

# Case C-241/01

National Farmers' Union

v

Secrétariat général du gouvernement

(Reference for a preliminary ruling  
from the Conseil d'État (France))

(Agriculture — Combating bovine spongiform encephalopathy — Decisions 98/692/EC and 1999/514/EC ending the ban on beef and veal from the United Kingdom — Whether a Member State to which those decisions are addressed may challenge the legality thereof after the time-limit for bringing proceedings has expired or invoke Article 30 EC to justify its refusal to end the ban)

Opinion of Advocate General Mischo delivered on 2 July 2002 . . . . . I-9082  
Judgment of the Court, 22 October 2002 . . . . . I-9108

## Summary of the Judgment

1. *Agriculture — Approximation of laws concerning animal health — Veterinary and zootechnical checks in intra-Community trade in live animals and products of animal origin — Emergency measures to protect against bovine spongiform encephalopathy — Ban on exports of bovine animals, bovine meat and derived products from the territory of the United Kingdom — Decisions lifting the ban under a date-based*

*export scheme — Member State of destination which has not brought an action for annulment thereof within the prescribed time-limit — Plea of illegality raised against them by that State in an action brought against it before the national court — Inadmissible*

*(Art. 230, fifth para., EC; Commission Decisions 98/692 and 1999/514)*

2. *Free movement of goods — Derogations — Article 30 EC — Scope — Community rules providing for the harmonisation necessary to ensure protection against bovine spongiform encephalopathy — Opposition by a Member State to the resumption of imports to its territory of beef and veal from the United Kingdom — Inadmissible*  
*(Art. 30 EC; Council Directive 89/662; Council Decision 98/256; Commission Decisions 98/692 and 1999/514)*

1. A Member State which is an addressee of Decision 98/692 amending Decision 98/256 as regards certain emergency measures to protect against bovine spongiform encephalopathy and of Decision 1999/514 setting the date on which dispatch from the United Kingdom of bovine products under the date-based export scheme may commence by virtue of Article 6(5) of Decision 98/256 and which has not challenged the legality of those decisions within the time-limit laid down by the fifth paragraph of Article 230 EC does not have standing subsequently before a national court to invoke their unlawfulness in order to dispute the merits of an action brought against it.
2. Since Directive 89/662 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market and Decision 98/256 concerning emergency measures to protect against bovine spongiform encephalopathy, as amended by Decision 98/692, lay down the rules necessary for the protection of public health upon the resumption of exports of beef and veal from the United Kingdom to the other Member States, lay down a Community procedure to monitor compliance with that decision and a procedure for amending it in the light of new scientific information and provide the appropriate legal framework for the adoption of interim protective measures by a Member State of destination for the purpose of protecting public health, a Member State is not entitled to invoke Article 30 EC in order to prevent the resumption of imports to its territory of beef and veal

(see para. 39, operative part 1)

from the United Kingdom which were carried out in accordance with Decisions 98/256, as amended, and 1999/514 setting the date on which dispatch from the United Kingdom of bovine products under the date-based

export scheme may commence by virtue of Article 6(5) of Decision 98/256.

(see para. 65, operative part 2)