Reports of Cases

JUDGMENT OF THE COURT (Sixth Chamber)

19 September 2024*

(Reference for a preliminary ruling – Agriculture – Common agricultural policy – Direct support schemes – Delegated Regulation (EU) No 639/2014 – Livestock aid application – Article 53(4) – Conditions for granting coupled support measures for bovine animals – Regulation (EC) No 1760/2000 – Article 7 – Registration of bovine animals – Decision 2001/672/EC – Article 2(2) and (4) – Movement of bovine animals to summer grazing in mountain areas – Late notification – Delegated Regulation (EU) No 640/2014 – Points 2, 15, 16 and 18 of the second subparagraph of Article 2(1) – Article 30(4)(c) – Animal determined – Reduction in coupled support – Article 15(1) – Article 34 – Administrative penalties – Notification of failure to make an entry)

In Case C-350/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Supreme Administrative Court, Austria), made by decision of 1 June 2023, received at the Court on 7 June 2023, in the proceedings

Vorstand für den Geschäftsbereich II der Agrarmarkt Austria

interested party:

TF,

THE COURT (Sixth Chamber),

composed of T. von Danwitz, President of the Chamber, P.G. Xuereb (Rapporteur) and A. Kumin, Judges,

Advocate General: J. Kokott,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the Vorstand für den Geschäftsbereich II der Agrarmarkt Austria, by M.E. Huber, acting as Agent,

* Language of the case: German.

– the Austrian Government, by J. Schmoll, M. Kopetzki and C. Pesendorfer, acting as Agents,

– the European Commission, by J. Aquilina and A.C. Becker, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 6 June 2024,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of:

– Article 7(1) and (2) of Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ 2000 L 204, p. 1), as amended by Regulation (EU) No 653/2014 of the European Parliament and of the Council of 15 May 2014 (OJ 2014 L 189, p. 33) ('Regulation No 1760/2000');

– Article 2(2) and (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 (OJ 2001 L 235, p. 23), as amended by Commission Decision 2010/300/EU of 25 May 2010 (OJ 2010 L 127, p. 19) ('Decision 2001/672');

– Article 53(4) of Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation (OJ 2014 L 181, p. 1), as amended by Commission Delegated Regulation (EU) 2018/1784 of 9 July 2018 (OJ 2018 L 293, p. 1) ('Delegated Regulation No 639/2014'); and

– Point 2(a) and point 18(a) of the second subparagraph of Article 2(1), Article 15(1), Article 30(4)(c) and Article 34 of Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance (OJ 2014 L 181, p. 48), as amended by Commission Delegated Regulation (EU) 2017/723 of 16 February 2017 (OJ 2017 L 107, p. 1) ('Delegated Regulation No 640/2014').

2 The request has been made in proceedings between TF and the Vorstand für den Geschäftsbereich II der Agrarmarkt Austria (Board of Directors for Business Division II of the Austrian Agricultural Market Surveillance Office, Austria), which is the legal person governed by public law acting, inter alia, as a paying agency in Austria ('AMA') concerning, first, AMA's refusal to grant TF livestock aid for certain bovine animals on account of TF's late notification of the movement of those bovine animals to mountain pastures and, second, AMA's imposition of a penalty on TF on account of that late notification.

Legal context

European Union law

Regulation No 1760/2000

3 Recitals 4 to 7 and 14 of Regulation No 1760/2000 state:

‘(4) Following the instability in the market in beef and beef products caused by the bovine spongiform encephalopathy crisis, the improvement in the transparency of the conditions for the production and marketing of the products concerned, particularly as regards traceability, has exerted a positive influence on consumption of beef. In order to maintain and strengthen the confidence of consumers in beef and to avoid misleading them, it is necessary to develop the framework in which the information is made available to consumers by sufficient and clear labelling of the product.

(5) To that end it is essential to establish, on the one hand, an efficient system for the identification and registration of bovine animals at the production stage and to create, on the other hand, a specific Community labelling system in the beef sector based on objective criteria at the marketing stage.

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

(7) 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.

…

(14) For the purpose of rapid and accurate tracing of animals for reasons relating to the control of Community aid schemes, each Member State should create a national computerised data base which will record the identity of the animal, all holdings on its territory and the movements of the animals, in accordance with the provisions of Council Directive 97/12/EC of 17 March 1997 amending and updating Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine [OJ 1997 L 109, p. 1], which clarifies the health requirements concerning this database.’

4 Article 3 of Regulation No 1760/2000, which appears in Title I of that regulation, entitled ‘Identification and registration of bovine animals’, provides, in the first paragraph thereof:

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

(a) means of identification to identify animals individually;

(b) computerised databases;

(c) animal passports;

(d) individual registers kept on each holding.'

5 Article 7 of that regulation provides:

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

– keep an up-to-date register,

– report to the competent authority all movements to and from the holding and all births and deaths of animals of the holding, together with the dates of those events, within a maximum period fixed by the Member State concerned; that maximum period shall be at least three days and not exceed seven days following the occurrence of one of those events; Member States may request the [European] Commission to extend the maximum period of seven days.

To take into account practical difficulties in exceptional cases, the Commission shall be empowered to adopt delegated acts in accordance with Article 22b to determine the exceptional circumstances in which Member States may extend the maximum period of seven days provided for in the second indent of the first subparagraph, together with the maximum length of that extension, which shall not exceed 14 days following the period of seven days referred to in the second indent of the first subparagraph.

2. To ensure the adequate and effective traceability of bovine animals when put out to seasonal grazing, the Commission shall be empowered to adopt delegated acts in accordance with Article 22b concerning the Member States or part of Member States where special rules for seasonal grazing shall apply, including the time period, specific obligations of the keepers, and rules on the holding registration and registration of movements of such bovine animals, including transitional measures required for their introduction.

…'

Decision 2001/672

6 Decision 2001/672 was repealed by Commission Delegated Regulation (EU) 2019/2035 of 28 June 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs (OJ 2019 L 314, p. 115). In view of the date of the facts of the dispute in the main proceedings, Decision 2001/672 is nevertheless applicable to that dispute.

7 Recital 3 of Decision 2001/672 was worded as follows:

'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.'

8 Article 1 of that decision provided:

'This Decision is applicable to the movements of bovine animals within the Member States or part of Member States mentioned in the Annex from different holdings to pastures located in mountain areas for grazing during the period from 15 April to 15 October.'

9 Article 2 of the decision provided:

‘1. Each pasture mentioned in Article 1 must be given a specific registration code which must be registered in the national database for bovine animals.

2. The person responsible for the pasture establishes a list of the bovine animals subject to the movement mentioned in Article 1. This list must contain at least:

– 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,

– the estimated date of departure from the pasture.

…

4. 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 [No 1760/2000] at the latest 15 days after the date when the animals were moved to the pasture.

…’

Regulation (EU) No 1306/2013

10 Article 63 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ 2013 L 347, p. 549), as amended by Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 (OJ 2017 L 350, p. 15) (‘Regulation No 1306/2013’), entitled ‘Undue payments and administrative penalties’, provides, in paragraphs 1 and 2 thereof:

‘1. Where it is found that a beneficiary does not comply with the eligibility criteria, commitments or other obligations relating to the conditions for the granting of the aid or support, as provided for in the sectoral agricultural legislation, the aid shall not be paid or shall be withdrawn in full or in part and, where relevant, the corresponding payment entitlements as referred to in Article 21 of Regulation No 1307/2013 [of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ 2013 L 347, p. 608)] shall not be allocated or shall be withdrawn.

…

2. Moreover, where sectoral agricultural legislation so provides, Member States shall also impose administrative penalties, …'

11 Article 77 of Regulation No 1306/2013, entitled 'Application of administrative penalties', provides, in the second subparagraph of paragraph 6 thereof:

'The administrative penalties referred to in this paragraph shall be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance concerned.'

Regulation No 1307/2013

12 Regulation No 1307/2013, as amended by Regulation (EU) 2019/288 of the European Parliament and of the Council of 13 February 2019 (OJ 2019 L 53, p. 14) ('Regulation No 1307/2013'), includes a Title IV, entitled 'Coupled support', which comprises a Chapter 1, entitled 'Voluntary coupled support', containing Article 52, entitled 'General rules', which provides:

'1. Member States may grant coupled support to farmers under the conditions laid down in this Chapter (in this Chapter referred to as "coupled support").

…

6. Coupled support is a production-limiting scheme that shall take the form of an annual payment based on fixed areas and yields or on a fixed number of animals and shall respect financial ceilings to be determined by Member States for each measure and notified to the Commission.

…

9. In order to ensure efficient and targeted use of Union funds and to avoid double funding under other similar support instruments, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down:

(a) the conditions for granting coupled support;

…'

Delegated Regulation No 639/2014

13 Recital 74 of Delegated Regulation No 639/2014 states:

'More in particular as regards voluntary coupled support, it is necessary to further specify the content of the information to be notified by the Member States for the sake of ensuring the correct application of the rules on that support and in order to make such notifications efficient, so as to enable the Commission to verify that Member States respect the requirements on consistency and non-cumulation of support as well as the maximum percentages of the national ceilings referred to in Article 53 of Regulation [No 1307/2013] and related total amounts when designing the support measures.'

14 Article 53 of Delegated Regulation No 639/2014, entitled 'Conditions for granting the support', provides:

'1. Member States shall lay down eligibility criteria for coupled support measures in compliance with the framework set out in Regulation [No 1307/2013] and the conditions laid down in this Regulation.

…

4. Where the coupled support measure concerns bovine animals and/or sheep and goats, Member States shall define as an eligibility condition for the support, the requirements to identify and register animals provided for in Regulation [No 1760/2000] or Council Regulation (EC) No 21/2004 [of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ 2004 L 5, p. 8)] respectively.

However, without prejudice to other eligibility conditions, an animal shall also be deemed eligible for support where the identification and registration requirements referred to in the first subparagraph are met by a date to be fixed by the Member State which shall not be later than:

(a) the first day of the retention period of the animal, where a retention period is applied;

(b) a date chosen on the basis of objective criteria and consistent with the corresponding measure notified in accordance with Annex I, where no retention period is applied.

By 15 September 2015, Member States shall notify the Commission of the dates referred to in the second subparagraph.'

Delegated Regulation No 640/2014

15 Delegated Regulation No 640/2014 was repealed by Commission Delegated Regulation (EU) 2022/1172 of 4 May 2022 supplementing Regulation (EU) 2021/2116 of the European Parliament and of the Council with regard to the integrated administration and control system in the common agricultural policy and the application and calculation of administrative penalties for conditionality (OJ 2022 L 183, p. 12). In view of the date of the facts of the dispute in the main proceedings, Delegated Regulation No 640/2014 is nevertheless applicable to that dispute.

16 Recitals 1, 2, 27, 28, 30 and 31 of Delegated Regulation No 640/2014 state:

'(1) … Regulation [No 1306/2013] empowers the Commission to adopt delegated and implementing acts. In order to ensure the smooth functioning of the system in the new legal framework, certain rules have to be adopted by means of such acts. …

(2) In particular, rules should be established to supplement certain non-essential elements of Regulation [No 1306/2013] in relation to the functioning of the integrated administration and control system (integrated system), the time limits for the submission of aid applications or payment claims, the conditions for the partial or total refusal of aid and the partial or total withdrawal of undue aid or support and the determination of administrative penalties to deal with non-compliances related to conditions for receiving aid under schemes established by Regulation [No 1307/2013] …

…

(27) Administrative penalties should be established for animal aid schemes and animal-related support measures having regard to the principles of dissuasiveness and proportionality and the special problems linked to cases of natural circumstances. …

(28) As far as aid applications under animal aid schemes or payment claims under animal-related support measures are concerned, non-compliances lead to the ineligibility of the animal concerned. Reductions should be provided for as from the first animal found with non-compliances but, irrespective of the level of the reduction, there should be a less harsh administrative penalty where three animals or less are found with non-compliances. In all other cases the severity of the administrative penalty should depend on the percentage of animals found with non-compliances.

…

(30) The possibility to make corrections without leading to the administrative penalty provided for the aid application and payment claim should also apply in relation to incorrect data contained in the computerised database in respect of declared bovine animals for which such non-compliances constitute a breach of an eligibility criterion, unless the beneficiary has been informed of the competent authority's intention to carry out an on-the-spot check or the authority has not already informed the beneficiary of any non-compliance in the aid application or payment claim.

(31) Refusals and withdrawals of support and administrative penalties should be established for rural development support measures having regard to the principles of dissuasiveness and proportionality. Refusals and withdrawals of support should be graded on the basis of the severity, extent, duration and reoccurrence of the non-compliance found. Refusals and withdrawals of support and administrative penalties should, with regard to the eligibility criteria, commitments and other obligations, take into account the particularities of the various support measures. In the case of serious non-compliance or in the case the beneficiary provided false evidence for the purpose of receiving the support, the support should be refused and an administrative penalty should be imposed. Administrative penalties should go as far as the total exclusion from one or several support measures or types of operations for a specified period.'

17 Article 2 of Delegated Regulation No 640/2014, entitled 'Definitions', provides, in paragraph 1 thereof:

'…

The following definitions shall also apply:

…

(2) "non-compliance" means:

(a) for eligibility criteria, commitments or other obligations relating to the conditions for granting the aid or support referred to in Article 67(2) of Regulation [No 1306/2013], any non-respect of those eligibility criteria, commitments or other obligations; or

…

(9) “computerised database for animals” means the computerised database referred to in Article 3(b) and Article 5 of Regulation [No 1760/2000] and/or the central register or computerised database referred to in Article 3(1)(d), Article 7 and Article 8 of Regulation [No 21/2004] respectively;

…

(13) “animal aid scheme” means a voluntary coupled support measure provided for in Chapter 1 of Title IV of Regulation [No 1307/2013] where the annual payment to be granted within defined quantitative limits is based on a fixed number of animals;

…

(15) “livestock aid application” means the applications for the payment of aid where the annual payment to be granted within defined quantitative limits is based on a fixed number of animals under the voluntary coupled support provided for in Chapter 1 of Title IV of Regulation [No 1307/2013];

(16) “declared animals” means animals subject to a livestock aid application under the animal aid scheme or subject to a payment claim for an animal-related support measure;

(17) “potentially eligible animal” means an animal that could a priori potentially fulfil the eligibility criteria for receiving the aid under the animal aid scheme or support under an animal-related support measure in the claim year in question;

(18) “animal determined” means:
(a) for an animal aid scheme, an animal for which all conditions laid down in the rules for granting the aid have been met; or
(b) for an animal-related support measure, an animal identified by means of administrative or on-the-spot checks;

…’

18 Title II of Delegated Regulation No 640/2014, entitled ‘The integrated administration and control system’, includes a Chapter IV, entitled ‘Calculation of aid and administrative penalties relating to direct payment schemes and rural development measures in the scope of the integrated system’, which contains Articles 15 to 34 of that delegated regulation.

19 Article 15 of that delegated regulation, entitled ‘Exceptions to the application of administrative penalties’, provides:

‘1. The administrative penalties provided for in this Chapter shall not apply with regard to the part of the aid application or payment claim as to which the beneficiary informs the competent authority in writing that the aid application or payment claim is incorrect or has become incorrect since it was lodged, provided that the beneficiary has not been informed of the competent authority’s intention to carry out an on-the-spot check and that the authority has not already informed the beneficiary of any non-compliances in the aid application or payment claim.

2. The information given by the beneficiary as referred to in paragraph 1 shall have the effect that the aid application or payment claim is adjusted to the actual situation.'

20 Article 30 of that delegated regulation, entitled 'Basis of calculation', states:

'…

2. Animals present on the holding shall only be considered as determined if they are identified in the aid application or in the payment claim. …

3. Without prejudice to Article 31, if the number of animals declared in an aid application or payment claim exceeds that determined as a result of administrative checks or on-the-spot checks, the aid or support shall be calculated on the basis of the animals determined.

…

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

…

(c) where the non-compliances found relate to incorrect entries in the register, the animal passports or the computerised database for animals, but are not of relevance for the verification of the respect of the eligibility conditions other than that referred to in Article 53(4) of Delegated Regulation [No 639/2014] under the aid scheme or support measure concerned, the animal concerned shall only be considered as not determined if such incorrect entries are found during at least two checks within a period of 24 months. In all other cases[,] the animals concerned shall be considered as not determined after the first finding.

The entries in, and notifications to, the system for the identification and registration of bovine animals may be adjusted at any time in cases of obvious errors recognised by the competent authority.

…'

21 Article 31 of Delegated Regulation No 640/2014, entitled 'Administrative penalties in respect of declared animals under the animal aid schemes or animal-related support measures', is worded as follows:

'1. Where, in respect of an aid application under an animal aid scheme or in respect of a payment claim under an animal-related support measure or a type of operation under such support measure, a difference is found between the number of animals declared and that determined in accordance with Article 30(3), the total amount of aid or support to which the beneficiary is entitled under that aid scheme or support measure or type of operation under such support measure for the claim year concerned shall be reduced by the percentage to be established in accordance with paragraph 3 of this Article, if no more than three animals are found with non-compliances.

2. If more than three animals are found with non-compliances, the total amount of aid or support to which the beneficiary is entitled under the aid scheme or support measure or type of operation under such support measure referred to in paragraph 1 for the claim year concerned shall be reduced by:

(a) the percentage to be established in accordance with paragraph 3, if it is not more than 10%;

(b) twice the percentage to be established in accordance with paragraph 3, if it is more than 10% but not more than 20%.

…

If the percentage established in accordance with paragraph 3 is more than 50%, no aid or support to which the beneficiary would have been entitled pursuant to Article 30(3) shall be granted under the aid scheme or support measure or type of operation under such support measure for the claim year concerned. Moreover, the beneficiary shall be subject to an additional penalty of an amount equal to the amount corresponding to the difference between the number of animals declared and the number of animals determined in accordance with Article 30(3). …

3. In order to establish the percentages referred to in paragraphs 1 and 2, the number of animals declared under an animal aid scheme or animal-related support measure or type of operation and found with non-compliances shall be divided by the number of animals determined for that animal aid scheme or support measure or type of operation under such support measure in respect of the aid application or payment claim or type of operation under such support measure for the claim year concerned.

…'

22 Article 34 of that delegated regulation, entitled 'Amendments and adjustments of entries in the computerised database for animals', provides:

'In respect of declared animals, Article 15 shall apply to errors and omissions in relation to entries in the computerised database for animals made from the moment the aid application or payment claim is submitted.'

Implementing Regulation (EU) No 809/2014

23 Article 21 of Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance (OJ 2014 L 227, p. 69), entitled 'Requirements pertaining to livestock aid application and to payment claims under animal-related support measures', provides:

'1. A livestock aid application as defined in [point 15] of the second subparagraph of Article 2(1) of Delegated Regulation [No 640/2014] or payment claim under animal-related support measures as defined in [point 14] of the second subparagraph of Article 2(1) of that Regulation shall contain all information necessary to establish eligibility for the aid and/or support, and in particular:

…

(c) the number of animals of each type in respect of which a livestock aid application or a payment claim is being submitted and, for bovines, the identification code of the animals;

…

4. Member States may introduce procedures by which data contained in the computerised database for animals may be used for the purposes of the livestock aid application or payment claim, provided that the computerised database for animals offers the level of assurance and implementation necessary for the proper management of the aid schemes or support measures involved at the level of individual animals.

The procedures referred to in the first subparagraph may consist of a system according to which a beneficiary may apply for aid and/or support in respect of all animals which, at a date or during a period determined by the Member State, qualify for aid and/or support on the basis of the data contained in the computerised database for animals.

…'

Delegated Regulation (EU) 2016/1393

24 The version of Article 30(4)(c) of Delegated Regulation No 640/2014 applicable to the dispute in the main proceedings stems from the amendment made by Commission Delegated Regulation (EU) 2016/1393 of 4 May 2016 amending Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross-compliance (OJ 2016 L 225, p. 41).

25 Recital 11 of Delegated Regulation 2016/1393 is worded as follows:

'Article 53(4) of [Delegated Regulation No 639/2014] provides that Member States are to define as an eligibility condition the requirement to identify and register bovine animals in accordance with Regulation [No 1760/2000]. The purpose of referring to that Regulation as a systematic eligibility condition is to ensure an unambiguous identification of animals eligible for aid or support. In this regard, it should be clarified in Article 30(4)(c) of Delegated Regulation [No 640/2014] that incorrect entries in the register, the animal passports and/or the computerised database for bovine animals of elements such as for instance gender, breed, colour or date should be considered as non-compliances after the first finding if the information is essential for the assessment of the animals' eligibility under the aid scheme or support measure concerned. Otherwise, the animal concerned should be considered as not determined if such incorrect entries are found on at least two checks within a period of 24 months.'

National law

The Marktordnungsgesetz 2007

26 Paragraph 8 of the Marktordnungsgesetz 2007 (Law on Market Organisation of 2007) (BGBl. I 55/2007, as amended and promulgated in BGBl. I 46/2018), entitled 'Direct payments', provides, in subparagraph 1 thereof:

'The settlement of direct payments within the meaning of Article 1(a) of Regulation [No 1307/2013] … shall be based on the following principles:

…

6. Coupled support shall be granted in accordance with Paragraph 8f for the grazing of mountain pastures pursuant to Article 52 of Regulation [No 1307/2013]. In accordance with Article 53(1) of [that regulation], the resources available for the coupled payment are set at 2.1% of the national ceiling.

…'

27 Paragraph 8f of the Law on Market Organisation of 2007, entitled 'Voluntary coupled support', provides, in subparagraph 1 thereof:

'The coupled support provided for in Paragraph 8(1)(6) shall be granted for bovine, ovine and caprine animals per livestock unit (LSU) put out to grazing. …'

The Direktzahlungs-Verordnung 2015

28 Paragraph 13 of the Direktzahlungs-Verordnung 2015 (Direct Payments Regulation of 2015) (BGBl. II 368/2014, as amended and promulgated in BGBl. II 57/2018), entitled 'Voluntary coupled support', is worded as follows:

'1. Voluntary coupled support may be granted only in respect of bovine, ovine and caprine animals moved to a mountain pasture that have been identified and registered in accordance with Regulation [No 1760/2000] …. However, an animal is also deemed eligible for support if the information referred to in the second indent of Article 7(1) of Regulation [No 1760/2000] has been communicated on the first day on which the respective animal has been moved to a mountain pasture.

2. Farmers shall apply for voluntary coupled support by submitting the "multiple application: areas" and the list of animals moved to a mountain pasture in accordance with Paragraph 22(5) of the Horizontale GAP-Verordnung [(CAP Horizontal Regulation)] and, for bovine animals, in conjunction with the information from the computerised database for bovine animals as regards the mountain-pasture/grazing notifications pursuant to Article 2 of [Decision 2001/672].

3. The relevant number for the granting of voluntary coupled support shall be determined on the basis of the number of animals moved to a mountain pasture by the farmer concerned as at the reference date of 15 July.

4. The animals must remain on the mountain pasture for a minimum of 60 days. The mountain-pasture period starts on the day the animals are moved to that pasture but no more than 15 days before making the mountain-pasture/grazing notification for bovine animals and/or submitting the list of animals moved to a mountain pasture. …'

The Horizontale GAP-Verordnung

29 Paragraph 21 of the Horizontale GAP-Verordnung (CAP Horizontal Regulation) (BGBl. II 100/2015, as amended and promulgated in BGBl. II 165/2020), entitled 'Submission', provides, in subparagraphs 1 and 1b thereof:

'(1) The single application ("multiple application: areas") referred to in Article 11 of Delegated Regulation [No 640/2014] shall be submitted by 15 May of each application year and exclusively in accordance with Paragraph 3(1) of the present Regulation.

…

(1b) For the 2020 claim year, by way of derogation from subparagraph 1, the single application shall be submitted by 15 June 2020. Changes within the meaning of Article 15(1) of Implementing Regulation [No 809/2014] may be notified until 30 June 2020 for the 2020 claim year.

…'

30 Paragraph 22 of that regulation, entitled 'Single application', provides:

'(1) The single application shall be submitted by all farmers applying for direct payments or … in accordance with the rules laid down in Paragraph 21. …

…

(5) In the case of animals put out to graze on mountain and communal pastures, the mountain grazing list shall be submitted no later than 15 July of the claim year.'

The Rinderkennzeichnungs-Verordnung 2008

31 Under Paragraph 6 of the Rinderkennzeichnungs-Verordnung 2008 (Cattle Identification Regulation of 2008) (BGBl. II 201/2008, as amended and promulgated in BGBl. II 285/2019):

'(1) The following shall be reported within seven days:

…

2. Movements of animals between the holdings of a keeper of animals located in different municipalities, together with the additional data required for an animal passport.

(1a) The following shall be reported within 15 days:

movements of animals put out to mountain or other pastures where bovine animals of two or more farmers will mix,

…'

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

32 In 2020, TF submitted a single application ('multiple application: areas') concerning, inter alia, the grant of coupled support for bovine animals put out to summer grazing (mountain pastures).

33 On 28 May 2020, TF arranged for four bovine animals to be put out to mountain pastures, which was notified to AMA on 1 June 2020, that is to say, within the 15-day time limit laid down in point 1 of Paragraph 6(1a) of the Cattle Identification Regulation of 2008. He also declared, within the time limit, the birth of a bovine animal born in the mountain pastures on 1 July 2020.

34 By contrast, it was only on 15 June 2020 that TF notified AMA that 12 other bovine animals had already been put out to mountain pastures on 9 May 2020, together with bovine animals of other farmers. That late notification specified the individual identification numbers of the 12 animals put out and of TF's holding, as well as the expected date of the return of those animals from mountain pastures, namely 31 October 2020.

35 By decision of 11 January 2021, AMA granted TF direct payments for 2020 amounting to EUR 17 086.71. Those payments comprised a basic payment, a greening payment and coupled support of EUR 119.44.

36 With regard to that coupled support, AMA nevertheless stated that, although the condition of a 60-day grazing period had been met for all the animals the movement of which had been notified by TF, the movements of the animals to mountain pastures had been notified within the time limit set by the Member State, in accordance with Article 7(1) of Regulation No 1760/2000, only in respect of five of those animals. On the other hand, the notification had not been made until after the expiry of that time limit as regards the other 12 bovine animals moved on 9 May 2020. In accordance with Article 31 of Delegated Regulation No 640/2014, that number of animals therefore had to be compared with the number of bovine animals for which the conditions for granting the aid were met. The result was a 100% reduction in the aid, which meant that no coupled support could be granted in that regard for 2020. In addition, AMA considered that, in accordance with the third subparagraph of Article 31(2) of Delegated Regulation No 640/2014, an additional penalty of EUR 235.60 should be imposed on TF, to be deducted from the payments owed to TF for the following three calendar years.

37 By an action brought on 9 February 2021 before the Bundesverwaltungsgericht (Federal Administrative Court, Austria), TF challenged the entirety of the decision adopted by AMA.

38 By judgment of 16 November 2021, the Bundesverwaltungsgericht (Federal Administrative Court) upheld the action. It quashed both the reduction in coupled support and the administrative penalty and ordered AMA to undertake a recalculation and to issue a new decision on TF's aid application.

39 That court took the view that cases of non-compliance with the obligation to notify the movement of animals in good time could, admittedly, lead to a reduction in coupled support and a penalty under Article 31 of Delegated Regulation No 640/2014. However, account also had to be taken of Article 15(1) of that delegated regulation, under which a penalty is not to apply if the beneficiary informs the competent authority in writing that the aid application is incorrect or has become incorrect since it was lodged. The latter provision was applicable in the present case, since a late notification had to be regarded as also constituting such written notification. The principle of proportionality also supported that interpretation.

40 AMA brought an appeal on a point of law (*Revision*) against that judgment before the Verwaltungsgerichtshof (Supreme Administrative Court, Austria), which is the referring court.

41 In its order for reference, the referring court states, in the first place, that by means of Paragraph 13(2) and (3) of the Direct Payments Regulation of 2015, the Austrian legislature made use of the option granted to the Member States by Article 21(4) of Implementing Regulation No 809/2014 to use the information contained in the computerised animal database to deal with all aid applications or payment claims in respect of animals. The application for coupled support submitted by a farmer is therefore made in several stages, in accordance with Paragraph 13(2) of the Direct Payments Regulation of 2015.

42 Thus, in connection with a single application ('multiple application: areas'), to be submitted before 15 June 2020, in accordance with Paragraph 21(1) and (1b) of the CAP Horizontal Regulation, such a farmer first relies on the principle of coupled support. The application is given specific form through the notification of the movement of the animals put out to summer grazing, including the information referred to in Article 2(2) of Decision 2001/672, which must be done within 15 days of the movement of the animals, in accordance with Paragraph 6(1a) of the Cattle Identification Regulation of 2008 and with Article 2(2) and (4) of Decision 2001/672.

43 Notifications are registered in the national electronic database for bovine animals, which then makes it possible to determine the number of bovine animals moved to a mountain pasture as at the date of 15 July, which is, in accordance with Paragraph 13(3) of the Direct Payments Regulation of 2015, the reference date for calculating the relevant number of animals. It is in the light of those registrations in that database that the voluntary coupled support to which the farmer is entitled is calculated.

44 In the case before the referring court, notification was made on 15 June 2020. Thus, on the relevant reference date for determining the number of animals, which was, in accordance with Paragraph 13(3) of the Direct Payments Regulation of 2015, 15 July 2020, the movement of those 12 bovine animals had therefore been notified and they had been registered in the computerised database for animals.

45 The referring court emphasises that, in the present case, the obligation to notify within 15 days of the movement of those bovine animals, stemming from Article 2(2) and (4) of Decision 2001/672, read in conjunction with Article 7(2) of Regulation No 1760/2000, or Paragraph 6(1a) of the Cattle Identification Regulation of 2008, was not complied with since those bovine animals were moved on 9 May 2020.

46 It notes, however, that, under Article 30(4)(c) of Delegated Regulation No 640/2014, where the non-compliances found relate to incorrect entries in the computerised database for animals, but are not of relevance for the verification of the respect of the eligibility conditions other than

those referred to in Article 53(4) of Delegated Regulation No 639/2014, the animal concerned is to be considered as not determined, within the meaning of point 18 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014, only if such incorrect entries are found during at least two checks within a period of 24 months.

47 According to the referring court, the question arises whether a late notification, such as that at issue in the case before it, may be regarded as an incorrect entry in the computerised database for animals, which is not decisive for the other conditions for granting aid for the purposes of Article 30(4)(c) of Delegated Regulation No 640/2014.

48 In the second place, that court notes that, if the first question were to be answered in the negative and there would therefore be no need to grant coupled support for TF's 12 bovine animals moved to a mountain pasture on 9 May 2020, the question arises as to whether it is appropriate to impose the administrative penalties provided for in Chapter IV of that delegated regulation.

49 In that regard, it observes that Article 15(1) of Delegated Regulation No 640/2014 provides, inter alia, by way of exception to the application of the administrative penalties provided for in Chapter IV of that delegated regulation, that those penalties are not to apply with regard to the part of the aid application as to which the beneficiary informs the competent authority in writing that the aid application is incorrect, provided that the beneficiary has not been informed of that authority's intention to carry out an on-the-spot check and that that authority has not already informed the beneficiary of any non-compliances in the aid application or payment claim.

50 Admittedly, according to the referring court, Article 15(1) of that delegated regulation refers only to the incorrectness of the aid application itself, and not to a case of non-compliance concerning the identification and registration of animals. However, Article 34 of that delegated regulation extends the application of that provision to errors and omissions concerning registration in the computerised database, thus enabling farmers to correct their failure to fulfil their obligations on their own initiative, before the competent authority takes action by announcing an on-the-spot check or by notifying the case of non-compliance, and thereby to avoid administrative penalties.

51 The referring court considers that Articles 15 and 34 of Delegated Regulation No 640/2014 appear to have the aim of favouring a farmer who, without being obliged to do so, corrects wrongful conduct, which does not enable the farmer to obtain support for the animals concerned, but avoids administrative penalties. According to the referring court, there is no reason why a late notification, such as that at issue in the case before it, should have more serious consequences than those resulting from an incorrect notification or a failure to notify resulting in an incorrect or incomplete entry in the national database. The principle of proportionality of penalties, referred to in Article 77(6) of Regulation No 1306/2013, might also support the application of Article 34 of Delegated Regulation No 640/2014 in the event of such late notification.

52 In those circumstances the Verwaltungsgerichtshof (Supreme Administrative Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) In the case of a livestock aid application within the meaning of point 15 of Article 2([1]) of [Delegated Regulation No 640/2014], submitted for the year 2020 for the grant of coupled support, for which, for the purposes of Article 21(4) of [Implementing Regulation No 809/2014], use is made of the information in the computerised database for bovine animals, is a notification that is made only after the expiry of the period of 15 days after the

animals (bovine animals) have been moved to a mountain pasture pursuant to Article 2(2) and (4) of [Decision 2001/672], in conjunction with Article 7(2) of Regulation [No 1760/2000], an incorrect entry in the computerised database for bovine animals that, pursuant to Article 30(4)(c) of [Delegated Regulation No 640/2014], is not of relevance for the verification of the compliance with the eligibility conditions other than the condition referred to in Article 53(4) of [Delegated Regulation No 639/2014] under the aid scheme or support measure concerned, with the result that the animals concerned are only to be considered not to be determined if such an incorrect entry is found during at least two checks within a period of 24 months?

(2) If the first question is answered in the negative:

For the purposes of Article 15(1) and Article 34 of [Delegated Regulation No 640/2014], do the administrative penalties provided for in Chapter IV of [that regulation] apply to the application for coupled support referred to in the first question where the farmer makes a notification in writing to the competent authority in accordance with Article 2(2) and (4) of [Decision 2001/672], in conjunction with Article 7(1) and (2) of Regulation [No 1760/2000], concerning the movement of the animals to a mountain pasture, where it is evident from the notification that it is late with regard to the 15-day period laid down in those provisions, in so far as the competent authority has not previously informed the applicant of an intention to carry out an on-the-spot check and has also not already informed that applicant of any non-compliances in the aid application?'

Consideration of the questions referred

The first question

53 By its first question, the referring court asks, in essence, whether point 2(a) and point 18(a) of the second subparagraph of Article 2(1) and Article 30(4)(c) of Delegated Regulation No 640/2014 must be interpreted as meaning that a notification of the movement of bovine animals to summer grazing in mountain areas which does not comply with the time limit set by the Member State concerned, in accordance with Article 2(2) and (4) of Decision 2001/672, read in conjunction with Article 7(1) and (2) of Regulation No 1760/2000, may be regarded as an incorrect entry in the computerised database for animals which is not of relevance for the verification of the respect of the eligibility conditions of that application, within the meaning of Article 30(4)(c) of Delegated Regulation No 640/2014, with the result that those animals may be regarded as falling within the category of 'animal determined' within the meaning of point 18(a) of the second subparagraph of Article 2(1) of that delegated regulation.

54 As a preliminary point, it should be noted that that question relates to a livestock aid application, within the meaning of point 15 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014, namely an application for aid where the annual payment to be granted within defined quantitative limits is based on a fixed number of animals under the voluntary coupled support provided for in Chapter 1 of Title IV of Regulation No 1307/2013, which was submitted in order to benefit from an animal aid scheme, within the meaning of point 13 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014, namely such a voluntary coupled support measure. More specifically, it is an application for coupled support for bovine animals that are put out to summer grazing in mountain areas.

55 It is also apparent from the order for reference that, for the purpose of notifying the movement of bovine animals to those pastures, the computerised database for animals referred to in point 9 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014 is used, in accordance with Article 21(4) of Implementing Regulation No 809/2014.

56 In order to answer the first question referred, it must be examined, in the first place, whether compliance with the time limit set for notifying the movement of animals put out to summer grazing in mountain areas must be regarded as a condition laid down in the rules for granting the aid, within the meaning of point 18 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014.

57 According to settled case-law, in interpreting provisions of EU law, it is necessary to consider not only their wording but also the context in which they occur and the objectives pursued by the rules of which they are part (judgment of 21 December 2023, *Infraestruturas de Portugal and Futrifer Indústrias Ferroviárias*, C-66/22, EU:C:2023:1016, paragraph 66 and the case-law cited).

58 It is apparent from the wording of point 18 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014 that provision that the term 'animal determined' means, for an animal aid scheme, an animal for which all conditions laid down in the rules for granting the aid have been met.

59 In that regard, Article 53(4) of Delegated Regulation No 639/2014 requires Member States to define, as an eligibility condition for the coupled support measures for bovine animals, the requirements to identify and register animals provided for in Regulation No 1760/2000. Those requirements are set out in Article 1 et seq. of Title I of that regulation, entitled 'Identification and registration of bovine animals'.

60 The second indent of the first subparagraph of Article 7(1) of Regulation No 1760/2000 provided, in its original version, that each keeper of animals was to report to the competent authority all movements of animals to and from the holding and all births and deaths of animals on the holding, together with the dates of those events, within a maximum period fixed by the Member State concerned of between three and seven days of the event occurring. That provision indicated that, however, at the request of a Member State and in accordance with the procedure referred to in Article 23(2) of that regulation, the Commission could determine the circumstances in which Member States could 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.

61 Following the amendments made to that regulation by Regulation No 653/2014, that possibility was provided for in Article 7(2) of Regulation No 1760/2000, under which, to ensure the adequate and effective traceability of bovine animals when put out to seasonal grazing, the Commission was to be empowered to adopt delegated acts concerning, inter alia, the rules on the registration of movements of such bovine animals.

62 It was on the basis of the second indent of the first subparagraph of Article 7(1) of Regulation No 1760/2000, in its original version, that the Commission adopted Decision 2001/672, Article 2(2) of which provides that the person responsible for the pasture is to establish a list of the bovine animals subject to the movement to summer grazing in mountain areas, which must include, inter alia, the individual identification number of each bovine animal. Under Article 2(4)

of that decision, the information contained in that list is to be reported to the competent authority in accordance with Article 7(1) of Regulation No 1760/2000 at the latest 15 days after the date when the animals were moved to the pasture.

63 Both the second indent of the first subparagraph of Article 7(1) of Regulation No 1760/2000 and Article 2(4) of Decision 2001/672 are drafted in mandatory terms which describe in detail the scope of the notification obligation imposed on keepers of animals and delimit precisely the period within which those keepers must perform that obligation (see, to that effect, judgment of 24 May 2007, *Maatschap Schonewille-Prins*, C-45/05, EU:C:2007:296, paragraph 36).

64 In addition, the second indent of the first subparagraph of Article 7(1), at the end, and the second subparagraph of Article 7(1) of Regulation No 1760/2000 set out exactly what the procedure is for extending that period. The precise specification of that procedure would serve no purpose if keepers of animals were free not to comply with that period (see, to that effect, judgment of 24 May 2007, *Maatschap Schonewille-Prins*, C-45/05, EU:C:2007:296, paragraph 37).

65 It therefore follows from the wording of Article 2(2) and (4) of Decision 2001/672 and from the wording of the second indent of the first subparagraph of Article 7(1) of Regulation No 1760/2000 that each keeper of animals is required to comply with the prescribed time limit for notifying the movement of a bovine animal to or from his or her holding in order to obtain the coupled support applied for and that, therefore, compliance with that time limit must be regarded as a condition laid down in the rules for granting the aid, within the meaning of point 18 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014.

66 Admittedly, it is apparent from the second subparagraph of Article 53(4) of Delegated Regulation No 639/2014 that, without prejudice to other eligibility conditions, an animal is also to be deemed eligible for support where the identification and registration requirements referred to in the first subparagraph of that Article 53(4) are met by a date to be fixed by the Member State, within the limits established by the second subparagraph of Article 53(4).

67 In that regard, it is apparent from the order for reference that, under Paragraph 13 of the Direct Payments Regulation of 2015, an animal may be eligible for support within the meaning of the second subparagraph of Article 53(4) of Delegated Regulation No 639/2014 where the information referred to in the second indent of Article 7(1) of Regulation No 1760/2000 has been communicated on the first day on which the respective animal has been moved to a mountain pasture. However, having regard to the facts as described in the order for reference, that provision does not appear to be relevant in the present case, which it is, however, for the referring court to ascertain.

68 The interpretation of point 18 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014 that follows from paragraph 65 of the present judgment is confirmed by the context of that provision.

69 It is apparent from point 2(a) of the second subparagraph of Article 2(1) and recitals 2, 28 and 31 of Delegated Regulation No 640/2014 that the term ‘non-compliance’ is used in that delegated regulation to describe, inter alia, the situation in which the eligibility criteria are not complied with. According to Article 30(4)(c) of that delegated regulation, incorrect entries in the register, the animal passports or the computerised database for animals are cases of non-compliance. Recital 11 of Delegated Regulation 2016/1393, which refers to that provision, explicitly sets out an incorrect entry relating to the date as one of the examples of incorrect entries.

70 The interpretation set out in paragraph 65 of the present judgment is also supported by the objectives pursued by Regulation No 1760/2000 and Decision 2001/672.

71 Regulation No 1760/2000, as recitals 4 to 7 thereof indicate, seeks to improve consumer confidence in the quality of beef and beef products, to preserve the protection of public health and to reinforce the lasting stability of the beef market (see, to that effect, judgment of 24 May 2007, *Maatschap Schonewille-Prins*, C-45/05, EU:C:2007:296, paragraph 40).

72 In order to meet those objectives, the system of identification and registration of bovine animals must be fully effective and reliable at all times so as, in particular, to enable the competent authorities, in the event of epizootic disease, to pinpoint as soon as possible the origin of an animal and immediately to take the necessary measures for the purpose of avoiding any risk to public health. That cannot occur where the keeper of animals fails to notify movements of his or her bovine animals to the computerised database within the period prescribed in the second indent of the first subparagraph of Article 7(1) of Regulation No 1760/2000 (judgment of 24 May 2007, *Maatschap Schonewille-Prins*, C-45/05, EU:C:2007:296, paragraph 41).

73 In addition, it is, in essence, apparent from recital 74 of Delegated Regulation No 639/2014 that, in particular as regards voluntary coupled support, the identification and registration requirements for animals laid down in Regulation No 1760/2000 are also intended to enable the Commission to verify that Member States respect the requirements on consistency and non-cumulation of support as well as the maximum percentages of the national ceilings referred to in Article 53 of Regulation No 1307/2013 and related total amounts when designing the support measures.

74 The objective of the provisions of Decision 2001/672 is also, in accordance with recital 3 thereof, to make it 'possible to know the location of any bovine animal'.

75 It follows that failure to comply with the notification period laid down in Article 2(4) of Decision 2001/672, read in conjunction with the second indent of the first subparagraph of Article 7(1) of Regulation No 1760/2000, constitutes a case of non-compliance with the identification and registration laid down by that regulation, with the result that, in principle, the animals concerned may not be regarded as falling within the category of 'animal determined' within the meaning of point 18 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014.

76 In the second place, it is necessary to examine whether the fact of making a late notification of a movement of animals constitutes a case of non-compliance that is not of relevance for the verification of the respect of the conditions for granting the aid at issue, within the meaning of Article 30(4)(c) of Delegated Regulation No 640/2014. In that regard, it is, admittedly, apparent from that provision that, where the non-compliances found relate to incorrect entries in the register, the animal passport or the computerised database for animals, but are not of relevance for the verification of the respect of the eligibility conditions other than those referred to in Article 53(4) of Delegated Regulation No 639/2014 under the aid scheme or support measure concerned, the animal concerned is to be considered as not determined only if such incorrect entries are found during at least two checks within a period of 24 months. In all other cases, the animals concerned are to be considered as not determined after the first finding.

77 However, in that regard, it should be noted, first, that it is apparent from the very wording of Article 30(4)(c) of Delegated Regulation No 640/2014 that that provision concerns only cases of non-compliance that are not of relevance for the verification of the respect of the eligibility conditions 'other than those referred to in Article 53(4) of Delegated Regulation [No 639/2014]'.

It follows that cases of non-compliance consisting of failures to comply with the requirements relating to the identification and registration of bovine animals, laid down in Article 7 of Regulation No 1760/2000, which are referred to in Article 53(4) of Delegated Regulation No 639/2014, are excluded from the scope of the first sentence of Article 30(4)(c) of Delegated Regulation No 640/2014.

78 Second, and as the Advocate General observed in points 52 to 56 of her Opinion, the failure to make the required notification within the prescribed period, by entering the data at issue into the computerised database for animals, cannot be equated with an 'incorrect entry' in that database, within the meaning of Article 30(4)(c) of Delegated Regulation No 640/2014. The remedial effect of a late notification relates only to the future, addressing a deficiency which, given the requirement for the location of the animal concerned to be traceable at any time, cannot actually be corrected any more.

79 That interpretation is confirmed by recital 2 of Commission Delegated Regulation (EU) 2015/1383 of 28 May 2015 amending Delegated Regulation (EU) No 639/2014 as regards the eligibility conditions in relation to the identification and registration requirements for animals for coupled support under Regulation (EU) No 1307/2013 (OJ 2015 L 214, p. 1), according to which it follows from Article 53(4) of Delegated Regulation No 639/2014 that 'an animal not complying with those identification and registration requirements [provided for, in particular, in Regulation No 1760/2000] once will remain ineligible for voluntary coupled support for its whole life, regardless [of] the correction of the failure afterwards'.

80 In the light of the foregoing, the answer to the first question is that point 2(a) and point 18(a) of the second subparagraph of Article 2(1) and Article 30(4)(c) of Delegated Regulation No 640/2014 must be interpreted as meaning that a notification of the movement of bovine animals to summer grazing in mountain areas which does not comply with the time limit set by the Member State concerned, in accordance with Article 2(2) and (4) of Decision 2001/672, read in conjunction with Article 7(1) and (2) of Regulation No 1760/2000, may not be regarded as an incorrect entry in the computerised database for animals which is not of relevance for the verification of the respect of the eligibility conditions of that application, within the meaning of Article 30(4)(c) of Delegated Regulation No 640/2014, with the result that those animals may not be regarded as falling within the category of 'animal determined' within the meaning of point 18(a) of the second subparagraph of Article 2(1) of that delegated regulation.

The second question

81 By its second question, referred in the event that the first question is answered in the negative and there would therefore be no need to grant coupled support for bovine animals in respect of which the notification period laid down in Article 2(2) and (4) of Decision 2001/672, read in conjunction with Article 7(1) and (2) of Regulation No 1760/2000, has not been complied with, the referring court asks, in essence, whether Article 15(1) Article 34 of Delegated Regulation No 640/2014 must be interpreted as meaning that the administrative penalties laid down in Article 31 of that delegated regulation must also be applied where the notification of the movement of bovine animals to summer grazing, by means of entering the data at issue in the computerised database for animals, was made late but the beneficiary had not been informed of the competent authority's intention to carry out an on-the-spot check and that authority had not already informed the beneficiary of a non-compliance found by that authority.

82 It follows from Article 31(1) of Delegated Regulation No 640/2014 that administrative penalties apply where a difference is found between the number of animals declared and the number of animals determined, that is to say, where there are cases of non-compliance. In the present case, it is apparent from the answer to the first question referred that the late notification of the movement of bovine animals to summer grazing in mountain areas constitutes a case of non-compliance.

83 Under the third subparagraph of Article 31(2) of that delegated regulation, if the difference between the number of animals declared and the number of animals determined, calculated in accordance with Article 31(3) of that delegated regulation, is more than 50%, which appears to be the case in the dispute in the main proceedings, no aid or support to which the beneficiary would have been entitled pursuant to Article 30(3) of that delegated regulation is to be granted under the aid scheme or support measure or type of operation under such support measure for the claim year concerned. Moreover, the beneficiary is to be subject to an additional penalty of an amount equal to the amount corresponding to the difference between the number of animals declared in the aid application and the number of animals determined in accordance with that Article 30(3).

84 It follows that, in such a case, the farmer who applies for coupled support is not only no longer entitled to that support but is also subject to an administrative penalty.

85 However, under Article 15(1) of Delegated Regulation No 640/2014, the administrative penalties are not to apply with regard to the part of the aid application or payment claim as to which the beneficiary informs the competent authority in writing that the aid application or payment claim is incorrect or has become incorrect since it was lodged, provided that the beneficiary has not been informed of that authority's intention to carry out an on-the-spot check and that that authority has not already informed the beneficiary of any non-compliances in the aid application or payment claim.

86 Unlike Article 30(4)(c) of Delegated Regulation No 640/2014, Article 15(1) does not exclude certain cases of non-compliance from its scope.

87 Moreover, in accordance with Article 34 of that delegated regulation, in respect of declared animals, Article 15 of that delegated regulation is to apply to errors and omissions in relation to entries in the computerised database for animals made from the moment the aid application or payment claim is submitted.

88 It seems to follow from the facts set out in the order for reference that the 12 bovine animals whose movement to summer grazing in mountain areas was notified late had already been identified in the application for the grant of coupled support and were therefore 'declared animals' within the meaning of point 16 of the second subparagraph of Article 2(1) of Delegated Regulation No 640/2014.

89 Moreover, it is apparent from the information provided in the order for reference that the movement of the bovine animals at issue to summer grazing in mountain areas was notified by entering that information in the computerised database for animals.

90 It follows that, as the Advocate General noted, in essence, in point 74 of her Opinion, under Article 34 of Delegated Regulation No 640/2014, read in conjunction with Article 15 of that delegated regulation, no administrative penalty may be imposed merely because the required notification was made late, provided, however, that, as set out in the latter provision, the

beneficiary had not been informed of the competent authority's intention to carry out an on-the-spot check and that authority had not already informed the beneficiary of a non-compliance found by that authority.

91 Such an interpretation is, moreover, appropriate for achieving the objectives pursued by Regulation No 1760/2000, which, as noted in paragraph 72 of the present judgment, depend on effective traceability of the animals in question. The imposition of an administrative penalty in the event of late notification, of the same amount as would be payable if the notification had not been made at all, would be liable to remove any incentive to make such a late notification.

92 In the light of the foregoing, the answer to the second question is that Article 15(1) and Article 34 of Delegated Regulation No 640/2014 must be interpreted as meaning that the administrative penalties laid down in Article 31 of that delegated regulation may not be applied where the notification of the movement of bovine animals to summer grazing, by means of entering the data at issue in the computerised database for animals, was made late but the beneficiary had not been informed of the competent authority's intention to carry out an on-the-spot check and that authority had not already informed the beneficiary of a non-compliance found by that authority.

Costs

93 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

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

1. **Point 2(a) and point 18(a) of the second subparagraph of Article 2(1) and Article 30(4)(c) of Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance, as amended by Commission Delegated Regulation (EU) 2017/723 of 16 February 2017,**

   must be interpreted as meaning that a notification of the movement of bovine animals to summer grazing in mountain areas which does not comply with the time limit set by the Member State concerned, in accordance with Article 2(2) and (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 Commission Decision 2010/300/EU of 25 May 2010, read in conjunction with Article 7(1) and (2) of Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97, as amended by Regulation (EU) No 653/2014 of the European Parliament and of the Council of 15 May 2014, may not be regarded as an incorrect entry in the computerised database for animals which is not of relevance for the verification of the respect of the eligibility conditions of that application, within the meaning of Article 30(4)(c) of Delegated Regulation No 640/2014, with the result that those animals may not be regarded as falling within

the category of 'animal determined' within the meaning of point 18(a) of the second subparagraph of Article 2(1) of that delegated regulation.

2. **Article 15(1) and Article 34 of Delegated Regulation No 640/2014, as amended by Delegated Regulation 2017/723,**

must be interpreted as meaning that the administrative penalties laid down in Article 31 of that delegated regulation may not be applied where the notification of the movement of bovine animals to summer grazing, by means of entering the data at issue in the computerised database for animals, was made late but the beneficiary had not been informed of the competent authority's intention to carry out an on-the-spot check and that authority had not already informed the beneficiary of a non-compliance found by that authority.

[Signatures]