

Press and Information Division

PRESS RELEASE No 102/03

20 November 2003

Judgment of the Court of Justice in Case C-126/01

Minister for Economic Affairs, Finance and Industry v GEMO SA

**A TAX FINANCING A FREE PUBLIC SERVICE ONLY FOR CERTAIN
UNDERTAKINGS FORMS PART OF AN ARRANGEMENT CONSTITUTING
STATE AID**

Such State intervention is liable to affect trade between Member States by distorting competition as it constitutes an advantage for the undertakings in question by relieving them of a financial burden which should properly be paid out of their budget.

GEMO, a supermarket which markets, among other things, meat and meat-based products in France, applied to the French administration for repayment of sums paid by way of meat purchase tax which it is liable to pay under national law. That tax finances the French public collection and disposal service for animal carcasses and slaughterhouse waste which is free of charge for farmers and slaughterhouses and for small retailers. That public carcass disposal service is intended to ensure that the collection and disposal of animal carcasses and slaughterhouse waste found unfit for human and animal consumption is mandatory and free of charge for users.

As that repayment was refused, Gemo brought an action before the Administrative Court, Dijon, which held that the arrangement set up by French law constituted State aid within the meaning of Community law. The Minister for Economic Affairs, Finance and Industry appealed against that decision. The Administrative Court of Appeal asked the Court of Justice of the EC whether that tax forms part of an arrangement constituting State aid within the meaning of the EC Treaty.

The Court pointed out, first, that aid which:

- (1) is granted directly or indirectly through State resources or imputable to the State

- (2) in any way whatever mitigates the charges which are normally included in the budget of an undertaking
- (3) distorts competition and favours "certain undertakings or the production of certain goods" over others and
- (4) is liable to affect trade between Member States

is incompatible with the Treaty.

All those conditions must be met for State intervention to constitute aid within the meaning of Community law.

The fact that the carcass disposal service, which is free of charge for certain categories of user, is provided by private undertakings cannot call into question any classification as State aid, as **the service in question originates with the public authorities.**

Second, the Court holds that **the financial cost involved in the disposal of animal carcasses and slaughterhouse waste must be considered to be an inherent cost of the economic activities of farmers and slaughterhouses of which they are relieved through intervention by the public authorities.** It is therefore **an economic advantage liable to distort competition.**

Although individuals and zoos may occasionally benefit from the free service, the chief beneficiaries are farms and slaughterhouses. Accordingly, the condition of selectivity has been fulfilled.

Finally, as the cost of carcass disposal is borne neither by farmers nor by slaughterhouses, the Court considers that there is necessarily a positive impact on meat prices, thus making the product more competitive on the markets of the Member States and, therefore, that **such a measure constitutes an advantage for French meat exports and affects intra-Community trade.**

Consequently, **the French system which provides farmers and slaughterhouses with the free collection and disposal of animal carcasses and slaughterhouse waste must be classified as State aid.**

Unofficial document, for media use only, which does not bind the Court of Justice.

Available languages: EN, FR.

The full text of the judgment can be found on the internet (www.curia.eu.int).

In principle it will be available from midday CET on the day of delivery.

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