

## Press release

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[BVerwG 3 C 29.13](#)

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### **Compulsory use of local facility for the disposal of hazardous slaughterhouse waste**

The compulsory use of the animal carcass disposal plant of the institution with local responsibility for animal waste disposal when disposing of slaughterhouse waste of risk categories 1 and 2 is not contrary to EU law. This decision was given today by the Federal Administrative Court in Leipzig.

The claimant is a meat processing company and operates a slaughterhouse in Bavaria, close to the border between Germany and Austria. It filed for a permit to dispose of its slaughterhouse waste in Upper Austria, as this would allow the claimant to save costs of EUR 10,000 per month. With its action against the refusal of this permit, the claimant furthermore requested a declaration that such approval was not even necessary for the claimant to be entitled to ship its slaughterhouse waste to Upper Austria.

The Administrative Court and, endorsing the Administrative Court's decision, the Higher Administrative Court ordered the defendant federal state of Bavaria to make a decision on the approval request, taking into account the Court's interpretation of the law; with regard to all other aspects, the action was dismissed. The Courts held that Regulation (EC) No 1069/2009 laying down health rules concerning animal by-products does not contain a conclusive regulation of the possibility of shipping slaughterhouse waste to another EU Member State in order for it to be disposed of there. Rather, the Courts held, the Member States are obligated to put in place in their respective territories an adequate system for the treatment of animal by-products. The German system, which provides for a compulsory use of a local facility, meets this requirement. In as far as the claimant invokes the free movement of goods, a restriction of this freedom is justified by aspects of the protection of public health.

The third Senate for appeals on points of law (*Revisionsssenat*) confirmed the appeal judgment on the merits, and dismissed the claimant's appeal on points of law. With the obligation of the Member States to put in place on their respective territories an adequate disposal system, the EU legislator is acting on the basis of the principle of self-sufficiency of disposal, and leaves the design of the system to the respective Member States. The compulsory use of a local facility provided for by the Act on the Disposal of Animal By-Products (*TierNebG, Tierische Nebenprodukte-Beseitigungsgesetz*) does not go beyond the limits set by EU law, as the associated restrictions on the free movement of goods and services that are protected by EU law are justified by the objective of providing, in the interest of the protection of public health, for a safe network of animal carcass disposal plants that is functional at all times. Any unintended hardships that may arise in individual cases can be taken into account by means of exemption permits.

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