OPINION OF ADVOCATE GENERAL MENGOZZI

delivered on 13 March 2008 [1]

I — Introduction

1. By this order for reference, the Finanzgericht Hamburg (Germany) requests the Court to interpret point 48.7(a) and (b) of the annex to Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC, [2] as amended by Council Directive 95/29/EC of 29 June 1995 [3] ('Directive 91/628').

2. The reference was made in the course of proceedings between Interboves GmbH ('Interboves') and Hauptzollamt Hamburg-Jonas ('the Hauptzollamt') regarding the latter's refusal to grant Interboves an export refund for live bovine animals applied for in June 2002, on the ground that the journey time (at sea) of those animals exceeded that laid down in point 48.7(b) of the annex to Directive 91/628.

1 — Original language: French.

2 — OJ 1991 L 340, p. 17.

3 — OJ 1995 L 148, p. 52.

II — Legal framework

3. Article 33(9) of Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal, [4] makes the payment of a refund for exports of live animals subject to compliance with the provisions established in Community legislation concerning animal welfare and, in particular, the protection of animals during transport.

4. On 18 March 1998, the Commission of the European Communities adopted Regulation (EC) No 615/98 of 18 March 1998 laying down specific detailed rules of application for the export refund arrangements as regards the welfare of live bovine animals during transport. [5] That regulation, which was adopted on the basis of Regulation (EEC) No 805/68 of the Council of 27 June 1968 on the common organisation of the market in beef and veal, [6] specifically Article 13(9) thereof, [7] and predating

4 — OJ 1999 L 160, p. 21.

5 — OJ 1998 L 82, p. 19.

6 — OJ, English Special Edition 1968 (I), p. 187.

7 — The wording of the second subparagraph of Article 13(9) of Regulation No 805/68 was identical to that of Article 33(9) Regulation No 1254/1999.

Regulation No 1254/1999, remained in force until 13 April 2003, from which date it was replaced by Commission Regulation (EC) No 639/2003 of 9 April 2003 laying down detailed rules pursuant to Council Regulation No 1254/1999 as regards requirements for the granting of export refunds related to the welfare of live bovine animals during transport. [8] Regulation No 615/98 therefore applied to export declarations made prior to the adoption of Regulation No 639/2003, [9] including that at issue in the main proceedings.

5. Article 1 of Commission Regulation No 615/98 provides that, for the application of the second subparagraph of Article 13(9) of Regulation No 805/68, the payment of export refunds for live bovine animals is to be subject to compliance with Directive 91/628 and with Regulation 615/98 during the transport of the animals to the first place of unloading in the third country of final destination.

6. Article 2(2) of Directive 91/628 contains the following definitions:

'…

(b) "transport", any movement of animals, effected by a means of transport, which involves loading and unloading the animals;

…

(g) "journey", transport from place of departure to place of destination;

(h) "rest period", a continuous period in the course of a journey during which animals are not being moved by a means of transport;

…"

7. Chapter I of the annex to Directive 91/628 provides, in point A2(d), that during transport the animals must receive water and appropriate food at the intervals laid down for that purpose in Chapter VII of that annex.

8 — OJ 2003 L 93, p. 10.

9 — See Article 9 of Regulation No 639/2003.

8. Point 48 in Chapter VII of the annex to Directive 91/628 specifically concerns journey times and resting periods. That chapter provides:

‘…

2. Journey times for animals belonging to the species referred to in point 1 shall not exceed eight hours.

3. The maximum journey time in point 2 may be extended where the transporting vehicle meets the following additional requirements:

— there is sufficient bedding on the floor of the vehicle,

— the transporting vehicle carries appropriate feed for the animal species transported and for the journey time,

— there is direct access to the animals,

— adequate ventilation is possible which may be adjusted depending on the temperature (inside and outside),

— there are moveable panels for creating separate compartments,

— vehicles are equipped for connection to a water supply during stops,

— …, sufficient water is carried for watering during the journey.

4. The watering and feeding intervals, journey times and rest periods when using road vehicles which meet the requirements in point 3 are defined as follows:

…

(d) All other animals of the species referred to in point 1 [10] must, after 14 hours of travel, be given a rest period of at least 1 hour sufficient for them in particular to be given liquid and if necessary fed. After this rest period, they may be transported for a further 14 hours.

5. After the journey time laid down, animals must be unloaded, fed and watered and be rested for at least 24 hours.

…

7. (a) Animals must not be transported by sea if the maximum journey time exceeds that laid down in point 2, unless the conditions laid down in points 3 and 4, except for journey times and rest periods, are met.

(b) In the case of transport by sea on a regular and direct link between two geographical points of the Community by means of vehicles loaded on to vessels without unloading of the animals, the latter must be rested for 12 hours after unloading at the port of destination or in its immediate vicinity unless the journey time at sea is such that the voyage can be included in the general scheme of points 2 to 4.

8. In the interests of the animals, the journey times in points 3, 4 and 7(b) may be extended by two hours, taking account in particular of proximity to the place of destination.

… ’

III — Facts of the main proceedings, questions referred for a preliminary ruling and procedure before the Court

9. On 12 June 2002, Interboves declared to the Hauptzollamt the export of 33 live bovine animals to the former Federal Republic of Yugoslavia, applying for an export refund in that respect.

10 — That refers to bovine animals, with the exception of unweaned calves.

10. By decision of 23 July 2003, the Hauptzollamt refused the refund on the ground that, during the transportation of the animals, Interboves had not complied with point 48.7(b) of the annex to Directive 91/628.

11. In its decision, the Hauptzollamt explained that, according to its analysis of the route plan submitted by Interboves, the bovine animals had been transported over a journey time of 23 hours, namely 14 hours 30 minutes by sea on board a roll-on/ roll-off ferry between Bari (Italy) and Igoumenitsa (Greece) and 8 hours 30 minutes by road to Evzoni, the border post between Greece and the Former Yugoslav Republic of Macedonia, without any resting period. Taking the view that point 48.7(b) of the annex to Directive 91/628 establishes that, after 14 hours of transport, a rest period of 12 hours must be provided after unloading at the port of destination, or in its vicinity, for animals which have been transported by sea between two geographical points in the Community by means of vehicles loaded onto vessels without unloading of those animals, the Hauptzollamt refused to grant the refund.

12. By decision of 21 June 2005, the Hauptzollamt rejected the administrative appeal by Interboves against the refusal to issue the export refund, considering that the sea-crossing time had to be regarded as an extension of the transport by road, whereas Interboves had maintained that it did not have to be included in the calculation of the transport time. According to the Hauptzollamt, in order to ascertain whether the total duration of transport complied with point 48.7(b) of the annex to Directive 91/628, the journey time by sea had to be added to the preceding and subsequent periods of road transport, which would amount, in the present case, to 32 hours and 45 minutes (that is, 14 hours and 30 minutes of sea transport and 18 hours and 15 minutes of road transport to the final destination).

13. On 21 July 2005, Interboves appealed against that decision to the Finanzgericht Hamburg, submitting that it had complied with the provisions of Directive 91/628.

14. Considering that the outcome of the proceedings depended on the interpretation of the provisions of Chapter VII of the annex to Directive 91/628 which could give rise to some uncertainty, the Finanzgericht Hamburg decided to stay proceedings and to refer to the Court for a preliminary ruling the following questions:

‘(1) Does point 48.7(a)… of the annex to Directive 91/628… define the basic conditions for transport (of animals) by sea so that, in principle, — provided that the conditions laid down in points 48.3

and 48.4… of [that] annex, except for journey times and rest periods, are met — the journey times by road before and after transport by sea are not interconnected, even where animals are being transported on so-called roll-on/roll-off ferries?

(2) Does point 48.7(b)… of the annex to Directive 91/628… include a special provision for so-called roll-on/roll-off ferries operating in the Community which applies alongside or in addition to the conditions laid down in point 48.4[(d)]…, so that a new maximum journey time of 29 hours (*cf.* point 48.4(d)…) does not commence after arrival of the ferry at the port of destination (the animals having instead to be rested for 12 hours) only if the journey time at sea is such that the voyage has exceeded the general scheme of points 48.2 to 48.4… of the annex to the Directive — namely 29 hours in accordance with point 48.4(d)?'

15. In accordance with Article 23 of the Statute of the Court of Justice, Interboves, the Hauptzollamt, the Belgian, Greek and Swedish Governments and the Commission submitted written observations. Apart from the Hauptzollamt and the Belgian Government, who were not represented there, those parties made oral submissions at the hearing on 23 May 2007.

IV — Analysis

16. Point 48 in Chapter VII of the annex to Directive 91/628 lays down the rules concerning watering and feeding intervals and journey times and resting periods for the animal species listed in Article 1(1)(a) of that directive, which include bovine animals, during transport of those species, with the exception of transport by air.

17. Point 48.2 of that annex states that journey times are not to exceed 8 hours. Those times may however be extended where the vehicle meets the additional requirements laid down in point 48.3 of that annex. Thus, where the means of transport is a road vehicle meeting the conditions in point 48.3 — and the referring court does not entertain any doubts on that score in the main proceedings — point 48.4(d) of the annex to Directive 91/628 establishes that, after 14 hours of travel, the animals must be given a rest period of *at least* 1 hour sufficient for them in particular to be given liquid and fed, after which travel can be resumed for 14 hours. Point 48.4(d) therefore sets the maximum duration of transport at 28 hours in respect of road vehicles which meet the conditions in point 48.3.

18. In this respect, I must point out that the general formula, used by the referring

court and some of the parties who submitted observations to the Court, according to which point 48.4(d) of the annex to Directive 91/628 authorises a maximum transport time of 29 hours, is no more than an imprecise interpretation of the 14 + 1 + 14 rule laid down in that provision.[11] The rule in 48.4(d) establishes only a *maximum* period of road transport of 28 hours, interrupted by a *minimum* rest period of 1 hour, those two periods added together forming the *minimum* journey time of 29 hours. Consequently, a journey time might, for example, be 50 hours, that is to say, two (maximum) periods of transport of 14 hours each, interrupted by a rest period of 22 hours.

19. As regards transport by sea, point 48.7(a) of the annex to Directive 91/628 refers to the rule laid down in point 48.2 (that is, a maximum journey time of 8 hours), unless the conditions set out in points 48.3 and 48.4 of that annex, *except for journey times and rest periods,* are met. It follows from a reading of the text of point 48.7(a) of the annex to Directive 91/628 that the minimum journey time of 29 hours provided for in point 48.4(d) does not apply, as a general rule, to transport by sea. That means of transport includes, in any case, and as all the parties who submitted observations to the Court indicated, transport by a specialised vessel meeting conditions regarding comfort comparable to those of a cowshed (commonly known as a 'livestock-carrier').

20. Furthermore, point 48.7(b) of the annex to Directive 91/628 states that, in respect of transport by sea on a regular and direct link between two geographical points of the European Community by means of vehicles loaded on to vessels without unloading of the animals ('transport by roll-on/roll-off ferry'), the animals must be rested for 12 hours after unloading at the port of destination or in its immediate vicinity, unless the journey time at sea is such that the voyage can be included in the general scheme of points 48.2 to 48.4.

21. In the first question referred for a preliminary ruling, the referring court essentially raises the question, first, as to whether transport by roll-on/roll-off ferry, which is referred to in point 48.7(b), can be characterised as transport by sea for the purpose of 48.7(a) of that annex. If the answer to that question is in the affirmative, the referring court asks secondly, whether, when the transport by roll-on/roll-off ferry occurs between two periods of transport by road, those periods of transport by road are interconnected, as it assumes to be the case in the event of an identical route plan where the part by sea is carried out in a livestock-carrier.

11 — See my Opinion of 28 February 2008 in Case C-207/06 *Schwaninger Martin*, pending before the Court (footnote 7).

22. By its second question, the referring court asks, essentially, whether, after transport by a roll-on/roll-off ferry for what appears to be more than 14 hours — the maximum journey time laid down in point 48.4(d) of the annex to Directive 91/628 — before the minimum rest period of one hour, the animals must be rested for 12 hours pursuant to point 48.7(b), or whether transport by road can take place immediately after unloading for a maximum period of 28 hours.

23. To answer those questions, a systematic and teleological interpretation should be given to point 48 of the annex to Directive 91/628 as regards the conditions under which bovine animals are transported by road, by roll-on/roll-off ferry and by livestock carrier.

24. Point 48 distinguishes means of transport on the basis of the qualitative guarantees they provide for protecting the health of the animals, in this instance bovine animals.

25. Thus, whereas the maximum duration of transport by road laid down in point 48.4(d) of the annex to Directive 91/628 is 28 hours, the transport by sea of bovine animals by means of a livestock carrier, which is referred to in paragraph 48.7(a) of that annex, is not subject to any maximum journey time because of the significantly better conditions which it guarantees for the animals on the journey.

26. Transport by roll-on/roll-off ferry falls between those two extremes and is the central issue of the questions referred by the national court. Although the bovine animals are not unloaded from the lorry onto the vessel as they are when transported on a livestock carrier, the conditions are better for their health than those prevailing during transport by road, on account of the additional guarantees laid down in point 26 of Chapter I of the annex to Directive 91/628. Thus, whereas bovine animals are subjected to numerous jolts during transport by road, point 26(i) of that chapter provides that lorries should have a fixing system to limit the movements of the vehicle during transport by roll-on/roll-off ferry. Likewise, whereas, during transport by road, bovine animals can be fed and/or watered only during a stop, they can, by contrast, continue to be fed and/or watered during the crossing, in accordance with point 26(iii).

27. Without wishing to anticipate the answer to the questions referred for a preliminary ruling, it would appear that the Community legislature has acknowledged the specific nature of transport by roll-on/roll-off ferry by also laying down in point 48.7(b) of the

annex to Directive 91/628 ad hoc provisions, including provisions relating to journey time, taking the qualitative conditions of that transport into account. I will examine later in this Opinion the effects that those conditions have on establishing journey time on a roll-on/roll-off ferry.

28. That being the case, the reference, in point 26 of this Opinion, to point 26 in Chapter I of the annex to Directive 91/628 leads me directly to state, in answer to the first branch of the first question, that there is no doubt that transport by roll on/roll-off ferry must be regarded as transport by sea. As I have already had the opportunity to point out in my Opinion in *Schwaninger Martin*, transport by roll-on/roll-off ferry, despite its specific features, is transport by sea. [12] Moreover, point 48.7(b) of the annex to Directive 91/628 refers to that means of transport as being 'transport by sea'.

29. Consequently, I believe that it can be maintained without much hesitation that point 48.7(a) lays down the general provisions relating to transport by sea, including transport by roll-on/roll-off ferry. Accordingly, that provision applies to all the types of transport by sea that meet the conditions set out in paragraphs 48.2 to 48.4, except for journey times and rest periods.

30. In order to answer the first question referred in its entirety, it remains for us to ascertain whether the periods of transport by road preceding and following the transport by roll-on/roll-off ferry are interconnected.

31. In this connection, the applicant in the main proceedings and the Commission defend the theory that the two periods of transport by road are *never* connected. The Swedish Government maintains, by contrast, that they are *always* connected, because there is a single uninterrupted journey. That government also states that only its view is consistent with the purpose of Directive 91/628.

32. To my mind, the answer to the question referred is not quite so black and white. In short, as I will show later, whether the two periods of transport by road need to be calculated cumulatively depends on the journey time by roll-on/roll-off ferry, that is, whether or not that journey time amounts to the journey time laid down in point 48.4(d) of the annex to Directive 91/628.

12 — Paragraph 26.

33. I have already stated that transport by roll-on/roll-off ferry, despite its classification as transport by sea, has special features. Those features have been acknowledged by the Community legislature in the provisions of Directive 91/628, in particular in point 48.7(b) of the annex thereto. In that regard, the reference at the end of that provision to the general scheme of points 48.2 to 48.4 of that annex implies that, contrary to the rules applicable to transport by sea in general (point 48.7(a)), the maximum journey time of 28 hours provided for in point 48.4(d) of that annex applies if bovine animals are transported by roll-on/roll-off ferry. It must nevertheless be pointed out that, during transport by sea, the rest period referred to in point 48.4(d) is redundant. Whether transported in livestock carriers or on roll-on/roll-off ferries, the animals can continue to be watered and/or fed, in the first case, because the conditions are similar to those of a cowshed and in the second, as a result of the existence of and compliance with the provisions of point 26(iii) in Chapter I of the annex to Directive 91/628, which ensure that the animals are fed and watered.

34. Accordingly, where the journey time on a roll-on/roll-off ferry amounts to 28 hours, on arrival at the port of destination the animals must be rested for 12 hours in accordance with point 48.7(b). The 12 hours provided for in that provision perform the same function of 'neutralising' the journey times before that rest as the 24 hours rest referred to in point 48.5 of the annex to Directive 91/628, applicable to transport by road. That implies that, after a rest period of 12 hours following transport by roll-on/roll-off ferry lasting 28 hours, a new period of transport can commence.

35. That interpretation of the function of the 12 hour rest period is borne out, first, by the wording of point 48.7(b) of the annex to Directive 91/628 — which does not refer to point 48.5 of that annex — and, secondly, by the nature of transport by roll-on/roll-off ferry which, as has been previously explained, provides travel conditions that are qualitatively better for the health of the animals than those of transport by road.

36. In the event that the transport by roll-on/roll-off ferry occurs between two periods of transport by road, as in the case referred to by the national court, the connection between those periods of transport by road is, to my mind, dependant on the journey time on the roll-on/roll-off ferry.

37. If the journey time on the by roll-on/roll-off ferry amounts to the maximum 28 hours, the 12 hour rest period which the bovine animals must be allowed neutralises any earlier journey time by any means of transport.

38. If the journey time by roll-on/roll-off ferry does not amount to the maximum 28 hours, the two periods of transport by road must be deemed connected, on account of the purpose of Directive 91/628, which is to protect the health of the animals during transport. In such a situation, to defend, as the Commission does, an interpretation to the effect that the periods of transport by road are not interconnected would amount to treating a period of transport by roll-on/roll-off ferry more favourably than a rest period. Thus while, after a rest period of 20 hours preceded by a journey time by road of 14 hours, the subsequent period of transport by road may not exceed 14 hours, in accordance with the general scheme of point 48.4(d) of the annex to that directive, to accept, in a similar situation, that, after a journey time of 20 hours by roll-on/roll-off ferry a maximum period of transport of 28 hours is possible, without taking into consideration the journey time by road which preceded the journey time at sea, would be to disregard to the objective pursued by of Directive 91/628. That objective is to reduce as far as possible the transport of animals over long distances and thus to limit journey times in the interest of their welfare. Its importance has furthermore been stressed by the Court in *ZVK*, [13] in relation to the interpretation of the term 'transport', within the meaning of Directive 91/628.

39. An interpretation according to which the answer to whether the journey times by road are connected depends on the journey time on the roll-on/roll-off ferry ensures proportionate protection of the animals during the journey, by limiting as far as possible the accumulation of long periods of transport. That interpretation is, in my view, consistent with the objective which the Community legislature wished to attain, that is to say, an equivalent level of protection of animals during transport, taking into account the different qualitative conditions of each means of transport, by providing for rules adapted to each of those means of transport, in particular those relating to journey time.

40. Consequently, the line of argument put forward by the Swedish Government, according to which, in order to ensure protection of the animals' health, it should be considered that there was a single *uninterrupted* journey does not seem to me to be justified. Although it must be conceded that the transport consisted of a single journey, [14] that journey nevertheless

13 — Case C-300/05 [2006] ECR I-11169, paragraph 19.

14 — I would point out that, under Article 2(g) of Directive 91/628, a journey is defined as 'transport from place of departure to place of destination'.

comprised different means of transport subject to rules that are also different. Moreover, the arguments set out by the Swedish Government seem to introduce treatment that discriminates against some means of transport, in this case transport by sea, contrary to the *ratio* of Directive 91/628.

41. I cannot therefore agree either with the view defended, inter alia, by the Commission, according to which the periods of transport by road preceding and subsequent to the period of transport by roll-on/roll-off ferry are never connected, or with that suggested by the Swedish Government, according to which those periods are always connected as part of a single uninterrupted journey. By contrast, to my mind the answer to the second branch of the first question referred is that whether journey times by road preceding and following a period of transport by roll-on/roll-off ferry are connected depends on whether the maximum journey time laid down in point 48.4(d) of the annex to Directive 91/628, in accordance with the reference made to that provision in point 48.7(b) of that annex, has been reached.

42. The above analysis and the answer which I have just given to the first question also essentially provide the answer to the second question referred by the national court.

43. In its second question, the national court asks whether, after transport by roll-on/roll-off ferry which apparently lasted more than 14 hours, that is to say, the maximum journey time laid down in point 48.4(d), the animals must be rested for 12 hours pursuant to point 48.7(b), or whether they may be transported by road immediately after they are unloaded for a maximum period of 28 hours.

44. As I have previously stated, after transport by roll-on/roll-off ferry lasting less than 28 hours, journey time can commence anew, but any journey time by road preceding the transport by roll-on/roll-off ferry must nevertheless be taken into account.

45. In the present case, it is apparent from the decision of the national court that the transport by road which preceded the transport by roll-on/roll-off ferry was neutralised by a rest period of more than 24 hours (in accordance with point 48.5 of the annex to Directive 91/628) and that the issue before the national court is whether, following transport by roll-on/roll-off ferry of allegedly excessive duration (14 hours and 30 minutes), the journey time can commence anew. However, as my analysis relating to the first question referred has shown, the animals may be transported by road immediately after arrival at the port of destination of a roll-on/roll-off ferry if the sea crossing time did not amount to 28 hours. Furthermore, the proviso which I formulated previously, concerning the need to connect periods of transport by road, is irrelevant in the case in the main proceedings because the journey time by road preceding the transport by roll-on/roll-off ferry was neutralised.

46. I would add, for whatever purpose it may serve, that the alternative interpretation referred to by the national court, consisting of applying a rest period of 12 hours after a period of transport by roll-on/roll-off ferry of 14 hours, must be rejected not only for the reason set out above, but also on other grounds relating to the systematic interpretation of Directive 91/628. In particular, such an interpretation would amount to treating a period of transport by road lasting 14 hours which, under point 48.4(d) of the annex to Directive 91/628, must be followed only by 'a rest period of at least one hour', more favourably than transport by roll-on/roll-off ferry, which would have to be followed by a rest period of 12 hours, even though that latter form of transport provides qualitatively better travel conditions as regards the animals' health than transport by road. [15]

47. In the light of the foregoing, I suggest that the Court answer the questions referred to the effect, first, that point 48.7(a) of the annex to Directive 91/628 governs the basic requirements applicable to transport by sea, including transport by roll-on/roll-off ferry as referred to in point 48.7(b) of that annex. Secondly, whether the journey times by road preceding and following a period of transport by roll-on/roll-off ferry are connected depends on whether the maximum journey time laid down in point 48.4(d) of the annex to Directive 91/628, in accordance with the reference made to that provision in point 48.7(b) of that annex, has been reached. Consequently, where the journey time by roll-on/roll-off ferry does not amount to the maximum 28 hours, a period of transport by road may commence immediately on arrival at the port of destination. In order to calculate that journey time pursuant to Directive 91/628, the journey time by road which preceded the transport by roll-on/roll-off ferry should be taken into account, unless a rest period of at least 24 hours, in application of point 48.5 of the annex to Directive 91/628, has neutralised the period of transport by road prior to the journey by sea. It is for the national court to assess whether, in the case in the main proceedings, the journey in question meets the conditions referred to above.

15 — See also, to that effect, my Opinion in *Schwaninger* (points 31 to 35).

V — Conclusions

48. In the light of all the foregoing considerations, I suggest that the Court should give the following answers to the questions referred to it by the Finanzgericht Hamburg for a preliminary ruling:

(1) Point 48.7(a) of the annex to Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC, as amended by Council Directive 95/29/EC of 29 June 1995, must be interpreted to the effect that it governs the basic requirements applicable to transport by sea, including transport on a regular and direct link between two geographical points of the European Community by means of vehicles loaded on to vessels without unloading of the animals, as referred to in point 48.7(b) of that annex.

(2) Whether the journey times by road preceding and following a period of transport on a regular and direct link between two geographical points of the European Community by means of vehicles loaded on to vessels without unloading of the animals are connected, depends on whether the maximum journey time laid down in point 48.4(d) of the annex to Directive 91/628, as amended by Directive 95/29, in accordance with the reference made to that provision in point 48.7(b) of that annex, has been reached.

Consequently, where the journey time on a regular and direct link between two geographical points of the European Community by means of vehicles loaded on to vessels without unloading of the animals does not amount to the maximum 28 hours, a period of transport by road may commence immediately on arrival at the port of destination. In order to calculate that journey time pursuant to Directive 91/628, as amended by Directive 95/29, the journey time by road which preceded the transport on a regular and direct link between two geographical points of the European Community by means of vehicles loaded on to vessels without unloading of the animals should be taken into account, unless a rest period of at least 24 hours, in application of point 48.5 of the annex to that Directive, has neutralised the period of transport by road prior to the journey by sea.

It is for the national court to assess whether, in the case in the main proceedings, the journey in question meets the conditions referred to above.