

Press and Information Division

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*Judgment of the Court of Justice in Case C-393/01*

*France v Commission*

**THE COURT OF JUSTICE ANNULS THE COMMISSION DECISION TO END THE BAN ON BOVINE PRODUCTS FROM PORTUGAL, INTRODUCED TO COMBAT BOVINE SPONGIFORM ENCEPHALOPATHY (BSE).**

*The inspections carried out by the Commission did not make it possible to assert that the conditions laid down for lifting the ban had been met.*

In 1998, as a result of the cases of BSE in Portugal, the Commission prohibited that country from exporting live bovine animals, beef and veal, and products obtained from those animals to other Member States or to third countries.

On 18 April 2001, the Commission laid down in a decision the conditions for lifting the ban and implemented a date-based export scheme (the DBES) with a view to permitting, subject to compliance with certain requirements, the dispatch of products from animals born after a given date.<sup>1</sup> Pursuant to that decision, the Commission had to carry out inspections in Portugal before lifting the ban.

Subsequently, on 25 July 2001, the Commission adopted another decision by which it set 1 August 2001 as the date for the recommencement of exports of bovine products from Portugal.

France brought an action before the Court of Justice of the European Communities challenging that second decision since it took the view that the Commission was not in a position to assert that the conditions laid down for lifting the ban had been met.

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<sup>1</sup> As a matter of fact, the scheme sets up a system of controls to ensure that fresh meat and meat products placed on the market come from animals born after the effective implementation of a prohibition on the use of certain products in animal feed and from animals born of mothers not infected with BSE.

**The Court started** from the principle laid down in the EC Treaty that **a high level of human health protection must be ensured in the definition and implementation of all Community policies and activities, and from the seriousness of the risks associated with BSE.** In the light of those considerations, it determined which inspections the Commission should have carried out, in accordance with its decision of 18 April 2001, with a view to setting the date for lifting the ban.

The checks that the Commission should have carried out include:

- S specific inspections relating to the DBES; and
- S more general inspections whose purpose is to verify the implementation of official controls, to examine the development of the incidence of the disease, to verify the enforcement of national measures and to conduct a risk assessment. Those checks also make it possible to monitor compliance with the prohibition on meat meal, bone meal and meat-and-bone meal in animal feed and the proper operation of the systems for identification and traceability of bovine animals.

The Court pointed out that even though the DBES is based on the individual status of eligible animals, compliance with the prohibition on meat meal, bone meal and meat-and-bone meal and the proper operation of the animal identification and traceability systems are essential to ensuring the safety required of that scheme.

Therefore, before setting the date for lifting the ban, **the Commission should not only have carried out the inspections relating to the DBES, but** it should also have carried out the **more general inspections, at least in respect of the elements essential to the safety of the DBES.** The purpose of those inspections is not solely to confirm the adoption of national provisions but also to verify their application.

As regards the **inspection** relating to the **DBES**, the Court stated that the Commission evidently **did not carry out the verifications** required by the decision.

As to **the more general inspections**, the inspections carried out by the Commission **were not sufficient to establish that Portugal had correctly applied the provisions designed to ensure compliance with the elements essential to the safety of the DBES.**

In those circumstances, **the Court has annulled the Commission decision of 25 July 2001** ending the ban on bovine products from Portugal.

*Unofficial document for media use only; not binding on the Court of Justice.*

*Available in English, French and Portuguese.*

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