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Press and Information

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Judgment of the Court of Justice in Case C-491/06

Danske Svineproducenter v Justitsministeriet

**THE COURT RULES ON THE INTERPRETATION OF COMMUNITY PROVISIONS
CONCERNING THE TRANSPORT OF ANIMALS**

When transposing that legislation, the Member States enjoy a margin of discretion provided that it does not hinder intra-Community animal transport

The Directive on the protection of animals during transport¹ is intended to harmonise travelling times and rest periods, feeding and watering intervals, and space allowances for certain types of animal, while contributing to the elimination of technical barriers to trade in live animals and to allowing the market organisations to operate smoothly.

Inter alia, the Directive includes general provisions on the space which must be provided for porcine animals. The national instrument transposing the Directive in Denmark contains figures established on the basis of a number of criteria: the weight of the animal, the type of ventilation used in the compartment and the journey time. The objective is to provide transporters with standards more precise than those laid down in the Directive.

Danske Svineproducenter, a professional body which looks after the interests of Danish pig producers, brought an action against the Justitsministeriet (Ministry of Justice) on the ground that certain provisions of the national legislation transposing the Directive are unlawful.

The Court of Justice of the European Communities is requested by the Vestre Landret (Western Regional Court), which is hearing the case, to rule on the interpretation of the Directive so as to allow that court to verify whether the Danish rules on the space allowance for each animal during transport are compatible with Community law.

The Court notes that the Directive does not contain precise provisions on compartment height and that it merely states that the pigs must at least be able to lie down and stand up in their natural position.

Since the Community legislature did not itself lay down the precise height of the compartments, the Member States must be recognised as having a specific margin of discretion to adopt national

¹ 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 (OJ 1991 L 340, p. 17), as amended by Council Directive 95/29/EC of 29 June 1995 (OJ 1995 L 148, p. 52)

provisions which allow the provisions of that directive to have their full effect, in accordance with the objectives pursued by it and in compliance with Community law. In the present case, **the Court considers that, in principle, the Danish rules fall within that margin of discretion.**

The Court finds that the objective of the national rules, in compliance with the requirements of the Community instrument, is the protection of animals during transport.

However, the Court states that those rules **must not impact adversely on the attainment of the directive's objectives of eliminating technical barriers to trade in live animals and allowing market organisations to operate smoothly.** The Court considers that it is for the national court to assess, in the light of those various factors, whether Denmark exceeded the margin of discretion conferred on it by that directive.

Furthermore, the Court states that the national provisions must be objectively necessary and proportionate to ensure the attainment of the principal objective of protecting animals during transport pursued by the Directive. It is for the national court to verify, on the one hand, that those provisions do not disadvantage pig producers from the Member State which adopted them. It must, on the other, ensure that those provisions are not liable to hinder the exportation and importation of animals, both by Danish producers and by those from other Member States.

Unofficial document for media use, not binding on the Court of Justice.

Languages available: DA, DE, EN, EL, FR, HU, IT, PL, RO

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-491/06>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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