OPINION OF ADVOCATE GENERAL POIARES MADURO delivered on 1 March 2007 [1]

I — Introduction

1. The substantive questions referred by the College van Beroep voor het bedrijfsleven (Administrative Court for Trade and Industry) (Netherlands) in the present series of cases are identical to those referred by the same court in *Dokter and Others*. [2] They relate to the interpretation of Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease. [3] Yet, this time, the referring court seeks guidance regarding a problem that has less to do with foot-and-mouth disease than with rules of legal procedure.

2. In *Dokter and Others*, the applicants in the main proceedings contested the lawfulness of the decision to slaughter the animals on their holdings, on the ground that that decision was based on an analysis carried out by a laboratory that was not listed in Annex B to the directive. In the present cases, the applicants in the main proceedings have also challenged the decision to slaughter their animals. However, in their submissions to the national court they did not rely on the argument that the laboratory was not listed in Annex B to the directive, although the cases concerned exactly the same laboratory. The referring court therefore asks whether Community law requires that it raise the issue of its own motion, despite national procedural rules that would normally stand in the way of that option.

3. I have already presented my views on the substantive questions regarding the directive in my Opinion in *Dokter and Others*. I shall focus here on the question of procedural law raised by the referring court and attempt to position the present cases in the constellation of case-law that began with *Peterbroeck* [4] and *Van Schijndel and Van Veen*. [5] I might note, however, that it is difficult to escape the impression that the relevance of this ques-

1 — Original language: Portuguese.

2 — Case C-28/05 [2006] ECR I-5431.

3 — OJ 1985 L 315, p. 11, as amended by Council Directive 90/423/EEC of 26 June 1990 (OJ 1990 L 224, p. 13).

4 — Case C-312/93 [1995] ECR I-4599.

5 — Joined Cases C-430/93 and C-431/93 [1995] ECR I-4705.

tion to the solution of the cases in the main proceedings is incidental. In fact, the referring court's request for guidance mainly seems to spring from a more general interest in a clarification of the Court's case-law in this field.

II — Facts and the questions referred for a preliminary ruling

4. The proceedings before the College van Beroep voor het bedrijfsleven arose as a consequence of the outbreak of foot-and-mouth disease in 2001, which affected a number of Member States. In response to that outbreak, the authorities in the Netherlands took measures to avert further spreading of the disease. [6] Those measures included the preventive slaughter of cloven-hoofed animals on holdings located in the vicinity of a contaminated holding.

5. Based on the results of tests performed by the laboratory ID-Lelystad BV ('ID-Lelystad'), the Rijksdienst voor de keuring van Vee en Vlees (National Livestock and Meat Inspectorate; 'the RVV') concluded that the holdings of the applicants in the main proceedings were in the vicinity of a contaminated holding. The RVV therefore ordered the preventive slaughter of the animals on the applicants' holdings.

6. In the proceedings before the referring court, the applicants contested the lawfulness of the decisions to slaughter their animals on several grounds. The referring court rejected those grounds. However, the applicants in a series of similar cases also pending before that court had challenged the lawfulness of similar decisions on the further ground that ID-Lelystad was not mentioned in Annex B to Directive 85/511. This argument prompted the preliminary reference that gave rise to the ruling in *Dokter and Others*. [7]

7. The questions in *Dokter and Others* concerned Articles 11 and 13 of Directive 85/511. Pursuant to the first indent of Article 11(1) and the second indent of Article 13(1), Member States must ensure that the manipulation of foot-and-mouth virus for diagnosis is carried out only in approved laboratories listed in Annex B to the directive. The laboratory listed for the Netherlands was CIDC-Lelystad. ID-Lelystad was created from CIDC-Lelystad following a series of mergers and successions but was never

6 — See also Case C-189/01 *Jippes* [2001] ECR I-5689 and Joined Cases C-96/03 and C-97/03 *Tempelman and Van Schaijk* [2005] ECR I-1895.

7 — Cited in footnote 2.

entered into Annex B. The referring court therefore requested guidance as to the consequences of the designation of reference laboratories under the directive. In addition, it enquired whether under Community law it must be held that the national authority is bound by the results provided by the laboratory that carried out the tests.

8. While the reference in *Dokter and Others* was still pending, the College van Beroep voor het bedrijfsleven decided to ask the Court exactly the same questions in the cases presently under consideration. However, this time it also asked whether Community law obliged it to raise the problem regarding the status of ID-Lelystad of its own motion.

III — Assessment

Admissibility

9. The Court gave judgment in *Dokter and Others* on 15 June 2006. In the light of that judgment, the Court sent a letter to the national court asking it whether it wished to maintain its request for a preliminary ruling in the present cases. By letter of 27 July 2006 that court replied in the affirmative.

10. In this Opinion, I shall address only the question whether Community law requires the national court to go beyond the ambit of the dispute as defined by the parties in order to examine, of its own motion, grounds based on Directive 85/511. As to the other questions raised, I respectfully invite the Court to take note once again of my Opinion in *Dokter and Others* and, needless to say, of its own ruling in that case.

11. National rules that restrict a court from raising a plea of its own motion cannot stand in the way of a referral to the Court of Justice in order to determine whether such rules are compatible with Community law. [8] Nevertheless, that referral would be inadmissible if the enquiry is not necessary to resolve the dispute in the main proceedings. [9]

8 — *Peterbroeck*, cited in footnote 4, paragraph 13. See also: Case 166/73 *Rheinmühlen* [1974] ECR 33, paragraphs 2 and 3, and Case C-446/98 *Fazenda Pública* [2000] ECR I-11435, paragraph 48.

9 — See, to that effect, Case 149/82 *Robards* [1983] ECR 171, paragraph 19; Case C-83/91 *Meilicke* [1992] ECR I-4871, paragraph 25; and Case C-451/99 *Cura Anlagen* [2002] ECR I-3193, paragraph 26.

12. One could be forgiven for thinking that the question to which the referring court currently seeks an answer borders on the hypothetical. Indeed, the Commission has argued during the hearing that, given the ruling in *Dokter and Others*, the answer to that question will not influence the outcome of the main proceedings. Although I sympathise with that view, I do not consider the argument convincing enough to conclude that the referring court's question is inadmissible. In principle it is for the referring court 'to determine both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court'. [10] Moreover, the effect of the ruling in *Dokter and Others* is not yet entirely certain, since that ruling left some margin of discretion to the referring court. For those reasons I would consider the question to be admissible.

Community law requirements as regards national procedural rules

13. The Court has repeatedly emphasised the 'principle of procedural autonomy', which means that national courts, when they apply Community law, may do so pursuant to their own national procedural rules. Thus, in the absence of harmonisation of such rules, 'it is for the domestic legal system of each Member State to designate the courts and tribunals having jurisdiction and to lay down the detailed procedural rules governing actions for safeguarding rights which individuals derive from the direct effect of Community law'. [11]

14. However, this does not completely exempt national procedural rules from requirements imposed by Community law. According to settled case-law, national procedural rules must comply with the principles of equivalence and effectiveness. [12]

15. The principle of equivalence requires that the same procedural rules apply to claims based on Community law as to comparable claims based on national law. [13]

10 — Joined Cases C-163/94, C-165/94 and C-250/94 *Sanz de Lera* [1995] ECR I-4821, paragraph 15. See also Case C-144/04 *Mangold* [2005] ECR I-9981, paragraphs 32 to 38.

11 — *Van Schijndel and Van Veen*, cited in footnote 5, paragraph 17. See also, for example, Case 33/76 *Rewe-Zentralfinanz* [1976] ECR 1989, paragraph 5; Case 45/76 *Comet* [1976] ECR 2043, paragraph 13; Case C-128/93 *Fisscher* [1994] ECR I-4583, paragraph 39; Case C-410/92 *Johnson* [1994] ECR I-5483, paragraph 21; and Case C-246/96 *Magorrian and Cunningham* [1997] ECR I-7153, paragraph 37.

12 — See, for example, Case C-231/96 *Edis* [1998] ECR I-4951, paragraph 34; Case C-453/99 *Courage* v *Crehan* [2001] ECR I-6297, paragraph 29; Case C-30/02 *Recheio — Cash & Carry* [2004] ECR I-6051, paragraph 17; and Joined Cases C-290/05 and C-333/05 *Nádasdi and Németh*[2006] ECR I-10115, paragraph 69.

13 — See, for example, *Rewe-Zentralfinanz*, cited in footnote 11, paragraph 6, and Case C-78/98 *Preston and Others* [2000] ECR I-3201, paragraph 31.

16. The principle of effectiveness entails that the conferral of rights by Community law must be meaningful in practice. It essentially expresses, as regards rights conferred by Community law, the familiar precept that where there is a right, there must be a remedy. [14] In the words of Advocate General Jacobs: 'an individual who considers himself wronged by a measure which deprives him of a right or advantage under Community law must have access to a remedy against that measure and be able to obtain complete judicial protection'. [15] The principle of effectiveness accordingly precludes procedural rules that render the exercise of rights conferred by Community law practically impossible or excessively difficult. [16]

17. Thus, while the principle of effectiveness imposes a minimum standard of procedural treatment, which must be guaranteed to holders of a Community right, the principle of equivalence assures that the procedural treatment of holders of a Community right shall not be inferior to that given to holders of a similar right granted by domestic law.

18. This ensemble of principles also provides the looking glass through which to assess a national procedural rule that limits the possibility for a court to raise a plea of its own motion. Hence, in conformity with the principle of procedural autonomy, the Court has held that Community law usually does not require a national court to be able to raise pleas of Community law of its own motion where the parties have failed to do so. [17] However, the case-law also shows that to this rule there are exceptions by virtue of the principle of effectiveness and the principle of equivalence.

19. The theoretical framework sketched so far may appear reasonably straightforward. Yet, the application of the principles of effectiveness and equivalence has resulted in what seems to be, at first sight, a somewhat haphazard series of decisions. I shall endeavour to describe how these various decisions — as well as the cases presently under consideration — may none the less be charted according to the principle at play, beginning with the cases corresponding to the principle of effectiveness.

14 — Case C-213/89 *Factortame and Others* [1990] ECR I-2433; Joined Cases C-6/90 and C-9/90 *Francovich and Others* [1991] ECR I-5357; *Courage* v *Crehan*, cited in footnote 12.

15 — Opinion of Advocate General Jacobs in Case C-50/00 P *Unión de Pequeños Agricultores* v *Council* [2002] ECR I-6677, point 38. See also Case 222/86 *Heylens* [1987] ECR I-4097, paragraphs 15 to 17.

16 — See, for instance, *Peterbroeck*, cited in footnote 4, paragraph 14, and *Courage* v *Crehan*, cited in footnote 12, paragraphs 25 and 29.

17 — *Van Schijndel and Van Veen*, cited in footnote 5, paragraph 22. Nor does Community law *preclude* national courts from taking provisions of Community law into consideration even if the parties have not relied on them (see, to that effect, Joined Cases C-87/90, C-88/90 and C-89/90 *Verholen and Others* [1991] ECR I-3757, paragraphs 12 to 16, and Case C-315/01 *GAT* [2003] ECR I-6351, paragraphs 46 and 50).

The principle of effectiveness

20. The first of those cases, *Peterbroeck*,[18] immediately raises the question how the Court's application of the principle of effectiveness can be explained properly, especially in light of the Court's ruling of the same day in *Van Schijndel and Van Veen*.[19] In *Peterbroeck*, the Court disapproved of a procedural rule that prevented a national court from considering of its own motion whether a measure of domestic law was compatible with Community law, while in *Van Schijndel and Van Veen* the Court upheld a seemingly comparable rule.

21. Both cases turned on the principle of effectiveness: did the procedural rule at issue make it excessively difficult to exercise a right conferred by Community law? The Court made a factual assessment in view of the procedure as a whole. In *Van Schijndel and Van Veen*, the appellants had asked the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) to quash two decisions of the Rechtbank Breda (Regional Court of Breda) on the ground that that court should have considered, of its own motion, the Treaty rules on competition and freedom to provide services. In response to the preliminary reference from the Hoge Raad, the Court held that, in the circumstances at issue, Community law did not oblige the national courts to depart from their national procedural rules and go beyond the ambit of the dispute as defined by the parties.

22. The situation in *Peterbroeck*, however, was different. It concerned an appeal against a decision of the Belgian tax authorities. In principle, judicial review of that decision was limited to the grounds on which the applicant had relied during the administrative review procedure. Once that procedure had come to a close, the applicant had 60 days to raise new pleas — including those based on Community law — before the competent court. The Court held that this limitation period, considered in its legal and practical context, in effect impaired the possibility of exercising rights conferred by Community law.

23. The question whether in practice it is excessively difficult to exercise a right can be a matter of a sliding scale — which explains why *Peterbroeck* and *Van Schijndel and Van Veen* resulted in a different outcome on the basis of only a few factors. There are circumstances, however, in which it is apparent that, without the possibility for a

18 — Cited in footnote 4.

19 — Cited in footnote 5.

national court to raise a plea based on Community law of its own motion, it would be extremely difficult for parties to obtain judicial protection where Community law grants them a right. *Océano Grupo Editorial and Salvat Editores* [20] and *Cofidis* [21] provide an example.

24. In *Océano Grupo Editorial and Salvat Editores* and *Cofidis*, the Court held that the possibility for a court to raise a plea of its own motion may be implied in the terms of a directive, when it is a necessary means to achieving the purpose of that directive. [22] More precisely, the Court held that the power of a national court to determine of its own motion, that the jurisdiction clause in a consumer contract amounted to an unfair term, was necessary to achieve the purpose of Council Directive 93/13/EEC. [23] That purpose, after all, was to protect consumers against unfair terms in consumer contracts. The Court interpreted the directive in harmony with the principle of effectiveness. Had the Court done otherwise, 'the paradoxical situation would [have arisen] in which the consumer would [have been] obliged to appear before a court in a place other than that where he resides precisely in order to argue that the contractual term obliging him to do so is an unfair term!' [24]

25. Perhaps the case-law can best be summarised as follows: the principle of effectiveness does not impose a duty on national courts to raise pleas based on Community law of their own motion, except in circumstances where this would be necessary in order to ensure that judicial protection is available where Community law confers a right. Therefore, national courts have a duty to intervene when it is necessary to guarantee the protection of rights granted by Community law. Yet, the principle of effectiveness does not entail a general duty for national courts to ensure, under all circumstances, the application of rules arising from the Community legal order.

26. Is this any different when the Community rule at issue is fundamental? In its order for reference, the referring court contemplates the possibility that some norms may be of such crucial importance that Community law regards them as rules of 'public policy' and thus requires national courts to apply them of their own motion. In this

20 — Joined Cases C-240/98 to C-244/98 [2000] ECR I-4941.

21 — Case C-473/00 [2002] ECR I-10875.

22 — *Océano Grupo Editorial and Salvat Editores*, cited in footnote 20, paragraph 26, and *Cofidis*, cited in footnote 21, paragraphs 32 and 33.

23 — Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, p. 29).

24 — Opinion of Advocate General Saggio in *Océano Grupo Editorial and Salvat Editores*, at point 24.

connection, the referring court mentions the ruling in *Eco Swiss*. [25] That case concerned an application for annulment of an arbitration award. The arbitrator had awarded compensation for damages as a result of the termination of a licensing agreement. During the arbitration proceedings, the question whether the agreement might be void under Article 81 EC was not raised. The Court held that the national court had to grant the application for annulment of the arbitration award if it considered that the award was contrary to Article 81 EC and if national rules of procedure required it to grant an application for annulment founded on failure to observe national rules of public policy. [26]

27. However, it would be mistaken to conclude from *Eco Swiss* that the principle of effectiveness requires that some Community norms, on account of their importance for the Community legal system, must be applied by national courts even where the parties have failed to rely on them. Indeed, such a reading of *Eco Swiss* would be irreconcilable with the judgment in *Van Schijndel and Van Veen*. Admittedly, the Court observed in *Eco Swiss* that Article 81 EC constituted 'a fundamental provision which is essential for the accomplishment of the tasks entrusted to the Community'. [27] However, the same provision was also at issue in *Van Schijndel and Van Veen*, and there the Court did not find an obligation to apply Article 81 EC. It follows that the question whether the provision under consideration is one of public policy is not decisive for the purposes of applying the principle of effectiveness. In fact, as I shall explain below, *Eco Swiss* belongs, first and foremost, to the class of cases in which the Court applied the principle of equivalence.

28. Still, the Court did make a statement on the principle of effectiveness in *Eco Swiss*. After having decided the case on the basis of the principle of equivalence, the Court further noted that 'questions concerning the interpretation of the prohibition laid down in [Article 81(1) EC] should be open to examination by national courts when asked to determine the validity of an arbitration award'. [28] The Court's main concern appears to have been that a judicial remedy must be available in order to challenge an arbitration award that infringes Article 81 EC. [29] Consequently, a national rule that limits the judicial review of an arbitration award to the grounds on which the applicant had relied

25 — Case C-126/97 [1999] ECR I-3055.

26 — *Eco Swiss*, paragraph 41.

27 — *Eco Swiss*, paragraph 36.

28 — *Eco Swiss*, paragraph 40.

29 — National law may of course require that the challenge be brought within a reasonable period (see paragraphs 43 to 48 of *Eco Swiss*).

during the arbitration proceedings contravenes the principle of effectiveness. The fact that the parties had an opportunity to rely on grounds based on Community law during the arbitration proceedings does not guarantee complete judicial protection, because those proceedings — like the administrative review procedure in *Peterbroeck* — do not constitute *judicial* proceedings in the strict sense. [30]

29. In sum, the principle of effectiveness does not impose a duty on national courts to raise a plea based on Community law of their own motion, even when the plea would concern a provision of fundamental importance to the Community legal order. However, the principle of effectiveness does require that parties be given a genuine opportunity to raise a plea based on Community law before a national court. Otherwise, the national court must have the power to raise that plea of its own motion.

30. It is common ground that, in the proceedings under consideration, the parties had a genuine opportunity to raise the plea based on Articles 11 and 13 of Directive 85/511 in their submissions to the national court. Contrary to what was the case in *Peterbroeck*, national procedural rules did not make it excessively difficult to rely on those provisions. The mere fact that the parties failed to do so does not create an obligation for the national court to provide assistance and repair the omission on account of the principle of effectiveness.

31. Moreover, as the referring court correctly observed, Directive 85/511 does not entail that Articles 11 and 13 must be applied by national courts of their own motion. The purpose of the directive, as set out in Article 1, is to define the 'Community control measures to be applied in the event of outbreaks of foot-and-mouth disease' and thus protect the health of livestock in the Community as a whole. [31] One would be hard put to conclude that this purpose can be attained only if the national court acknowledges that it has the power to raise of its own motion the plea that the decision to slaughter the applicants' animals in order to prevent the spread of foot-and-mouth disease was based on analyses performed by a laboratory that is not mentioned in Annex B to the directive. In so far as the directive

30 — In that regard, the ruling in *Eco Swiss* is consistent with the Court's ruling that an arbitration tribunal constituted pursuant to an agreement under private law, without State intervention, is not to be regarded as a court or tribunal for the purposes of Article 234 EC and cannot therefore make references for a preliminary ruling under that article (Case 102/81 *Nordsee* v *Reederei Mond* [1982] ECR 1095).

31 — See the preamble to Directive 85/511.

aims to confer rights on the applicants, the effective judicial protection of those rights can in principle also be achieved without the obligation for the national court to invoke the directive of its own motion. In that respect, the present cases are markedly different from *Océano Grupo Editorial and Salvat Editores* and *Cofidis*.

32. Consequently, the principle of effectiveness does not require the national court to examine the plea based on Articles 11 and 13 of the directive of its own motion. The question remains, however, whether such a requirement follows from the principle of equivalence.

The principle of equivalence

33. Where national procedural law gives a court the possibility to raise pleas of its own motion, the principle of equivalence requires that that possibility extends to pleas based on Community law. In fact, in respect of pleas based on Community law, the principle of cooperation laid down in Article 10 EC entails a duty of national courts to make use of that possibility. [32] However, the power of courts to raise pleas based on national law of their own motion is normally strictly limited. As a result, the problem arises how those limitations affect the duty to raise pleas based on Community law.

34. In other words, where national courts have the power to examine *certain* grounds based on national law of their own motion, the principle of equivalence requires that they also have that power in respect of *equivalent* grounds based on Community law. The question, therefore, is how to determine which grounds are 'equivalent'.

35. *Eco Swiss* provides an illustration. [33] The national rules of procedure that were at issue in that case provided that the annulment of an arbitration award might only be ordered on a limited number of grounds, including

32 — See, to that effect: Case C-72/95 *Kraaijeveld* [1996] ECR I-5403, paragraphs 57 and 58, and *Van Schijndel and Van Veen*, cited in footnote 5, paragraphs 13 and 14.

33 — Cited in footnote 25.

the ground that the award was 'contrary to public policy'. [34] The referring court explained that, according to the national rules of civil procedure, an arbitration award was contrary to public policy 'only if its terms or enforcement [conflicted] with a mandatory rule so fundamental that no restrictions of a procedural nature should prevent its application'. [35] The referring court also pointed out that an arbitration award that runs counter to national rules of competition law was not generally regarded as being contrary to public policy. [36] The Court nevertheless held that, from the perspective of Community law, the prohibition laid down in Article 81 EC is a fundamental mandatory rule. Hence, Article 81 EC in effect had the same status as national rules of public policy. [37] As a consequence, the principle of equivalence required that the national court must grant the application for annulment of the arbitration award if it considered that the award was contrary to Article 81 EC. [38]

36. In the present proceedings, the notion of 'public policy' is used in a very different sense. The material provision of national law is Article 8:69, paragraph 1, of the General code of administrative law (Algemene Wet Bestuursrecht, 'Awb'), which provides:

'The Court before which proceedings are brought shall give its ruling on the basis of the application, the documents produced, the preliminary investigation and the consideration of the case at the hearing.'

Article 8:69 Awb goes on to say that the court has the duty to supplement the legal grounds. Yet, when doing so the court must remain within the ambit of the dispute as defined by the parties. It may only go beyond the ambit of the dispute in order to examine of its own motion grounds of public policy. [39]

34 — *Eco Swiss*, paragraph 7.

35 — *Eco Swiss*, paragraph 24.

36 — *Eco Swiss*, paragraph 24.

37 — See also, to that effect, Joined Cases C-295/04 to C-298/04, *Manfredi and Others*[2006] ECR I-6619, paragraph 31.

38 — See, in particular, paragraph 37 of *Eco Swiss*.

39 — Jans, J.H., *Doorgeschoten? Enkele opmerkingen over de gevolgen van de Europeanisering van het bestuursrecht voor de grondslagen van de bestuursrechtspraak*, Amsterdam: Europa Law Publishing, 2005; Brugman, D., 'Ambtshalve toetsing afgebakend: de plaats van ambtshalve toetsing in het bestuursprocesrecht in nationaal- en Europeesrechtelijk perspectief', *Nederlands Tijdschrift voor bestuursrecht*, 2005, Vol. 8, pp. 265-277; Tak, A.Q.C., *Het Nederlands bestuursprocesrecht in theorie en praktijk*, Nijmegen: Wolf Legal Publishers, 2005, p. 497; Van Ballegooij, G.A.C.M., Barkhuysen, T., Brenninkmeijer, A.F.M., Den Ouden, W. and Polak, J.E.M., *Bestuursrecht in het Awb-tijdperk*, Deventer: Kluwer, 2004, p. 232; Van Wijk, H.D., Konijnenbelt, W., and Van Male, R.M., *Hoofdstukken van bestuursrecht*, Den Haag: Elsevier juridisch, 2002, p. 616; De Haan, P., Drupsteen, T.G. and Fernhout, R., *Bestuursrecht in de sociale rechtsstaat*, Deventer: Kluwer, 1998, p. 348; Ten Berge, J.B.J.M., De Waard, B.W.N., and Widdershoven, R.J.G.M., *Het bestuursprocesrecht*, Deventer: W.E.J. Tjeenk Willink, 1996, pp. 193-204.

37. The notion of public policy, within this context, is defined in the national case-law. It resembles the notion of public policy as it is used, in the analogous context, by the Court of First Instance.[40] Under Dutch administrative law, grounds of public policy mainly concern the jurisdiction of the court, the admissibility of the action, or the competence of the administrative body that issued the contested decision.[41] The problem of equivalence must be solved by reference to those grounds and the interests which they seek to protect within the national legal system.

38. In principle, it must be left to the national courts to identify those interests. Once they have done so, it should be verified, from the perspective of the Community legal system, which provisions of Community law protect equivalent interests — that is, interests to which the Community legal order attributes a role and status equivalent to that of the interests that are at issue at national level.

39. Articles 11 and 13 of Directive 85/511 aim to protect interests that relate to public health and the health of livestock in the Community. More specifically, these provisions seek to bring about essential coordination between Member States in the battle against the foot-and-mouth-disease virus.[42]

40. It is safe to say, even without entering into a detailed analysis of the national law, that those interests are not equivalent to the interests in respect of which the referring court has the power to examine grounds of its own motion.

41. Consequently, in circumstances such as those in the main proceedings, Community law does not require the national court to go beyond the ambit of the dispute as defined by the parties in order to examine of its own motion grounds based on Articles 11 and 13 of Directive 85/511.

40 — See, for example, Case T-44/00 *Mannesmannröhren-Werke* v *Commission* [2004] ECR II-2223, paragraph 178; Joined Cases T-437/04 and T-441/04 *Standertskjöld-Nordenstam* [2006] ECR-SC I-A-2-29 and II-A-2-127, paragraph 28; Case T-171/05 *Nijs* v *Court of Editors* [2006] ECR-SC I-A-2-195 and II-A-2-999, paragraph 31; Case T-285/04 *Andrieu* v *Commission* [2006] ECR-SC I-A-2-161 and II-A-2-775, paragraph 129; Case T-27/02 *Kronofrance* v *Commission* [2004] ECR II-4177, paragraph 30; and Case T-166/01 *Lucchini* v *Commission* [2006] ECR II-2875, paragraph 144. See also, for instance, the following case-law of the Court of Justice: Case C-417/04 P *Regione Siciliana* v *Commission* [2006] ECR I-3881, paragraph 36; Case C-98/04 *Commission* v *United Kingdom* [2006] ECR I-4003, paragraph 16; and Joined Cases C-442/03 P and C-471/03 P *P&O European Ferries (Vizcaya) and Diputación Foral de Vizcaya* v *Commission* [2006] ECR I-4845, paragraph 45.

41 — See the literature cited in footnote 39.

42 — See also point 23 of my Opinion in *Dokter and Others*, cited in footnote 2.

IV — Conclusion

42. I am therefore of the opinion that the Court should reply as follows to the question put by the College van Beroep voor het bedrijfsleven:

In circumstances such as those in the main proceedings, Community law does not require the national court to go beyond the ambit of the dispute as defined by the parties in order to examine of its own motion grounds based on Articles 11 and 13 of Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease.