification and registration of bovine animals, additional conditions governing that eligibility, such

as the requirements relating to the date of notification to that register as set out in Article 4.9 of the Regeling.

27 According to the referring court, the issue raised in the present case is in essence whether, having regard to the irregularities established in the notifications made by Schonewille to the keeper of the identification and registration register of the dates of delivery of bovine animals to the holding, the Minister was justified in excluding wholly or partially the claim to a slaughter premium made under Regulation No 1254/1999.

28 Against that background, the College van Beroep voor het bedrijfsleven (Administrative Court for Trade and Industry) (Netherlands) has decided to order a stay in proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1) Is Article 21 of Regulation (EC) No 1254/1999 to be interpreted as meaning that any irregularity in complying with Regulation (EC) No 1760/2000 in respect of an animal results in the complete exclusion of a slaughter premium for that animal?

(2) If Question 1 is to be answered in the affirmative, is Article 21 of Regulation (EC) No 1254/1999 then binding, in particular regarding the resulting consequences?

(3) Are Articles 44 and 45 of Regulation (EC) No 2419/2001 applicable to irregularities in complying with Regulation (EC) No 1760/2000?

(4) If Question 3 is to be answered in the affirmative, does the correct application of Article 45 of Regulation (EC) No 2419/2001 in conjunction with Article 44 mean that the exclusion of a slaughter premium is not applicable to an omission relating to the notification of information to the keeper of the computerised database if the information provided, such as in this case the dates of delivery, is factually entirely accurate (and was also correct from the very beginning and therefore did not need to be amended)? If this does not apply to every omission, does it apply in the situation at issue in this dispute, where the omission has consisted of the late provision of information (by a few days or a few weeks), with slaughter taking place some considerable time later?

(5) Is Article 11 of Regulation (EC) No 3887/92 and/or Article 22 of Regulation (EC) No 1760/2000 and/or Article 47(2) of Regulation (EC) No 2419/2001 to be interpreted as meaning that a Member State is authorised to exclude the Community right to a slaughter premium or apply reductions to it by means of a national sanction to ensure compliance with the provisions of the Regulation?

(6) If Question 5 is to be answered wholly or partially in the affirmative, do the exceptions from Community reductions and exclusions laid down at Community level, in particular Articles 44 and 45 of Regulation (EC) No 2419/2001, apply by analogy to national reductions and exclusions?

(7) If Question 6 is to be answered in the affirmative, does a correct application of Article 45 of Regulation (EC) No 2419/2001 in conjunction with Article 44 mean that omissions relating to the notification of information to the computerised database, in particular the late provision of information, cannot result in the exclusion of slaughter premium if the information in the register, such as in this case the date of delivery, is factually entirely accurate?'

The questions referred

The first question

29 By this question, the national court seeks to ascertain, in essence, whether Article 21 of Regulation No 1254/1999 is to be interpreted as meaning that any failure to comply with the time-limit for notification to the computerised database of the movement of a bovine animal to or from a holding, set out in the second indent of Article 7(1) of Regulation No 1760/2000, results in the exclusion of slaughter premium for that animal.

30 It is settled case-law that, in interpreting a provision of Community law, it is necessary to consider not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it is part (see, inter alia, Case C-294/01 *Granarolo* [2003] ECR I-13429, paragraph 34, and Case C-306/05 *SGAE* [2006] ECR I-11519, paragraph 34).

31 Pursuant to Article 21 of Regulation No 1254/1999, in order to be eligible for a slaughter premium, a bovine animal 'shall be identified and registered in accordance with Regulation [No 1760/2000]'.

32 The wording of that article clearly shows, as recital (18) in the preamble to Regulation No 1254/1999 indicates, that the grant of a slaughter premium is subject to compliance by the keepers of the animals concerned with the relevant Community rules on identification and registration of bovine animals.

33 In addition, it should be observed that recital (28) in the preamble to Regulation No 2419/2001 expressly mentions that 'the proper identification and registration of bovine animals is an eligibility condition [for the slaughter premium] pursuant to Article 21 of Regulation ... No 1254/1999'.

34 Further, as recital (8) in the preamble to Regulation No 1760/2000 points out, 'animals for intra-Community trade must be identified in accordance with the requirements of Community rules and be registered in such a way that the original or transit holding, centre or organisation can be traced, and ..., before 1 January 1993 these identification and registration systems are to be extended to the movements of animals within the territory of each Member State'.

35 In this connection, concerning specifically the registration of bovine animals, the second indent of Article 7(1) of Regulation No 1760/2000 provides that each keeper of animals shall 'report to the competent authority all movements to and from the holding and all births and deaths of animals on the holding, along with the dates of these events, within a period fixed by the Member State of between three and seven days of the event occurring. However, at the request of a Member State and in accordance with the procedure referred to in Article 23(2), the Commission may determine the circumstances in which Member States may extend the maximum period and provide for special rules applicable to movements of bovine animals when put out to summer grazing in different mountain areas'.

36 That provision is drafted in mandatory terms which describe in detail the scope of the notification obligation imposed on keepers of animals and delimit precisely the period within which those keepers must perform that obligation.

37 In the same way, it should be observed that that provision, at the end, sets out exactly what the procedure is for extending that period. The precise specification of that procedure would serve no purpose if keepers of animals were free not to comply with that period.

38 It follows that that provision must be interpreted as meaning that each keeper of animals is required to comply with the prescribed period when he notifies the computerised database of the movement of a bovine animal to or from his holding.

39 Such an interpretation is also consistent with the express wording of Article 9 of Commission Regulation (EC) No 911/2004 of 29 April 2004 implementing Regulation No 1760/2000 as regards eartags, passports and holding registers (OJ 2004 L 163, p. 65), which provides that the keeper of animals must make that notification within the period of between three and seven days.

40 That interpretation is also borne out by the objectives pursued by Regulation No 1760/2000, which, as recitals (4) to (7) in the preamble thereto indicate, are to improve consumer confidence in the quality of beef and beef products, to preserve the protection of public health and to reinforce the lasting stability of the beef market.

41 In order to meet those objectives, the system of identification and registration of bovine animals must be fully effective and reliable at all times so as, in particular, to enable the competent authorities, in the event of epizootic disease, to pinpoint as soon as possible the origin of an animal and immediately to take the necessary measures for the purpose of avoiding any risk to public health. That cannot occur where the keeper of animals fails to notify movements of his bovine animals to the computerised database within the period prescribed in Article 7(1), second indent, of Regulation No 1760/2000.

42 Furthermore, it must be stated that, other than the derogation mentioned in Article 7(1) itself, there is no derogation allowed to the obligation to notify within the period prescribed in that article laid down by Community law, even by Regulation No 1254/1999, which makes the grant of the slaughter premium subject to compliance with the relevant Community rules on the identification and registration of bovine animals, rules of which the provisions of Article 7(1), second indent, form an integral part.

43 In the light of the foregoing considerations, the answer to the first question is that Article 21 of Regulation No 1254/1999 must be interpreted as meaning that the failure to comply with the period for notification to the computerised database of the movement of a bovine animal to or from a holding, laid down in the second indent of Article 7(1) of Regulation No 1760/2000, renders that bovine animal ineligible for a slaughter premium and, consequently, results in the exclusion of that premium for that animal.

The second question

44 By its second question, the referring court seeks to ascertain, in essence, whether the effects of Article 21 of Regulation No 1254/1999, as described in the answer to the first question, are not so disproportionate as to render that provision invalid.

45 In that regard, it should be remembered that the principle of proportionality, which is one of the general principles of Community law, requires that measures adopted by Community institutions do not exceed the limits of what is appropriate and necessary in order to attain the objectives legitimately pursued by the legislation in question; when there is a choice between several appropriate measures, recourse must be had to the least onerous, and the disadvantages caused must not be disproportionate to the aims pursued (see, for example, Joined Cases C-133/93, C-300/93 and C-362/93 *Crispoltoni and Others* [1994] ECR I-4863, paragraph 41, and Case C-157/96 *National Farmers' Union and Others* [1998] ECR I-2211, paragraph 60).

46 With regard to judicial review of compliance with the abovementioned conditions, in matters concerning the common agricultural policy the Community legislature has a discretionary power which corresponds to the political responsibilities given to it by Articles 34 EC to 37 EC. Consequently, the legality of a measure adopted in that sphere can be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue (see *Crispoltoni and Others*, paragraph 42, and *National Farmers' Union and Others*, paragraph 61).

47 It should also be stated that, when the Community legislature fixes conditions for eligibility in respect of the award of aid, the exclusion entailed by the failure to observe one of those conditions is not a penalty, but merely the consequence of

failure to fulfil those conditions laid down by the law (see, to that effect, Case C-171/03 *Toeters and Verberk* [2004] ECR I-10945, paragraph 47).

48 Article 21 of Regulation No 1254/1999 makes the award of a slaughter premium subject to compliance with the relevant Community rules on identification and registration of bovine animals included in the provisions of Regulation No 1760/2000. One of those rules, Article 7(1), second indent, requires compliance with the period for notification to the computerised database of the movement of a bovine animal to or from a holding. Consequently, a failure to comply with that period results in the exclusion of a slaughter premium for the bovine animal concerned, that exclusion being merely the consequence of failure to fulfil one of the conditions for eligibility in respect of the grant of that premium.

49 As is apparent from paragraphs 40 and 41 of this judgment, the obligation to comply with the period for notification laid down in Article 7(1), second indent, of Regulation No 1760/2000 is of particular importance in the context of the Community rules that apply to the identification and registration of bovine animals.

50 That obligation, which allows the competent authorities to pinpoint rapidly the origin of an animal in the event of epizootic disease and to take the necessary measures for the purpose of avoiding any risk to public health, is part of the objectives of the system for the identification and registration of bovine animals set out in those paragraphs, and, inter alia, of the system seeking to ensure efficient tracing in real time of those animals, which is essential for public health reasons. Accordingly, that obligation cannot be regarded as a manifestly inappropriate means of achieving those objectives.

51 Furthermore, the exclusion of the slaughter premium in the event of failure to comply with the period for notification to the computerised database relates only to bovine animals in respect of which the registration obligation prescribed in Article 7(1), second indent, of Regulation No 1760/2000 has not been complied with.

52 The answer to the second question is therefore that consideration of it has revealed nothing capable of casting doubt on the validity of Article 21 of Regulation No 1254/1999 in the light of the principle of proportionality, in so far as that article renders a bovine animal in respect of which there has been a failure to comply with the notification period set out in Article 7(1), second indent, of Regulation No 1760/2000 ineligible for the slaughter premium and consequently results in the exclusion of that premium for that animal.

The third and fourth questions

53 By its third and fourth questions, which should be examined together, the referring court seeks to ascertain, in essence, whether Articles 44 and 45 of Regulation No 2419/2001 apply to an exclusion of slaughter premium for a bovine animal in respect of which the information regarding its movement to or from the holding was not notified to the computerised database within the period laid down in Article 7(1), second indent, of Regulation No 1760/2000, in the case where that information, sent to that database after the expiry of the prescribed period, is correct.

54 First of all, it should be noted that, as the Advocate General observed in point 67 of his Opinion, Regulation No 2419/2001 is not, in principle, applicable to the facts of the main action, since these are covered ratione temporis by Regulation No 3887/92.

55 However, the Court held, in paragraph 61 of its judgment in Case C-295/02 *Gerken* [2004] ECR I-6369, that Article 2(2) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests is to be interpreted as meaning that where, in an application for 'livestock' aid covered ratione temporis by Regulation No 3887/92, there is an irregularity giving rise to a penalty under Article 10(2)(a) of that regulation (now Article 10b(2), first and second subparagraphs, following the amendments made by Commission Regulation (EC) No 2801/1999 of 21 December 1999 (OJ 1999 L 340, p. 29)), the competent authorities must apply the provisions of Article 44(1) of Regulation No 2419/2001 retroactively on the ground that those provisions are less severe as regards the conduct in question (see also Case C-45/06 *Campina* [2007] ECR I-2089, paragraphs 32 and 33).

56 It follows that the exceptions set out in Articles 44 and 45 of Regulation No 2419/2001 apply retroactively to the penalties imposed with regard to the aid applications falling within the scope ratione temporis of Regulation No 3887/92, in so far as the application of those articles leads to penalties which are less severe than those applicable under the latter regulation, which does not provide for any such exceptions.

57 As regards the scope ratione materiae of Articles 44 and 45 of Regulation No 2419/2001, Article 44(1) restricts the application of the exceptions laid down in those articles to the reductions and exclusions set out in the provisions of Title IV of that regulation. It follows that, in the light of the findings arrived at in *Gerken*, those exceptions, under Regulation No 3887/92, can only cover penalties such as those referred to in that Article 10b. That article, which sets out penalties consisting in reductions in and exclusions of the total amount of the aid which the farmer may claim, is, as the Advocate General stated in point 70 of his Opinion, designed to impose a financial penalty on the farmer based on the difference between the number of animals declared in the aid application and the number of eligible animals found.

58 As is apparent from paragraph 48 of this judgment, the exclusion of the slaughter premium for a bovine animal in respect of which the information regarding its movement to or from the holding was not notified to the computerised data base within the period laid down in Article 7(1), second indent, of Regulation No 1760/2000, is not a penalty but the consequence of failure to fulfil those conditions for eligibility in respect of the award of that premium.

59 Consequently, the exceptions laid down in Article 44 and Article 45 of Regulation No 2419/2001 do not apply to such an exclusion so as to render eligible for a slaughter premium a bovine animal in respect of which the conditions for eligibility for award of that premium have not been fulfilled.

60 Having regard to the foregoing considerations, the answer to the third and fourth questions is that Article 44 and Article 45 of Regulation No 2419/2001 do not apply to the exclusion of a slaughter premium for a bovine animal in respect of which the information regarding its movement to or from a holding was not notified to the computerised database within the period laid down in Article 7(1), second indent, of Regulation No 1760/2000, so as to render that bovine animal eligible for a slaughter premium, even in the case where that information sent to the database in question after the expiry of the prescribed period was correct.

The fifth question

61 By its fifth question, the referring court seeks to ascertain, in essence, whether Article 11 of Regulation No 3887/92 and/or Article 22 of Regulation No 1760/2000 and/or Article 47(2) of Regulation No 2419/2001 are to be interpreted as meaning that a Member State can reduce or exclude the right to a slaughter premium by

means of a national penalty in order to ensure compliance with Community legislation.

62 It must first of all be stated that, as paragraphs 54 and 55 of this judgment indicate, since Regulation No 2419/2001 is not, in principle, applicable to the facts of the main action and the findings in *Gerken* do not allow for retroactive application of the penalties set out in that regulation unless they are less severe as regards the conduct in question, Article 47(2) of that regulation, which allows both national and Community penalties to be applied concurrently, cannot be applied retroactively and consequently cannot apply in the case in the main proceedings.

63 Next, it must be pointed out that the aims of Regulation No 3887/92 are, as set out in the seventh and ninth recitals in its preamble, to monitor effectively compliance with the provisions on Community aid and to adopt provisions which prevent and penalise irregularities and fraud effectively (see Case C-63/00 *Schilling and Nehring* [2002] ECR I-4483, paragraph 25, and *Gerken*, paragraph 41).

64 In this respect, as regards the applications for slaughter premiums, that regulation specifically provides for penalties consisting in reductions and exclusions from the total amount of Community aid to be applied in the event of any irregularity. It thus establishes a system of common rules designed to safeguard the financial interests of the European Community.

65 Member States therefore cannot lay down national penalties consisting in reductions and exclusions from the total amount of Community aid which can be

claimed by a farmer who has applied for a slaughter premium, since penalties of that type are already set out in detail in Regulation No 3887/92.

66 Such an interpretation is consistent with the express wording of Article 51 of Regulation No 2419/2001 and Article 75 of Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ 2004 L 141, p. 18), which replaced Regulations No 3887/92 and No 2419/2001, under which the Member States can impose appropriate national penalties on producers or other operators involved in the procedure for granting aid only where the reductions or exclusions in question are not provided for in those regulations.

67 Lastly, it should be mentioned that that interpretation is not at variance with Article 11 of Regulation No 3887/92 and/or Article 22 of Regulation No 1760/2000, in so far as it does not preclude Member States from adopting national penalties of a different type to the reductions or exclusions referred to in Regulation No 3887/92.

68 In the light of the foregoing, the answer to the fifth question is that Article 11 of Regulation No 3887/92 and/or Article 22 of Regulation No 1760/2000 must be interpreted as meaning that a Member State cannot lay down national penalties consisting in reductions and exclusions from the total amount of Community aid which can be claimed by a farmer who has applied for a slaughter premium, since penalties of that type are already set out in detail in Regulation No 3887/92.

The sixth and seventh questions

69 Having regard to the answer to the fifth question, there is no need to answer the sixth and seventh questions.

Costs

70 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 (Second Chamber) hereby rules:

1. **Article 21 of Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal must be interpreted as meaning that the failure to comply with the period for notification to the computerised database of the movement of a bovine animal to or from a holding, laid down in the second indent of Article 7(1) of Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97, renders that bovine animal ineligible for a slaughter premium and, consequently, results in the exclusion of that premium for that animal.**

2. **Consideration of the second question referred has revealed nothing capable of casting doubt on the validity of Article 21 of Regulation No 1254/1999 in the light of the principle of proportionality, in so far as that article renders a bovine animal in respect of which there has been a failure to comply with the notification period set out in Article 7(1), second indent, of Regulation No 1760/2000 ineligible for a slaughter premium and consequently results in the exclusion of that premium for that animal.**

3. **Articles 44 and 45 of Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92 do not apply to the exclusion of a slaughter premium for a bovine animal in respect of which the information regarding its movement to or from a holding was not notified to the computerised database within the period laid down in Article 7(1), second indent, of Regulation No 1760/2000, so as to render that bovine animal eligible for a slaughter premium, even in the case where that information sent to the database in question after the expiry of the prescribed period was correct.**

4. **Article 11 of Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes and/or Article 22 of Regulation No 1760/2000 must be interpreted as meaning that a Member State cannot lay down national penalties consisting in reductions and exclusions from the total amount of Community aid which can be claimed by a farmer who has applied for a slaughter premium, since penalties of that type are already set out in detail in Regulation No 3887/92.**

[Signatures]