



Press and Information

Court of Justice of the European Union

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Advocate General's Opinion in Case C-426/16
Liga van Moskeeën Islamitische Organisaties Provincie Antwerpen e.a. v
Vlaams Gewest

According to Advocate General Wahl, the requirement for ritual slaughtering without stunning to be carried out in an approved slaughterhouse does not infringe the right to religious freedom

EU law strikes a balance between the right to freedom of religion and the requirements for the protection of human health, animal welfare and food safety

The Islamic Feast of the Sacrifice is celebrated every year over a period of three days. Practising Muslims regard it as their religious duty to slaughter an animal, or to have an animal slaughtered, preferably on the first day of the feast. Part of the meat of the slaughtered animal is then eaten by the family, with the remainder being given to the poor and needy and to neighbours and more distant family relatives. Since 1998, Belgian legislation had provided that slaughter prescribed by a religious rite could be carried out only in approved or temporary slaughterhouses. Therefore, the Minister responsible has approved, each year, temporary slaughter plants which, together with approved slaughterhouses, catered for ritual slaughtering during the Islamic Feast of the Sacrifice, thus making good the lack of capacity resulting from the increase in demand at such times.

In 2014, the Minister of the Flemish Region (Belgium) responsible for animal welfare announced that he would no longer issue approvals for temporary slaughter plants because such approvals were contrary to EU legislation, in particular the provisions of the EU regulation on the protection of animals at the time of killing.¹ From 2015 onwards, all animal slaughtering without stunning, even if performed in the context of the Islamic Feast of the Sacrifice, had to be carried out solely in approved slaughterhouses. It is in that context that various Muslim associations and umbrella organisations of mosques issued proceedings against the Flemish Region in 2016. They challenged, inter alia, the validity of certain provisions of the EU regulation in question,² with regard, in particular, to the right to freedom of religion.³

The Nederlandstalige rechtbank van eerste aanleg Brussel (Dutch-speaking Court of First Instance, Brussels, Belgium), hearing the case, decided to refer the matter to the Court of Justice for a preliminary ruling. The referring court is of the opinion that the obligation for ritual slaughtering without stunning to be carried out solely in approved slaughterhouses prevents numerous practising Muslims from fulfilling their religious duty. This could create an unjustified limitation on the exercise of their religious freedom. Thus, the question that must be answered is whether the requirement that slaughtering be carried out in a slaughterhouse within the meaning of the EU regulation,⁴ which is a rule of general application regardless of the type of slaughter, is a constraint on religious freedom.⁵

¹ Council Regulation No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ 2009 303, p. 1).

² Namely, Article 4(4) read together with Article 2(k) of Regulation No 1099/2009.

³ Article 10 of the Charter of Fundamental Rights of the European Union and Article 9 of the European Convention on Human Rights.

⁴ Regulation No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ 2004 L 139, p. 55).

⁵ The Advocate General explains that the issue here is not that of a total ban on the killing of animals without stunning, which is a current topic of debate in several Member States, but rather what material conditions, in terms of equipment and operating obligations, must accompany such slaughtering in order for it to comply with the relevant EU rules. In that context, the Kingdom of Denmark, the Republic of Slovenia and the Kingdom of Sweden do not allow animals to be

In today's Opinion, **Advocate General Nils Wahl does not think that any of the arguments put forward in the present case can impinge on the validity of the EU regulation on the protection of animals.** He considers that the rule that slaughtering can, in principle, only be carried out in approved slaughterhouses is a perfectly neutral rule that applies regardless of the circumstances and of the type of slaughtering chosen. According to him, the problem submitted to the Court relates more to a temporary difficulty with the capacity of slaughterhouses in certain geographic areas at the time of the Islamic Feast of the Sacrifice, and ultimately with the costs engendered by the observance of a religious practice, than to requirements which arise from EU law. Indeed, EU law strikes a balance between the right to freedom of religion, on the one hand, and the requirements which flow from the protection of human health, animal welfare and food safety, on the other.

The Advocate General also points out that it is not for the Court to rule on the question whether the stunning of animals is actually prohibited by the Muslim faith. Nor is it for the Court to rule on the orthodoxy or heterodoxy of a given religious teaching or precept. Consequently, the slaughtering of an animal without stunning on the occasion of the Islamic Feast of the Sacrifice is indeed a religious precept that benefits from the protection of religious freedom. That is true whether or not there are different branches of Islam and whether or not alternative solutions exist in the event that it is impossible to perform such slaughter.

He states, furthermore, that the Muslim associations and umbrella organisations of mosques do not allege that the obligation for ritual slaughtering to be carried out in slaughterhouses is in itself incompatible with their religious beliefs. Moreover, they do not indicate the reasons of principle — that is to say, reasons other than the alleged problems of capacity of the slaughterhouses that currently exist or the costs that would be incurred in creating new plants or converting existing plants in accordance with the regulatory requirements — for which the requirement that the slaughtering of animals must be carried out in approved slaughterhouses is problematic from the point of view of respect for religious freedom. Accordingly, the obligation to ensure that all slaughter locations are approved, and that they meet the requirements laid down in EU legislation,⁶ is perfectly neutral and applies to any party that organises slaughtering. Legislation that applies in a neutral manner, with no connection to religious convictions, cannot in principle be regarded as a limitation on freedom of religion.

According to the Advocate General, the insufficient capacity and the costs that may be involved in the setting up of new approved plants bear no relation to the application of the provisions of the regulation of the protection of animals. To his mind, any potential temporary difficulty of slaughterhouse capacity equally has no bearing, direct or indirect, on the obligation to use approved slaughterhouses. Such a difficulty instead highlights the question of who must bear the cost of setting up such plants in order to meet the peak in demand for ritual slaughtering during the Islamic Feast of the Sacrifice. He considers, therefore, that there is no convincing argument for the view that the EU legislation in question, which is entirely neutral and applies generally, constitutes a limitation on freedom of religion.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

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.

slaughtered without first being stunned. In Belgium, a political agreement has been reached in the Flemish and Wallonian Regions to prohibit the slaughtering of animals without stunning as from 2019.

⁶ Regulation No 853/2004.

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

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

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