Reports of Cases

OPINION OF ADVOCATE GENERAL
KOKOTT
delivered on 7 December 2017[1]

Case C-554/16

EP Agrarhandel GmbH
v
Bundesminister für Land-, Forst-, Umwelt und Wasserwirtschaft

(Request for a preliminary ruling from the Verwaltungsgerichtshof (Administrative Court, Austria))

(Request for a preliminary ruling — Agriculture — Article 117 of Regulation (EC) No 73/2009 — Commission Decision 2001/672/EC, as amended by Decision 2010/300/EU — Suckler cow premium — Movements of bovine animals from different holdings to pastures located in mountain areas — Time limit for reporting information subject to a notification obligation — Effect of failure to comply with the time limit on eligibility for a premium)

I. Introduction

1. Must compliance with a time limit be determined by reference to the sending or the receipt of data subject to a notification obligation? What are the consequences of late notification?

2. These questions have arisen against the backdrop of a decision by the competent Austrian authority to reject an application made by EP Agrarhandel GmbH for payment of a suckler cow premium for 2011 in respect of over 40 bovine animals, on the ground that the notification of the movement to summer pasture was received too late.

3. In the present case, the Court must give a ruling, first, on the detailed rules governing compliance with the time limit in question and, secondly, if appropriate, on the effects of a failure to comply with the time limit for notification on the eligibility of the animals for a premium.

1 Original language: German.

II. Legal framework

A. EU law

4. The EU-law framework applicable to this case is made up of Regulation No 1760/2000[2] on the identification and registration of bovine animals, Commission Decision 2001/672/EC, adopted on the basis of Article 7 of that regulation, as amended by Decision 2010/300/EU,[3] and Regulation (EC) No 73/2009[4] on direct support schemes under the [common] agricultural policy together with its Implementing Regulations (EC) No 1121/2009[5] and (EC) No 1122/2009.[6]

1. Regulation No 1760/2000 and Decision 2001/672

5. Reference must be made first to recital 7 of Regulation No 1760/2000:

'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.'

6. Article 3(1) of Regulation No 1760/2000 describes the system for the identification and registration of bovine animals:

'The system for the identification and registration of bovine animals shall comprise the following elements:

(a) ear tags to identify animals individually;

(b) computerised databases;

(c) animal passports;

(d) individual registers kept on each holding'.

7. Article 7(1) of Regulation No 1760/2000 governs animal keepers' obligations under the system for the identification and registration of bovine animals:

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

– keep an up-to-date register,

2 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), as amended by Council Regulation (EC) No 1791/2006 of 20 November 2006 (OJ 2006 L 363, p. 1).

3 Commission Decision of 20 August 2001 laying down special rules applicable to movements of bovine animals when put out to summer grazing in mountain areas (OJ 2001 L 235, p. 23).

4 Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009 L 30, p. 16), as amended by Commission Implementing Regulation (EU) No 785/2011 of 5 August 2011 (OJ 2011 L 203, p. 10).

5 Commission Regulation (EC) No 1121/2009 of 29 October 2009 laying down detailed rules for the application of Council Regulation (EC) No 73/2009 as regards the support schemes for farmers provided for in Titles IV and V thereof (OJ 2009 L 316, p. 27), as amended by Commission Implementing Regulation (EU) No 1368/2011 of 21 December 2011 (OJ 2011 L 341, p. 33).

6 Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ 2009 L 316, p. 65), as amended by Commission Implementing Regulation (EU) No 1368/2011 of 21 December 2011 (OJ 2011 L 341, p. 33).

– 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.'

8. On the basis of the second sentence of the second indent of Article 7(1) of Regulation No 1760/2000, the Commission adopted Decision 2001/672 laying down special rules applicable to [movements of bovine animals] when put out to summer grazing.

9. Reference must be made first to recital 3 of that decision:

'The special rules must be laid down in such a way that it is possible to know the location of any bovine animal at any time.'

10. Article 2(2) of Decision 2001/672 stipulates the information that must be notified. Article 2(4) specifies the notification period which must be observed by the animal keepers:

'The information contained in the list mentioned in paragraph 2 is introduced in the national database for bovine animals at the latest seven days after the date when the animals are moved to the pasture.'

11. Decision 2010/300 amended Article 2(4) of Decision 2001/672 as follows:

'The information contained in the list mentioned in paragraph 2 shall be reported to the competent authority in accordance with Article 7(1) of Regulation (EC) No 1760/2000 at the latest 15 days after the date when the animals were moved to the pasture.'

12. According to recital 5 of that decision, the amendment to Article 2(4) of Decision 2001/672 is based upon the following consideration:

'Under certain conditions, animals, which are moved from different holdings to the same summer grazing mountain area, arrive there over a period of more than seven days. In order to reduce unnecessary administrative burdens, time limits in Decision 2001/672/EC should therefore be adapted to take account of that practical fact without compromising traceability.'

2. Regulation No 73/2009

13. Regulation No 73/2009 contains common rules for direct support schemes for farmers under the common agricultural policy and certain support schemes for farmers.

14. Title II of Regulation No 73/2009 lays down general provisions on direct payments. Articles 21 and 23 govern reductions and exclusions in the event of non-compliance by farmers with eligibility rules and cross compliance rules respectively.

15. Title III of Regulation No 73/2009 contains provisions governing the single payment granted independently of production. Title IV (by comparison) concerns other aid schemes. Section 11 of Chapter 1 of that title ('Community aid schemes') provides for beef and veal payments.

16. In this context, Article 111 of Regulation No 73/2009 governs the suckler cow premium:

'1. A farmer keeping suckler cows on his holding may qualify, on application, for a premium for maintaining suckler cows ("suckler cow premium"). It shall be granted in the form of an annual premium per calendar year and per farmer within the limits of individual ceilings.

2. The suckler cow premium shall be granted to any farmer:

(a) …

(b) …

However, Member States may decide, on the basis of objective and non-discriminatory criteria which they determine, to change or waive the quantitative limit, provided that the farmer keeps, for at least six consecutive months from the day on which the application is lodged, a number of suckler cows not less than 60% and of heifers not exceeding 40% of the number for which the premium was requested. …'

17. In the same section of Regulation No 73/2009, Article 116 governs the slaughter premium. Article 117, which also appears in that section, is entitled 'Common rules on premiums' and provides as follows:

'To qualify for the payments under this Section, an animal shall be identified and registered in accordance with Regulation (EC) No 1760/2000.

Nevertheless, an animal shall also be deemed eligible for the payments where the information laid down in the second indent of Article 7(1) of Regulation (EC) No 1760/2000 has been reported to the competent authority on the first day of the retention period of the animal as determined in accordance with the procedure referred to in Article 141(2) of this Regulation.'

3. Regulation No 1121/2009

18. Regulation No 1121/2009 contains rules for the application of the support schemes for farmers provided for in Title IV of Regulation No 73/2009. These include the suckler cow premium provided for in Article 111 of that regulation.

19. Article 61 of Regulation No 1121/2009 concerns rules on the retention period which, in accordance with the second subparagraph of Article 111(2) of Regulation No 73/2009, is a condition of the suckler cow premium.

'The 6-month retention period provided for in the second subparagraph of Article 111(2) of Regulation (EC) No 73/2009 shall start on the day following that on which the application is submitted.

However, where a Member State makes use of the possibility provided for in the second subparagraph of Article 16(3) of Regulation (EC) No 1122/2009, it shall fix the date when the period referred to in the first paragraph of this Article starts.'

4. Regulation No 1122/2009

20. Part II of Regulation No 1122/2009 contains rules for the implementation of the integrated administration and control system provided for in Chapter 4 of Title II ('General provisions on direct payments') of Regulation No 73/2009.

21. Article 63 of Regulation No 1122/2009 contains the rules for establishing the basis of calculation for the aid to be granted. Article 63(3) and (4) provide:

'3. Without prejudice to Article 65 and 66, if the number of animals declared in an aid application exceeds that determined as a result of administrative controls or on-the-spot checks, the aid shall be calculated on the basis of the animals determined.

4. Where cases of irregularities with regard to the system for the identification and registration for bovine animals are found, the following shall apply:

(a) a bovine animal which has lost one of the two ear tags shall be regarded as determined provided that it is clearly and individually identified by the other elements of the system for the identification and registration of bovine animals;

(b) where the irregularities found relate to incorrect entries in the register or the animal passports, the animal concerned shall only be deemed as not determined if such errors are found on at least two checks within a period of 24 months. In all other cases the animals concerned shall be deemed as not determined after the first finding.

Article 21 shall apply in relation to entries in, and notifications to, the system for the identification and registration of bovine animals.'

B. National law

22. Under Paragraph 12 of the Austrian Order on Direct Payments,[7] the relevant information in the computerised database for bovine animals is deemed to be the application for the suckler cow premium.

23. Under Paragraph 13(1) of the Austrian Order on Direct Payments, the applicant is deemed to be the farmer who keeps suckler cows eligible for the [suckler cow] premium on 1 January, 16 March or 10 April and in respect of whose holding a single application is made for the year concerned. Under Paragraph 13(2), the retention period provided for in Article 111(2) of Regulation No 73/2009 begins on 2 January; for suckler cows arriving after 1 January of the year in question, on 17 March; and for suckler cows arriving after 16 January of the year in question, on 11 April.

24. Under Paragraph 6(5) of the Austrian Order on the Identification of Bovine Animals,[8] notifications of movements to summer pasture may be made by post or online. Other notifications may also be made by telephone. Under Paragraph 6(6), compliance with the time limit for notifying movements to mountain pasture is determined by reference to when the notification is received.

III. Main proceedings and procedure before the Court

25. The applicant in the main proceedings is EP Agrarhandel GmbH. On 17 June 2011, part of its herd of cows was moved to pasture in a mountain area. EP Agrarhandel GmbH notified a movement to mountain pasture by post on 30 June 2011. According to the receipt stamp, the competent authority received that notification on 7 July 2011.

7 Verordnung des Bundesministers für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft über Direktzahlungen im Rahmen der gemeinsamen Agrarpolitik (Order of the Federal Minister for Agriculture, Forestry, the Environment and Water Management on direct payments under the common agricultural policy), BGBl. II No 491/2009.

8 Verordnung des Bundesministers für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft über die Kennzeichnung und Registrierung von Rindern (Order of the Federal Minister for Agriculture, Forestry, the Environment and Water Management on the identification and registration of bovine animals), BGBl. II No 201/2008, in the version contained in BGBl. II No 66/2010.

26. By decision of 28 March 2012, the competent authority, acting on the basis of the information contained in the computerised database, granted EP Agrarhandel GmbH bovine premiums in the amount of EUR 398.00 for 2011. EP Agrarhandel GmbH raised an objection to ('appealed against') that decision on the ground that a suckler cow premium had, wrongly, not been granted for the cows moved on 17 June 2011.

27. By decision of 6 December 2013, the Federal Minister for Agriculture, Forestry, the Environment and Water Management dismissed that appeal. The reason given for that decision was that the notification of the movement to mountain pasture had not been received by the competent authority until after the 15-day time limit had expired and was therefore late. Because it had been notified late, that movement did not qualify for a premium.

28. EP Agrarhandel GmbH brought an action against the decision of 6 December 2013 before the Austrian Verwaltungsgerichtshof (Administrative Court). The Verwaltungsgerichtshof referred the following questions to the Court of Justice for a preliminary ruling under Article 267 TFEU:

'(1) Does Article 2(4) of Decision 2001/672/EC as amended by Decision 2010/300/EU preclude a provision of national law, such as Paragraph 6(6) of the Verordnung des Bundesministers für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft über die Kennzeichnung und Registrierung von Rindern (Order of the Federal Minister for Agriculture, Forestry, the Environment and Water Management on the identification and registration of bovine animals), which, as regards compliance with all the time limits covered by that provision — and thus also that relating to notification of movement to summer pasture — regards receipt of the relevant notification as the determining factor?

(2) What effect does the second paragraph of Article 117 of Regulation (EC) No 73/2009 have on the eligibility for a premium of bovine animals whose movement to summer pasture was notified late within the meaning of Article 2(4) of the Commission decision?

(3) If the late notification of movement to summer pasture under the second paragraph of Article 117 of Regulation No 73/2009 does not result in the loss of eligibility for a premium, are penalties to be imposed for such late notification?'

29. In the proceedings before the Court, written observations have been submitted by the Republic of Austria and the European Commission.

IV. Assessment

30. This reference for a preliminary ruling concerns the interpretation of Article 2(4) of Decision 2001/672 and Article 117 of Regulation No 73/2009.

31. The first question referred has to do with the interpretation of the wording contained in Article 2(4) of Decision 2001/672: '[the] information … shall be reported to the competent authority … at the latest 15 days after the date when the animals were moved to the pasture'. The referring court wishes to ascertain whether this means that the information must be received by the competent authority within that time limit or whether it is sufficient for that information to be sent in good time. The other two questions referred relate to the legal consequences of any late notification. By the second question, the referring court wishes to ascertain whether the second paragraph of Article 117 of Regulation No 73/2009 means that animals are deemed eligible for a premium notwithstanding any late notification and, by the third question, whether, in that event, penalties are to be imposed for late notification.

32. As a preliminary point, it is important to note that, in order to answer the questions referred, account must be taken of the context in which Article 2(4) of Decision 2001/672 and Article 117 of Regulation No 73/2009 sit, and the objectives pursued by the provisions of which they form part.

33. Regulation No 73/2009 lays down rules governing direct payments under the common agricultural policy. One of those direct payments, the suckler cow premium, serves to support the income of holdings that rear calves for meat production and supplements the single payment, which in principle is granted independently of production. Under the first paragraph of Article 117 of that regulation, the suckler cow premium is to be granted only for animals which are identified and registered in accordance with Regulation No 1760/2000.

34. For its part, Regulation No 1760/2000 has as its objective to improve consumer confidence in the quality of beef, to preserve a higher level of protection of public health and to reinforce the lasting stability of the beef market.[9] The identification and registration system created for that purpose rests on the premiss, inter alia, that the Member States set up national bovine databases which record the identity of the animals, all the holdings on the territory of the Member State concerned and all animal movements. That system must be fully effective and reliable at all times so as to enable the competent authority to determine the location of a bovine animal at any time and, in the event of epizootic disease, to pinpoint as soon as possible the origin of an animal and immediately to take the measures necessary to protect public health.[10]

35. One of the obligations incumbent on an animal keeper under the system of identification and registration as provided for in Article 7(1) of Regulation No 1760/2000 is to notify the exact dates of all movements to the competent authorities. In principle, the time limit for doing so ranges from three days to a maximum of seven. Where bovine animals are put out to summer grazing, that article empowers the Commission to extend the time limit for notification and to adopt special rules. This is what the Commission did in the form of Decision 2001/672.

36. Finally, the second paragraph of Article 117 of Regulation No 73/2009 provides that animals are also to be deemed eligible for the payment where the information laid down in Article 7(1) of Regulation No 1760/2000 has been reported to the competent authority on the first day of the retention period of the animal concerned.

A. The rules governing compliance with the time limit laid down in Article 2(4) of Decision 2001/672 (first question)

37. By its first question, the referring court wishes to ascertain whether Article 2(4) of Decision 2001/672 precludes a national provision, such as Paragraph 6(6) of the Austrian Order on the Identification of Bovine Animals, under which the movement of bovine animals to summer pasture must have been notified to the competent authority within 15 days.

38. In the present case, that time limit was triggered by the movement to pasture on 17 June 2011, with the result that it started to run at 00.00 on 18 June 2011 and ended at 24.00 on 4 July 2011.[11] If, like the Republic of Austria, one treats as decisive the date of receipt of the notification (7 July 2011), the notification was late. If, like EP Agrarhandel GmbH and the Commission, on the other hand, one treats as decisive the date on which the notification was sent (30 June 2011), the notification was effected within the time limit.

9 See, in particular, recital 7 of Regulation No 1760/2000.

10 See recital 3 of Decision 2001/672 and judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 41).

11 In the absence of any special rules, this follows from Article 3(1), (2)(b), (3) and (4) of Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ, English Special Edition 1971(II), p. 354).

39. Article 2(4) of Decision 2001/672 provides simply that '[t]he information … shall be *reported* to the competent authority … at the latest 15 days after the date when the animals were moved to the pasture'. [12]

40. The fact that it is not expressly stipulated whether the date of receiving or the date of sending the notification is decisive from the point of view of compliance with the time limit does not, however, afford the Member States any regulatory discretion. This would, after all, undermine the uniform application of EU law, the equality between economic operators [13] and the functioning of the bovine databases. The foregoing does not for that matter preclude a national measure which is confined to incorporating some elements of the EU rules, in the interests of internal coherence and with a view to making those rules comprehensible. [14] Paragraph 6(6) of the Austrian Order on the Identification of Bovine Animals would be just such a mere repetition if Article 2(4) of Decision 2001/672 were to be interpreted as meaning that the date of receipt of the notification is critical.

41. Against that background, it must be determined by way of interpretation which event is decisive for the purposes of Article 2(4) of Decision 2001/672. To that end, it is important to take into account not only the wording of that provision (see in this regard Section 1) but also, and in particular, the context in which that provision is used (see in this regard Section 2) and the purpose it serves (see in this regard Section 3).

1. The wording of the provision

42. In my view, the German version of Article 2(4) of Decision 2001/672 ('sind … zu übermitteln' (shall be transmitted)) suggests rather that account is to be taken of receipt of the notification within the time limit. A transmission process, after all, begins with the sending of the information and is concluded only when that information is received. The position is similar with respect to the [German] terms 'mitteilen' (communicate) and 'unterrichten' (inform) used in the sense of the corresponding French ('sont communiquées'), Italian ('sono comunicate'), Spanish ('se comunicará') and Dutch ('worden meegedeelt').

43. It must be acknowledged, however, that such terms are general and therefore open to interpretation. [15] This is apparent not least from the judgment in *Borgmann*, in which the Court took the view that the terms 'transmit' or 'communicate' 'impl[y], rather, that the information must be sent before the deadline', but did not confine its interpretation to an analysis of the wording. [16]

44. The context in which Article 2(4) of Decision 2001/672 uses the word 'reported' does not clarify matters either. On the one hand, the express reference to the addressee ('shall be reported to the competent authority') could be taken as a sign that the notification must also reach the authority. [17] On the other hand, the phrase 'at the latest 15 days after' could be construed as an indication that it must still be possible to transmit the information successfully even on the 15th day. Then again, it must be noted, the wording used in the Portuguese-language version ('no prazo de 15 dias' (within 15

12 Under Article 2(2), [the person responsible for the pasture] has an obligation to notify the registration code of the pasture and, for each bovine animal, the individual identification number, the number of identification of the holding of origin, the date of arrival at pasture and the estimated date of departure from the pasture.

13 See judgment of 11 November 2004, *Toeters and Verberk* (C-171/03, EU:C:2004:714, paragraph 40), and also Opinion of Advocate General Poiares Maduro in that case (EU:2004:341, point 30).

14 See judgment of 28 March 1985, *Commission* v *Italy* (272/83, EU:C:1985:147, paragraph 27), my Opinion in *Skoma-Lux* (C-161/06, EU:C:2007:525, point 55), and also Opinion of Advocate General Saugmandsgaard Øe in *Swiss International Air Lines* (C-272/15, EU:C:2016:573, point 32).

15 See, to that effect, Opinion of Advocate General Tizzano in *Borgmann* (C-1/02, EU:C:2003:393, point 44), concerning Article 5(2) of Regulation (EC) No 1392/2001 (OJ 2001 L 187, p. 19) in its German ('übermittelt'), French ('communique'), Italian ('trasmette'), Portuguese ('comunicará') and Spanish ('transmitirá') versions.

16 See judgment of 1 April 2004, *Borgmann* (C-1/02, EU:C:2004:202, paragraphs 23 to 25).

17 See, in this regard, Opinion of Advocate General Poiares Maduro in *Toeters and Verberk* (C-171/03, EU:C:2004:341, point 33).

days)), for example, has a different meaning and Article 2(4) of Decision 2001/672 does not specify that the notification must be effected by post. Rather, the information in question can be reported online or by telephone, as Paragraph 6(5) of the Austrian Order on the Identification of Bovine Animals, for example, shows.

45. In the light of those considerations, it must be found that the different language versions do not lead to a clear conclusion. In order to guarantee the uniform interpretation and application of EU law, the provision in question must therefore be interpreted by reference to the purpose and general scheme of the rules of which it forms part.[18]

2. The context of the provision

46. As regards the context of the provision, it must be noted that Article 2(4) of Decision 2001/672 is based on the second indent of Article 7(1) of Regulation No 1760/2000.

47. It is true that the wording used in the latter provision '[each keeper of animals shall] report to the competent authority' is also unclear.[19] It is apparent from its context, however, that the establishment of the 15-day time limit is a special exception to the principle laid down in the first sentence of the second indent of Article 7(1) of Regulation No 1760/2000. This states that the time limit for notifying a movement of animals is between three and a maximum of seven days. So far as concerns Article 2(4) of Decision 2001/672, this points to a requirement of a restrictive interpretation, in accordance with the general principle that exceptions are to be interpreted strictly.[20]

48. That context also indicates that the detailed rules for compliance with the time limits laid down in Article 2(4) of Decision 2001/672 and Article 7(1) of Regulation No 1760/2000 must be interpreted uniformly. On that basis, however, it would be contrary to the power conferred on the Member States to fix a maximum time limit 'of between three and seven days' to treat as decisive the date of sending the notification. The ability of the Member States to exert any influence would effectively be negated by [notification by] by post, given the variability of delivery times. If, on the other hand, the date of sending were to be treated as decisive, the Member States would actually have to exercise some discretion. The fact that, in this case, it is not impossible for animal keepers to comply with the time limit is demonstrated, for example, by Paragraph 6(5) of the Austrian Order on the Identification of Bovine Animals, in accordance with which the notifications to which this short time limit applies may be effected not only by post but also online or by telephone.

49. It is also important to note that, in its original version, Article 2(4) of Decision 2001/672 required notifications to be received within the time limit. Given that the information had to be 'introduced in the national database for bovine animals at the latest seven days after the date when the animals are moved to the pasture', this logically presupposed that the information would be received before the expiry of that time limit. Unlike the Commission, I regard as unsound the conclusion by converse inference that the removal of the phrase 'introduced in the … database' means that it is now sufficient for notifications to be sent within the 15-day time limit.

18 See judgment of 17 May 2017, *ERGO Poist'ovňa* (C-48/16, EU:C:2017:377, paragraph 37 and the case-law cited), and judgments of 9 March 2000, *EKW and Wein & Co* (C-437/97, EU:C:2000:110, paragraph 42), and of 1 April 2004, *Borgmann* (C-1/02, EU:C:2004:202, paragraph 25).

19 See also the French ('signale'), German ('teilen … mit'), Italian ('comunica'), Spanish ('informar'), Portuguese ('notificar') and Dutch ('stelt … in kennis') versions.

20 See judgments of 22 April 2010, *Commission* v *United Kingdom* (C-346/08, EU:C:2010:213, paragraph 39), and of 26 February 2015, *Wucher Helicopter and Euro-Aviation Versicherung* (C-6/14, EU:C:2015:122, paragraph 24).

50. In the first place, there is nothing to indicate that Decision 2010/300 sought to change the detailed rules governing compliance with time limits. After all, the recitals of Decision 2010/300 justify the amendment it introduces solely by reference to the need to '[adapt] time limits in Decision 2001/672/EC'. [21]

51. Secondly, the amendment to the wording [of the earlier decision] can be explained by the fact that it brings Article 2(4) of Decision 2001/672 into line with the wording in the second indent of Article 7(1) of Regulation No 1760/2000 and is expressly framed as an obligation incumbent on animal keepers.

52. Thirdly, reliance on the date of sending the notification would have the consequence not only of more than doubling the original time limit but also of extending it by the unknown quantity of postal delivery times. As the present case shows (notification sent on 30 June and received on 7 July 2011), postal deliveries can take a long time. The time limit would thus be significantly extended and by a period that would vary from case to case. This is not only at odds with the requirement that exceptions be interpreted restrictively, but also creates legal uncertainty and calls into question the currency of national bovine databases. Any intention on the part of the legislature to adopt such a major provision would, in my view, have had to be reflected in the wording or at least the recitals of Decision 2010/300.

53. In conclusion, therefore, the context in which Article 2(4) of Decision 2001/672 sits indicates that, as before, the competent authorities must have received the notification within the time limit.

3. The purpose of the provision

54. The foregoing interpretation is confirmed by the objectives pursued by Decision 2001/672 and Regulation No 1760/2000.

55. It follows from recital 7 of Regulation No 1760/2000 that the system of registration and identification is intended to '[improve] consumer confidence in the quality of beef and beef products …, [preserve] a higher level of protection of public health … and [reinforce] the lasting stability of the beef market …'. Accordingly, the purpose of the provisions of Decision 2001/672, as indicated in recital 3 thereof, is to make it 'possible to know the location of any bovine animal *at any time*'. [22] The interpretation of the rules governing compliance with time limits must also be guided by those objectives.

56. The foregoing suggests that the date of receipt must be treated as decisive, the currency of the national bovine databases being significantly impacted by whether the competent authority is informed about a movement of animals after 15 days at the latest or whether that period is longer in some cases because of postal delivery delays.

57. Nor do I take the view, as the Commission does, that the above proposition unfairly encumbers the animal keeper with the unacceptable risk of the notification not being received on time. Given how important it is from the point of view of the protection of public health and the transparency and stability of the beef market that the national register be kept up-to-date, it is not unreasonable for animal keepers to be expected to send information subject to a notification obligation, by post or otherwise, in good time to reach the authority within the time limit. Notification can be effected as soon as the animals are moved to pasture. If the animal keeper holds off sending the notification by post for so long as to make it uncertain whether the notification will be received on time, he can at

21 Recital 5 of Decision 2010/300.

22 My emphasis, I point out that the wording 'at any time' is to be found in most of the language versions of this recital. Its absence from the French version seems to me to be the result of an editorial error.

least be expected to transmit the information to the authorities online. Paragraph 6(5) of the Austrian Order on the Identification of Bovine Animals makes express reference to that option. What is more, the legal consequences of non-compliance with the time limit on account of exceptional circumstances are taken into account.[23] For the reasons given above, I also do not take the view that the principle of non-discrimination requires that the date of sending the notification be treated as decisive.[24]

58. In this regard, moreover, the time limit for notifying the movement of animals at issue in the present case must be distinguished from the time limit for the notification of milk quantities which formed the subject-matter of *Borgmann* and must be made by 15 May each year.[25] The purpose of the latter, after all, is to ensure that the additional levy on milk is calculated and fixed in good time to ensure that it can be paid by 1 September. That objective is not undermined by treating as decisive whether or not the notification is sent within the time limit. The very objective of the timely notification of animal movements, on the other hand, as expressed in recital 3 of Decision 2001/672, is to make 'it … possible to know the location of any bovine animal at any time' and to ensure that the system of identification and registration, as the Court has held, '[is] 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'.[26]

59. It should also be noted that recital 5 of Decision 2010/300 sheds light on the real purpose behind the amendment of Article 2(4) of Decision 2001/672. That amendment takes into account the fact that the movement of animals 'from different holdings to the same summer grazing … area' may take 'more than seven days'. In order to avoid any 'unnecessary administrative burdens', therefore, the time limits had to be 'adapted to take account of that practical fact'. Under the previous legal position, an unnecessary administrative burden could arise from the fact that an animal keeper needing more than seven days to move his animals from different holdings to the same pasture was unable to notify the movement of all his animals in a single notification. Since the time limit for notifying the movement of an animal starts to run when that animal is moved, that time limit would in those circumstances already have elapsed by the time the last animal is moved.

60. Increasing the time limit to 15 days is intended to enable animal keepers and the authorities to avoid the unnecessary administrative burden that comes with a number of notifications being made at the same time. It is not necessary, however, to treat as decisive the date of sending the notification in order to achieve that purpose. As I have already said, neither Article 2(4) of Decision 2001/672 nor Article 7 of Regulation No 1760/2000 stipulates that notification must be effected by post. On the contrary, information may be notified online or by telephone.[27] Even in the event, however, that the animal keeper decides to send the notification by post, the 15-day time limit is calculated to give sufficient time for timely receipt.

4. Interim conclusion

61. In the light of the foregoing considerations, Article 2(4) of Decision 2001/672 must be interpreted as meaning that the notification of a movement to summer pasture must have been received by the competent authority at the latest 15 days after the animals were moved to pasture. Consequently, EU law does not conflict with a national provision making a stipulation to that effect.

23 See the comments in point 72 of this Opinion concerning Article 75(1) of Regulation No 1122/2009.

24 See, to that effect, however, Opinion of Advocate General Tizzano in *Borgmann* (C-1/02, EU:C:2003:393, point 46).

25 Judgment of 1 April 2004, *Borgmann* (C-1/02, EU:C:2004:202, paragraphs 26 to 29).

26 Judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 41).

27 See points 48 and 57 of this Opinion.

62. The first question must therefore be answered as follows:

Article 2(4) of Decision 2001/672 as amended by Decision 2010/300 does not preclude a national provision which, as regards compliance with the time limit for notifying movements to summer pasture, treats as decisive the date of receipt of the relevant notification.

B. Whether suckler cows whose movement to summer pasture was notified late are eligible for a premium (second question)

63. The referring court's second question must be answered only if the proposed answer to the first question is endorsed.

64. By the second question, the referring court wishes to ascertain, in essence, whether, in a case such as that in the main proceedings, animals are to be deemed eligible for a premium even though their movement to summer pasture was notified late for the purposes of Article 2(4) of Decision 2001/672, in accordance with the second paragraph of Article 117 of Regulation No 73/2009.

65. Since the Commission and the referring court express doubts as to whether the late notification of a movement to summer pasture actually causes eligibility for a premium to be lost at all under the first paragraph of Article 117 of Regulation No 73/2009, this issue must be addressed first (see in this regard Section 1). For, if late notification has no bearing on eligibility for a premium, the question of the interpretation to be given to the second paragraph of Article 117 of Regulation No 73/2009 does not arise (see in this regard Section 2). In the event that late notification does in principle cause eligibility for a premium to be lost and does not fall within the scope of the aforementioned exception, we must look at whether that conclusion is contrary to the principle of proportionality (see in this regard Section 3).

1. Application of the first paragraph of Article 117 of Regulation No 73/2009

66. If the animal keeper does not comply with the time limit laid down in Article 2(4) of Decision 2001/672, he is in breach of his obligation to notify [the competent authority] within the time limit laid down in the second indent of Article 7(1) of Regulation No 1760/2000. Neither Decision 2001/672 nor Regulation No 1760/2000 specify the consequences of such a breach. However, the first paragraph of Article 117 of Regulation No 73/2009 provides that, to qualify for payments, an animal is to be identified and registered in accordance with Regulation No 1760/2000.

67. It is clear not least from the wording of that article that the grant of a premium is subject to compliance by the keepers of the animals concerned with the relevant EU rules on identification and registration of bovine animals.[28] Article 7 is one of the provisions contained in Title I, entitled 'Identification and registration of bovine animals', of Regulation No 1760/2000. What is more, Article 3 of that title makes it clear that the system for the identification and registration of bovine animals is to be based in particular on computerised databases. These are to contain the information which animal keepers must report to the authorities in accordance with Article 7.

68. The only question, therefore, is whether a failure to report that information within the time limit is in itself sufficient to cause a bovine animal to be deemed unregistered.

28 See judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 32).

69. That proposition is supported, first, by the fact that Article 7 of Regulation No 1760/2000 makes the time limits for notification mandatory and defines the options for providing for a longer time limit within a precise and limited framework.[29] Although Decision 2001/672, as amended by Decision 2010/300, extends the time limit to 15 days, it too makes that time limit mandatory. It provides that the information 'shall be reported … at the latest 15 days after the date when the animals were moved to the pasture'. The precise specification of those detailed rules would, however, be of no practical effect if keepers of animals were at liberty not to comply with that time limit.[30]

70. That conclusion is also supported by the second paragraph of Article 117 of Regulation No 73/2009 itself. According to that paragraph, an animal is 'nevertheless … also' to be deemed eligible for a premium where the information subject to a notification obligation has been reported to the competent authority on the first day of the retention period of the animal. It may be inferred from this that a bovine animal is in principle eligible for a premium under the first paragraph of Article 117 of Regulation No 73/2009 only where the information subject to a notification obligation has been reported at a different time, namely that laid down in Article 7 of Regulation No 1760/2000. The opposite conclusion, that the timing of the notification has no bearing on eligibility for a premium, is unconvincing, since, in that event, notifications could be made retrospectively at any time. The second paragraph of Article 117 would then be superfluous, however.

71. That interpretation is confirmed by the objectives pursued by Decision 2001/672 and Regulation No 1760/2000, which were set out in point 56. In order to attain those objectives, the system of identification and registration must, as the Court has held, be fully effective and reliable at all times so as to enable efficient tracing of animals, for example in the event of epizootic disease.[31] However, this is not possible if animal keepers do not report movements of their bovine animals to the computerised database within the prescribed time limits. If Article 117 of Regulation No 73/2009 did not make eligibility for a premium subject to compliance with the time limit, there would be no financial incentive for animal keepers to fulfil their obligations within the prescribed time.[32]

72. That interpretative conclusion is also confirmed by Regulation No 1122/2009, which was adopted to implement Regulation No 73/2009. Under Article 63(3) thereof, aid is to be calculated not on the basis of the number of animals declared in the aid application but on the basis of the number of animals 'determined' as a result of controls. The second sentence of Article 63(4)(b) provides that, where an irregularity found relates to the provisions of the system of identification and registration, the animals concerned are in principle to be deemed as not determined. Exceptions to the foregoing are provided for in Article 63 of that regulation only in the case of the correction of obvious errors[33] and the loss of an ear tag.[34] In the case of incorrect entries in the register or the animal passports, the rules are relaxed to the extent that, in those circumstances, an animal is to be deemed as not determined only if a second irregularity is found within a period of two years.[35] Moreover, Article 75(1) of Regulation No 1122/2009 provides for an exception in cases where the farmer has been prevented from discharging his obligations as a result of force majeure or exceptional circumstances. The legal consequences of non-compliance with the time limit can thus be mitigated in specific situations. In all other cases, including that at issue here, on the other hand, the animals are to be deemed as not determined. They will not therefore be taken into account in establishing the basis of calculation. Consequently, they will not be eligible for aid.

29 See the introductory clause of Article 7(1) ('... each keeper of animals shall'), the first sentence of the second indent ('within a period fixed by the Member State of between three and seven days') and the reference to the time limit as a 'maximum period' in the second sentence. See also judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 36).

30 See judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 37).

31 Judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 41).

32 Animal keepers would not be at risk of financial penalties either, as my submissions on the third question, contained in points 92 to 95, show.

33 Second subparagraph of Article 63(4), Article 21 of Regulation No 1122/2009.

34 Article 63(4)(a) of Regulation No 1122/2009.

35 First sentence of Article 63(4)(b) of Regulation No 1122/2009.

73. Ultimately, that conclusion, to the effect that, in principle, the late notification of movements to pasture causes the suckler cow premium to be lost, is also consistent with the Court's case-law in its judgment in *Maatschap Schonewille-Prins*.[36] In that judgment, concerning the slaughter premium, the Court held that failure to comply with the notification obligation laid down in the second indent of Article 7(1) of Regulation No 1760/2000 results in the loss of that premium.[37]

74. The Commission's objections to the transposition of that case-law are unconvincing for the following reasons.

75. The first point to make is that it cannot make any difference that that case concerned the slaughter premium and this one concerns the suckler cow premium. The Court's judgment, after all, is based on the wording of Article 21 of Regulation No 1254/1999.[38][39] That provision states, in a form of words almost identical to that of the first paragraph of Article 117 of Regulation No 73/2009, that eligibility for a premium is dependent upon compliance with the provisions of what is now Regulation No 1760/2000.[40] Moreover, the aforementioned provisions do not state that that condition is specific to the slaughter premium or the suckler cow premium, for example, but are, rather, general provisions applicable to all payments under the section concerned. These include payments under both the suckler cow premium and the slaughter premium.[41]

76. The objection that a different conclusion must be drawn here, because the notification of movements to pasture, unlike the notification of 'movements [of animals] to and from the holding', does not create or alter rights in law but is only temporary as far as the livestock is concerned and of less importance from the point of view of slaughter and immediate consumption, must also be rejected.

77. First, the judgment in *Maatschap Schonewille-Prins* did not concern the late notification of the slaughter of a bovine animal, for example, but the late notification of the delivery of an animal to the holding.[42] Since, however, the latter is no more directly upstream of the consumption of beef by consumers than is the notification of movements to summer pasture, this factor cannot have featured in the Court's reasoning.

78. Secondly, that objection is based on the false assumption that movements to summer pasture are not 'movements to and from the holding' within the meaning of the first sentence of the second indent of Article 7(1) of Regulation No 1760/2000. A 'holding', after all, as the definition given in the second indent of Article 2 of Regulation No 1760/2000 shows, is to be understood as any establishment or construction in which the animals are in principle held. Consequently, a movement to summer pasture is a form of movement to and from the holding rather than being an entirely separate concept. There is thus nothing in the wording of Article 7 of Regulation No 1760/2000 to indicate the existence of such a distinction between the legal consequences of non-compliance with the time limit. The same is true of Decision 2001/672.

36 Judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296).

37 Judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 43); see also Opinion of Advocate General Léger in *Maatschap Schonewille-Prins* (C-45/05, EU:C:2006:466), which proposed a conclusion opposite to that reached in the judgment.

38 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).

39 See judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraphs 29 to 35).

40 Article 21 of Regulation No 1254/1999, in the version material to the judgment in *Maatschap Schonewille-Prins*, reads: 'To qualify for direct payments under this chapter, an animal shall be identified and registered in accordance with Regulation No 1760/2000'.

41 Article 21 of Regulation No 1254/1999 forms part of Chapter 1 (Articles 3 to 25). It therefore applies to the suckler cow premium and the slaughter premium (Articles 6 and 11). The first subparagraph of Article 117 of Regulation No 73/2009 applies to 'payments under this Section' and, therefore, to all premiums under Section 11 (Articles 108 to 119). These include both the suckler cow premium and the slaughter premium (Articles 111 and 116).

42 See judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 26).

79. Thirdly, a distinction based on the type of time limit for notification is also unconvincing in the light of the objectives, as set out in points 56 and 72 above, which are pursued by Decision 2001/672 and Regulation No 1760/2000. Since an epizootic disease is just as capable of breaking out on a summer pasture as in a holding, a movement to summer pasture must also be notified as quickly as possible, within practical and reasonable limits.

80. In conclusion, it must be found that the late notification of a movement to summer pasture has as its consequence that the animals concerned are not registered in accordance with Regulation No 1760/2000, pursuant to pursuant to the first paragraph Article 117 of Regulation No 73/2009, and are therefore, in principle, not eligible for a premium.

2. Application of the second paragraph of Article 117 of Regulation No 73/2009

81. In the light of the foregoing, it must be clarified whether, in a situation such as that in the present case, the second paragraph of Article 117 of Regulation No 73/2009 means that, by way of exception, the animals *are* deemed eligible for a premium. This would be conditional upon the information subject to a notification obligation having been reported to the competent authority on the first day of the retention period of the animal concerned.

82. The 'retention period' is the period during which an animal for which aid has been claimed has to be kept on a holding.[43] Under the second subparagraph of Article 111(2) of Regulation No 73/2009, the suckler cow premium is subject to a retention period of six months 'from the day on which the application is lodged'. Paragraph 13(1) of the Austrian Order on Direct Payments provides that applications for the suckler cow premium are to be submitted on 1 January, 16 March and 10 April.[44] In accordance with Paragraph 13(2) of that Order, therefore, the first day of the retention period is, *mutatis mutandis*, 2 January, 17 March or 11 April (for suckler cows arriving after 1 January or 16 March) of the year in question.[45]

83. The movement in the present case having taken place on 17 June 2011, it came after the last possible start date for the retention period (on 11 April). The information subject to a notification obligation was not therefore notified to the competent authority on the first day of the retention period of the animal. The fact that, in circumstances such as those in the present case, this was not even possible, makes apparent the fact that the second paragraph of Article 117 of Regulation No 73/2009 operates as an exception. Only in cases where an animal keeper registers a new animal on the national database before the start of the last possible retention period is he to be eligible for a premium notwithstanding the previous keeper's infringement of the obligation to notify.

84. In conclusion, I therefore share the Republic of Austria's view that the second paragraph of Article 117 of Regulation No 73/2009 does not cover situations such as that in the present case.

3. Proportionality of Article 117 of Regulation No 73/2009

85. The final question, therefore, is whether Article 117 of Regulation No 73/2009 is consistent with the principle of proportionality, in so far as, by virtue of that provision, the consequence of late notification of a movement to summer pasture is loss of the suckler cow premium.

43 Article 2(21) of Regulation No 1122/2009, Article 61 of Regulation No 1121/2009, second subparagraph of Article 111(2) of Regulation No 73/2009.

44 See Article 62(2) of Regulation No 1121/2009.

45 See Article 61 of Regulation No 1121/2009.

86. Since, in the area of agricultural policy, the EU legislature enjoys a broad discretion, corresponding to the political responsibilities given to it by Articles 40 to 43 TFEU, the Court's review of proportionality is limited to verifying whether that legislature has manifestly exceeded the limits of its discretion. [46]

87. In this regard, it should be noted first that, when the EU legislature fixes conditions for eligibility in respect of the award of aid, such as in the first paragraph of Article 117 of Regulation No 73/2009, 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. [47]

88. Where the EU legislature provides, as it does in Article 23(1) of Regulation No 1122/2009, that the late submission of an aid application leads only to a reduction of the amount granted, this does not therefore reflect a general principle, but is a deliberate choice by the legislature to the effect that, exceptionally, compliance with the time limit is not essential. [48]

89. In contrast, the obligation to comply with the time limit for notification laid down in Article 2(4) of Decision 2001/672, as points 70 and 72 of this Opinion in particular make clear, is particularly important to the objectives pursued by the system of identification and registration. It should also be noted, as I stated in point 73 of this Opinion, that provision is also made for exceptions in special circumstances, such as in cases of *force majeure*.

90. Consequently, the EU legislature has not manifestly exceeded the limits of its discretion. [49] It follows by extension that Article 117 of Regulation No 73/2009 is not contrary to the principle of proportionality.

4. Interim conclusion

91. In the light of the foregoing considerations, the second question referred for a preliminary ruling must be answered as follows:

The second paragraph of Article 117 of Regulation No 73/2009 must be interpreted as meaning that, in the event of late notification of a movement to summer pasture which takes place after the start of the retention period, it does not have the effect of rendering animals eligible for a premium notwithstanding that their movement was notified late.

C. Penalties (third question)

92. If the Court endorses my proposed answers to the first and second questions, there will be no need to answer the third question. The referring court asks this question, after all, only in the event that the notification of a movement to summer pasture is indeed to be regarded as late but does not by extension lead to the loss of the suckler cow premium.

93. The referring court wishes to ascertain, in essence, whether, in that event, penalties are to be imposed for the late notification. It is apparent from the reasons given for the third question that the national court has in mind here the reductions and exclusions provided for in Articles 21 and 23 of Regulation No 73/2009 and Article 23 of Regulation No 1122/2009.

46 See judgments of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 46), and of 17 October 2013, *Schaible* (C-101/12, EU:C:2013:661, paragraph 48).

47 Judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraph 47); see also, to that effect, judgment of 11 November 2004, *Toeters and Verberk* (C-171/03, EU:C:2004:714, paragraph 47).

48 See, to that effect, judgment of 11 November 2004, *Toeters and Verberk* (C-171/03, EU:C:2004:714, paragraph 49).

49 See, to that effect, judgment of 24 May 2007, *Maatschap Schonewille-Prins* (C-45/05, EU:C:2007:296, paragraphs 49 to 52).

94. This question must be answered in the negative. It is true that the aforementioned provisions of Regulation No 73/2009 and Regulation No 1122/2009 lay down such penalties for late submission of an aid application,[50] non-compliance with eligibility rules[51] and non-compliance with 'cross compliance rules' by the farmer.[52] In accordance with the first paragraph of Article 74 and Article 73(1) of Regulation No 1122/2009, however, those reductions and exclusions are not applicable where the farmer submitted factually correct information. Since there is nothing in the request for a preliminary ruling to indicate that the information notified late was incorrect, the late notification of the movement to summer pasture does not warrant the imposition of any penalties under those provisions.

95. The answer to the third question would therefore have to be that, in the event that the late notification of a movement to summer pasture does not lead to the loss of eligibility to a premium, in accordance with the second paragraph of Article 117 of Regulation No 73/2009, the reductions and exclusions provided for in Article 21 of Regulation No 73/2009, Article 65 of Regulation No 1122/2009, Article 23 of Regulation No 73/2009, Articles 70 to 72 of Regulation No 1122/2009 and Article 23 of Regulation No 1122/2009 do not apply where the information notified late is factually correct.

V. Conclusion

96. In the light of the foregoing considerations, I propose that the Court should answer the questions referred for a preliminary ruling by the Verwaltungsgerichtshof (Administrative Court, Austria) as follows:

(1) Article 2(4) of Commission Decision 2001/672/EC of 20 August 2001 laying down special rules applicable to movements of bovine animals when put out to summer grazing in mountain areas, as amended by Decision 2010/300/EC of 25 May 2010, does not preclude a national provision which, as regards compliance with the time limit for the notification of movements to summer pasture, treats as decisive the date of receipt of the relevant notification.

(2) In the event of late notification of a movement to summer pasture which takes place after the start of the retention period, the second paragraph of Article 117 of Regulation (EC) No 73/2009 Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003, as amended by Commission Implementing Regulation (EU) No 785/2011 of 5 August 2011, must be interpreted as meaning that it does not have the effect of rendering animals whose movement was notified late eligible for a premium.

50 Article 23 of Regulation No 1122/2009.

51 Article 21 of Regulation No 73/2009, Article 65 of Regulation No 1122/2009.

52 Article 23 of Regulation No 73/2009, Articles 70 to 72 of Regulation No 1122/2009.