



Press and Information

Court of Justice of the European Union

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Judgment in Case C-101/12

Herbert Schaible v Land Baden-Württemberg

The obligation of individual electronic identification for sheep and goats is valid

By adopting that measure intended to improve prevention of epizootic diseases, the legislature did not infringe the freedom of animal keepers to conduct a business or the principle of equal treatment

Up until the major outbreak of foot-and-mouth disease in 2001, keepers of sheep and goats only had to mark their animals with an eartag or a tattoo that made it possible to determine the holding from which they came. Furthermore, those animal keepers had to keep a register indicating the total number of sheep and goats present each year¹. During that epizootic disease outbreak, it was necessary to systematically slaughter millions of animals because sheep were unidentified and could not be traced, only to then discover that many of them were not infected. Moreover, it was necessary to impose various restrictions within the EU and a worldwide ban on all exports of livestock, meat and animal products from the United Kingdom.

In the interest of improving the prevention of such epidemics and improving the functioning of the trade in sheep and goats between Member States, the EU legislature introduced a new system² under which each animal must be identified individually by two means of identification, namely by a traditional eartag and by an electronic device. The latter may take the form of an electronic eartag, a ruminal bolus, an electronic transponder or an electronic mark on the pastern. The identity of each animal must be recorded in a holding register. Moreover, when animals leave the holding, their movements are to be recorded in a document accompanying those animals. In addition, each Member State is obliged to set up a central register or computer database recording all holdings located on its territory and, at regular intervals, to take an inventory of the animals kept on those holdings.

Mr Schaible, a keeper of sheep with 450 ewes, brought an action before the Verwaltungsgericht Stuttgart (Stuttgart Administrative Court, Germany) seeking a declaration that he is not obliged to individually identify his animals or to individually identify them electronically, nor to keep a holding register. It is against that background that the Administrative Court requested the Court of Justice to verify whether those obligations are valid or whether they infringe the freedom to conduct a business and the principle of equal treatment.

By today's judgment, the Court finds that the obligations of keepers of sheep and goats to identify their animals individually and electronically and to keep an up-to-date holding register does not infringe the freedom to conduct a business or the principle of equal treatment.

Although those obligations may limit the exercise of the **freedom to conduct a business**, they are, however, legitimate objectives in the public interest, namely health protection, the control of

¹ Council Directive 92/102/EEC of 27 November 1992 on the identification and registration of animals (OJ 1992 L 355, p. 32).

² 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), as amended by Council Regulation (EC) No 1560/2007 of 17 December 2007 (OJ 2007 L 340, p. 25), and by Commission Regulation (EC) No 933/2008 of 23 September 2008 (OJ 2008 L 256, p. 5).

epizootic diseases, the welfare of animals and the completion of the internal market for those animals.

In that they facilitate the traceability of each animal and thereby enable the competent authorities, in the event of an epizootic disease outbreak, to take the necessary measures to prevent the spread of contagious disease among sheep and goats, those obligations are appropriate and necessary to achieve those objectives.

Moreover, those obligations are not disproportionate. As regards **the financial burdens** on animal keepers resulting from those obligations, the Court points out several factors that must be taken into account, in particular (i) that those burdens may be less than the costs of non-selective measures, such as the ban on exports or the preventive slaughter of livestock in the event of the occurrence of a disease, (ii) that the new system makes provision for several exceptions, (iii) that the electronic identification obligation was only introduced gradually and (iv) that it is possible for animal keepers to obtain financial support to contribute partly to the additional costs connected to the introduction of the system. As regards **animal welfare**, the Court observes that the fact that two means of identification must be affixed to the animals instead of one and the fact that the new means of identification statistically cause more injuries and complications than traditional devices, are not such as to demonstrate that the assessment of the EU legislature concerning the benefits of introducing the obligation of electronic identification was wrong. In addition, it points out that, by facilitating the control of epizootic diseases and thereby enabling the suffering of infected animals to be avoided, the new system contributes positively to the protection of animal welfare.

The new system also complies with the principle of **equal treatment**.

In that respect, the **derogation** which permits **Member States with a small sheep or goat population**³ to make the electronic identification system optional does not discriminate against animal keepers established in a Member State where that identification is obligatory. In that regard, the Court notes, in particular, that the thresholds provided for are reasonable and proportionate to the objectives pursued by the new system and that that derogation only applies to animals which are not involved in intra-Community trade.

Finally, that system does not discriminate against keepers of sheep and goats as opposed to keepers of **cattle** and **pigs**, who are not subject to the same obligations. Despite some similarities of those various types of mammals, there are differences that justify a specific regulatory framework for each animal species. Given the historical context of the foot-and-mouth disease crisis in 2001, the EU legislature could legitimately introduce specific legislation providing for the electronic identification of sheep and goats that were particularly affected by that crisis. However, the Court notes that, although the legislature could lawfully make use of such a step-by-step approach for the introduction of electronic identification, it must, in view of the objectives of the contested legislation, consider the need to review the measures adopted, inter alia as regards whether electronic identification is optional or obligatory.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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³ A maximum of 600 000 animals, in total, for sheep and goats, and 160 000 in respect of goats only.