

## JUDGMENT OF THE COURT (Fifth Chamber)

23 April 2015 (\*)

(References for a preliminary ruling — Agriculture — Regulation (EC) No 1/2005— Protection of animals during transport — Long journey between Member States and between Member States and third countries — Article 14(1) — Check to be carried out related to the journey log by the competent authority at the place of departure prior to long journeys — Applicability of that provision in regards to the stages of the journey taking place outside the territory of the European Union — Applicability of the standards fixed by that regulation to that part of the journey)

In Case C-424/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bayerischer Verwaltungsgerichtshof (Germany), made by decision of 2 July 2013, received at the Court on 25 July 2013, in the proceedings

**Zuchtvieh-Export GmbH**

v

**Stadt Kempten,**

intervening parties:

**Landesanwaltschaft Bayern,**

THE COURT (Fifth Chamber),

composed of T. von Danwitz, President of the Chamber, C. Vajda, A. Rosas, E. Juhász and D. Šváby (Rapporteur), Judges,

Advocate General: Y. Bot,

Registrar: I. Illéssy, Administrator,

having regard to the written procedure and further to the hearing on 10 July 2014,

after considering the observations submitted on behalf of:

- Zuchtvieh-Export GmbH, by C. Winterhoff and A. Wolowski, Rechtsanwälte,
- the Stadt Kempten, by N. Briechle, acting as Agent,
- the Landesanwaltschaft Bayern, by R. Käß, acting as Agent,
- the Lithuanian Government, by D. Kriaučiūnas and Mme V. Čepaitė, acting as Agents,

– the European Commission, by F. Erlbacher and H. Kranenborg and by B. Eggers, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 11 September 2014,

gives the following

### **Judgment**

- 1 This request for a preliminary ruling concerns the interpretation of Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ 2005, L 3, p. 1, and corrigendum OJ 2011, L 336, p. 86).
- 2 The request has been made in proceedings between Zuchtvieh-Export GmbH (‘Zuchtvieh-Export’) the applicant in the main proceedings, and the Stadt Kempten (municipality of Kempten, Germany) regarding the decision taken by the Stadt Kempten, as the competent authority of the place of departure, to refuse clearance for a consignment of cattle to be transported by road from Kempten to Andijan (Uzbekistan).

### **Legal context**

- 3 Regulation No 1/2005 includes, inter alia, the following recitals:
  - ‘(1) The Protocol on protection and welfare of animals annexed to the [EC] Treaty requires that in formulating and implementing agriculture and transport policies, the Community and the Member States are to pay full regard to the welfare requirements of animals.
  - ...
  - (5) For reasons of animal welfare the transport of animals over long journeys, including animals for slaughter, should be limited as far as possible.
  - ...
  - (11) In order to ensure a consistent and effective application of this Regulation across the Community in the light of its basic principle according to which animals must not be transported in a way likely to cause injury or undue suffering to them, it is appropriate to set out detailed provisions addressing the specific needs arising in relation to the various types of transport. Such detailed provisions should be interpreted and applied in accordance with the aforesaid principle and should be timely updated whenever, in particular in the light of new scientific advice, they appear no longer to ensure compliance with the above principle for particular species or types of transport.
  - ...’
- 4 Article 1 of Regulation No 1/2005 defines the scope of the regulation:
  - ‘1. This Regulation shall apply to the transport of live vertebrate animals carried out within the

Community, including the specific checks to be carried out by officials on consignments entering or leaving the customs territory of the Community.

2. Only Articles 3 and 27 shall apply to:

- (a) the transport of animals carried out by farmers using agricultural vehicles or means of transport belonging to them in cases where the geographical circumstances call for transport for seasonal transhumance of certain types of animals;
- (b) transport carried out by farmers, of their own animals, in their own means of transport for a distance of less than 50 km from their holding.

...'

5 Article 2 of that regulation includes the following definitions:

'...

- (d) "border inspection post" means any inspection post designated and approved in accordance with Article 6 of [Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC (JO L 268, p. 56)], for carrying out veterinary checks on animals arriving from third countries at the border of the territory of the Community;

...

- (f) "competent authority" means the central authority of a Member State competent to carry out checks on animal welfare or any authority to which it has delegated that competence;

...

- (h) "control posts" means control posts as referred to in [Council Regulation (EC) No 1255/97 of 25 June 1997 concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive 91/628/EEC (OJ 1997 L 174, p. 1)];

- (i) "exit point" means a border inspection post or any other place designated by a Member State where animals leave the customs territory of the Community;

- (j) "journey" means the entire transport operation from the place of departure to the place of destination, including any unloading, accommodation and loading occurring at intermediate points in the journey;

...

- (m) "long journey" means a journey that exceeds [eight] hours, starting from when the first animal of the consignment is moved;

...

- (s) "place of destination" means the place at which an animal is unloaded from a means of transport and:

- (i) accommodated for at least 48 hours prior to the time of departure; or
- (ii) slaughtered;

(t) “place of rest or transfer” means any stop during the journey which is not a place of destination, including a place where animals have changed the means of transport, with or without being unloaded;

...

(w) “transport” means the movement of animals effected by one or more means of transport and the related operations, including loading, unloading, transfer and rest, until the unloading of the animals at the place of destination is completed;

...’

6 Under Article 3 of Regulation No 1/2005, entitled ‘General conditions for the transport of animals’:

‘No person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them.

In addition, the following conditions shall be complied with:

- (a) all necessary arrangements have been made in advance to minimise the length of the journey and meet animals’ needs during the journey;
- (b) the animals are fit for the journey;
- (c) the means of transport are designed, constructed, maintained and operated so as to avoid injury and suffering and ensure the safety of the animals;

...

- (e) the personnel handling animals are trained or competent as appropriate for this purpose and carry out their tasks without using violence or any method likely to cause unnecessary fear, injury or suffering;
- (f) the transport is carried out without delay to the place of destination and the welfare conditions of the animals are regularly checked and appropriately maintained;
- (g) sufficient floor area and height is provided for the animals, appropriate to their size and the intended journey;
- (h) water, feed and rest are offered to the animals at suitable intervals and are appropriate in quality and quantity to their species and size.’

7 Article 5 of Regulation No 1/2005, entitled ‘Planning obligations for the transport of animals’, provides:

‘...

- (3) Organisers shall ensure that for each journey:

- (a) the welfare of the animals is not compromised by insufficient coordination of the different parts of the journey; and the weather conditions are taken into account ...

...

(4) For long journeys between Member States and with third countries for domestic Equidae other than registered Equidae, and domestic animals of bovine, ovine, caprine and porcine species ['animals concerned'], transporters and organisers shall comply with the provisions on the journey log set out in Annex II.'

8 According to Article 6(3) and (4) of the same regulation:

'3. Transporters shall transport animals in accordance with the technical rules set out in Annex I.

4. Transporters shall entrust the handling of the animals to personnel who have received training on the relevant provisions of Annexes I and II.'

9 Article 8(2) of Regulation No 1/2005 provides:

'Keepers shall check all animals arriving at a place of transit or a place of destination and determine if the animals are or have been subject to a long journey between Member States and with third countries. In the case of long journeys for [animals concerned], keepers shall comply with the provisions on the journey log set out in Annex II.'

10 Article 14 of that regulation is entitled 'Checks and other measures related to journey log to be carried out by the competent authority before long journeys'. Paragraph (1) thereof provides:

'In the case of long journeys between Member States and with third countries for [animals concerned], the competent authority of the place of departure shall:

(a) carry out appropriate checks to verify that:

(i) transporters indicated in the journey log have the corresponding valid transporter authorisations, the valid certificates of approval for means of transport for long journeys and valid certificates of competence for drivers and attendants;

(ii) the journey log submitted by the organiser is realistic and indicates compliance with this Regulation;

(b) where the outcome of the checks provided for in point (a) is not satisfactory, require the organiser to change the arrangements for the intended long journey so that it complies with this Regulation;

(c) where the outcome of the checks provided for in point (a) is satisfactory, the competent authority shall stamp the journey log;

(d) send details as soon as possible of the intended long journeys set out in the journey log to the competent authority of the place of destination, of the exit point or of the control post via the information exchange system referred to in Article 20 of [Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market (OJ 1990 L 224, p. 29)].'

11 Article 15(2) of that regulation provides:

‘In the case of long journeys between Member States and with third countries, the checks at the place of departure for fitness for transport, as referred to in Chapter I of Annex I, shall be performed before the loading as part of the animal health checks as set out in the corresponding veterinary Community legislation, within the time limits provided by such legislation.’

12 Article 21 of Regulation No 1/2005 pertains to ‘Checks at exit points and border inspection posts’ and is worded as follows:

‘1. ... [W]here animals are presented at exit points or border inspection posts, official veterinarians of the Member States shall check that the animals are transported in compliance with this Regulation and in particular:

- (a) that transporters have submitted a copy of a valid authorisation ...;
- (b) that drivers of road vehicles transporting [animals concerned] and attendants have presented a valid certificate of competence ...;
- (c) that the animals are fit to continue their journey;
- (d) that the means of transport by which the animals are to continue their journey complies with Chapter II and where applicable Chapter VI of Annex I;
- (e) that, in case of export, transporters have provided evidence that the journey from the place of departure to the first place of unloading in the country of final destination complies with any international agreement listed in Annex V applicable in the third countries concerned;
- (f) whether [animals concerned] have been or are to be transported over long journeys.

2. In the case of long journeys for [animals concerned], official veterinarians of exit points and border inspection posts shall perform and record the checks listed in Section 3 “Place of destination” of the journey log [referred to] in Annex II. Records of those checks and the check provided for in paragraph 1 shall be kept by the competent authority for a period of at least three years from the date of the checks ...’

3. Where the competent authority considers that animals are not fit to complete their journey, they shall be unloaded, watered, fed and rested.’

13 Chapter V of Annex I to Regulation No 1/2005 contains rules for watering and feeding intervals and journey times and resting periods. As far as cattle are concerned, under points 1.4(d) and 1.5 of Chapter V, long journeys by road must include, after 14 hours of travel, a rest period of at least one hour during which they must be given liquid and if necessary fed, after which they may be transported for a further period of up to 14 hours, at the end of which animals must be unloaded, fed and watered and be rested for at least 24 hours.

14 Annex II to that regulation contains provisions concerning the journey log, which Article 5(4) thereof requires transporters and organisers to keep in the case of long journeys for long journeys involving animals concerned between Member States and between Member States and third countries. That log comprises five sections relating to planning, place of departure, place of destination, declaration by transporter concerning the actual itinerary, resting, transfer and exit points and any animal injuries or deaths and a specimen anomaly report, where applicable. The

annex provides inter alia:

‘ ...

3. The organiser shall:

...

- (b) ensure that a signed copy of Section 1 of the journey log, properly completed except as regards the veterinary–certificate numbers, is received within two working days before the time of departure by the competent authority of the place of departure in a manner defined by such authority;
- (c) comply with any instruction given by the competent authority under [Article 14(1)];
- (d) ensure that the journey log is stamped as required in Article 14(1);
- (e) ensure that the journey log accompanies the animals during the journey until the point of destination or, in case of export to a third country, at least until the exit point.

4. Keepers at the place of departure and, when the place of destination is located within the territory of the Community, keepers at the place of destination, shall complete and sign the relevant sections of the journey log. They shall inform the competent authority of any reservations concerning compliance with the provisions of this Regulation using the specimen form in Section 5 as soon as possible.

...

7. If animals are exported to a third country, transporters shall give the journey log to the official veterinarian at the exit point.

In the case of export of live bovine animals with refunds, Section 3 of the journey log shall not be required if the agricultural legislation requires a report.

8. The transporter referred to in Section 3 of the journey log shall keep:

- (a) a copy of the completed journey log;

...

Documents referred to ... shall be made available to the competent authority which granted the transporter's authorisation and upon request to the competent authority of the place of departure, within one month after it has been completed and shall be kept by the transporter for a period of at least three years from the date of the check.

Documents referred to in point (a) shall be returned to the competent authority of the place of departure within [one] month after the completion of the journey, unless the [navigation] systems referred to in Article 6(9) were used. ...’

15 The Appendix to Annex II to Regulation No 1/2005 contains a specimen of the different sections of the journey log. The first of those sections, entitled ‘Planning’, comprises a set of headings covering the total expected duration of the journey (heading 2); the place, country, date and time of departure

(headings 3.1 to 3.3); the place and country of destination and the date and time of arrival (headings 4.1 to 4.3); the species and number of animals (headings 5.1 and 5.2); the estimated total weight of the consignment and total space provided for it (headings 5.4 and 5.5); the list of resting points, the time of arrival at those points and the length of the resting time (headings 6.1 to 6.3); and the declaration of the organiser of the journey, confirming having made suitable arrangements to safeguard the welfare of the animals throughout the journey, in accordance with the provisions of Regulation No 1/2005.

### **The dispute in the main proceedings and the questions referred for a preliminary ruling**

- 16 **Zuchtvieh-Export engaged two lorries to transport 62 cattle from Kempten to Andijan via Poland, Belarus, Russia and Kazakhstan**, a total journey of approximately 7 000 km. The transport was scheduled to be carried out from 23 April 2012 to 2 May 2012 in an operation described as ‘exportation without application for export refund’.
- 17 Section 1, No 6 of **the journey log submitted in connection with the request for clearance mentioned, as the only places of rest and transfer for the stages of the journey taking place in the territory of the third countries concerned, the cities of Brest (Belarus) and Karaganda (Kazakhstan), with a rest period of 24 hours being planned in each of those cities and the journey between those points expected to take 146 hours**. According to the order for reference, rest periods were scheduled between those cities during which the animals would be fed and watered, but not unloaded. The final stage of the journey, between Karaganda and Andijan, was to take an additional 29 hours.
- 18 **By decision of 30 January 2012, the Stadt Kempten refused customs clearance for the consignment of cattle in question and required that the transport plans be amended in order to bring them into line with the provisions of Regulation No 1/2005, including for the stages of the journey taking place in the territory of the relevant third countries, between Brest and Andijan**, which was not the case in the light of the information provided in section 1 of the journey log.
- 19 In addition to an application for an interlocutory injunction, which was not successful, **Zuchtvieh-Export brought an action on the merits against the decision of the Stad Kempten**, which the Bayerischer Verwaltungsgerichtshof (Higher Administrative Court, Bavaria) is currently hearing on appeal. In that action, Zuchtvieh-Export claims inter alia that the court should rule that the decision of the Stadt Kempten of 30 January 2012 is unlawful and that the Stadt Kempten should be ordered to issue customs clearance for the consignment of cattle in question.
- 20 **The central question in the main proceedings is whether, in the case of a long journey commencing in the territory of the European Union but ending outside that territory, Regulation No 1/2005 is also applicable to stages of that journey taking place in the territory of one or more third countries**. That question arises essentially in relation to the granting or refusal of transport approval by the competent authority of the place of departure on the basis of the planning information provided in section 1 of the journey log submitted to that authority as part of the checks provided for in Article 14 of Regulation No 1/2005.
- 21 The referring court considers that a number of provisions of Regulation No 1/2005 support the position that, in such a case, the authority of the place of departure can approve the transport by stamping the journey log only where the provisions of that regulation have been complied with outside the territory of the European Union as well. In that regard it refers to Articles 1, 3, 5 and 21(1)(e) of that regulation, but refers especially to the Appendix to Annex II thereto, where the specimen of the different sections of the journey log, particularly section 1 thereof, relating to the



planning of the journey.

- 22 The referring court refers, first, to Nos 2 to 4 of section 1 (total expected duration of the journey, place and time of departure, place of destination and time of arrival) which, combined with the definition of the term ‘journey’ in Article 2(j) of Regulation No 1/2005, indicate that information is to be provided for the entire journey.
- 23 Next it notes the declaration in No 7 of section 1, to the effect that the organiser has ‘made suitable arrangements to safeguard the welfare of the animals throughout the journey, in accordance with the provisions of Regulation [No 1/2005]’.
- 24 The referring court also observes that, even in the case of exports, and even though the transporter must hand over the journey log to the official veterinary at the exit point, under point 7 of Annex II to Regulation No 1/2005, he must nevertheless retain a copy and return it to the competent authority of the place of departure, in accordance with point 8 of that annex.
- 25 Should it be held that transport of this nature can be approved only where journey log shows that the provisions of Regulation No 1/2005 are complied with for the stages of the journey taking place outside the territory of the European Union, the referring court considers that it is not sufficient for the organiser of the journey to claim that the provisions of the applicable legislation in the third countries through which the journey passes and the applicable international conventions in those countries will be complied with for the stages of the journey outside the European Union. This must also be indicated in the entries in the journey log. However, that is not the case in this instance, as section 1 of the journey log in question contains no ‘realistic’ information within the meaning of Article 14(1)(a)(ii) of Regulation No 1/2005 because it does not mention any places of rest during the journeys between Brest and Karaganda and between Karaganda and Andijan, the final place of destination. Furthermore, if the authority of the place of departure stamped the journey log, this would suggest that all the arrangements for the journey, up to place of destination, have been approved, which, according to the referring court, is also not appropriate vis-à-vis the authorities in the third countries.
- 26 According to the opposite view, advocated by Zuchtvieh-Export, approval of the journey planning as part of the checks to be carried out under Article 14 of Regulation No 1/2005 concerns only those stages of the journey to which that regulation is applicable *ratione loci*. A number of provisions of that regulation, including Article 21(1)(e) pertaining to checks at exit points and border inspection posts, suggest that the scheme it establishes does not apply beyond the borders of the European Union.
- 27 Zuchtvieh-Export further submits that the applicability of the rules laid down in Regulation No 1/2005 outside the territory of the European Union, in particular those laid down in Chapter V of Annex I thereto, pertaining to watering and feeding intervals as well as journey times and resting periods, is unrealistic and counter-productive. In third countries there is not much hygienically and technically sound accommodation in which to rest the animals being transported, with the result that there is high risk of injury and cross-contamination. The rules laid down in the regulation are indissociable from the quality of animal transport infrastructure in the territory of the European Union, such as the control posts (which are places of rest) established there, which Article 36 of that regulation makes subject to technical and health requirements.
- 28 Furthermore, the fact that the rules of Regulation No 1/2005 are not necessarily applicable, from a substantive point of view is in any event shown by Article 30(6) of that regulation, which provides for the possibility of derogations for long journeys to take account of the remoteness of certain

regions from the mainland of the territory of the European Union.

- 29 It is also clear from the heading of section 1, No 6 of the specimen journey log ('List of scheduled resting, transfer or exit points') that the organiser of the journey is not required to mention all resting points. Furthermore, it is not always possible to predict where rests will be taken because of geographic conditions.
- 30 In addition, those rules might conflict with the regulations applicable in the third countries concerned, such as those in force in the Russian Federation, where the standard practice of the authorities is to prohibit the unloading of animals during rest periods.
- 31 Lastly, the principle of territoriality weighs in favour of restricting the application of Regulation No 1/2005 to the territory of the European Union.
- 32 The Stadt Kempten and the Landesanstalt für Tierwohl Bayern (Public Prosecutor's Office for the Land of Bavaria, Germany) counter these arguments by contending that the absence of resting points outside the territory of the European Union does not release transporters of their obligations in this regard under Regulation No 1/2005, that the fact that the animals are not unloaded for rest periods means that the transport compartments are not cleaned and that it is not guaranteed — or even possible — that all animals are watered and the state of health of each animal inspected. Therefore, having regard to recital 5 in the preamble to that regulation, according to which long journeys should be limited as far as possible, it is necessary to envisage the possibility that certain journeys simply cannot be carried out because it is not possible to comply with the applicable rules.
- 33 Against that background, the Bayerischer Verwaltungsgerichtshof decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:
- '(1) Is Article 14(1) of Regulation (EC) No 1/2005 to be interpreted as meaning that in the case of long journeys for [animals concerned], where the place of departure is in a Member State of the European Union but the place of destination is in a third country, the competent authority of the place of departure may stamp the journey log submitted by the organiser in accordance with Article 14(1)(c) only if the journey log meets the requirements set out in Article 14(1)(a) (ii) for the entire journey from the place of departure to the place of destination, and thus also for stages of the journey which lie entirely outside the territory of the European Union?
- (2) Is Article 14(1) of Regulation (EC) No 1/2005 to be interpreted as meaning that the competent authority at the place of departure pursuant to that provision may, in accordance with Article 14(1)(b) of that regulation, require the organiser of the transport to change the arrangements for the intended long journey in such a way that it will comply with the provisions of that regulation for the entire journey from the place of departure to the place of destination, even if some stages of that journey lie entirely within third countries?'

### **Consideration of the questions referred**

- 34 By its questions, which should be considered together, the referring court asks, in essence, whether Article 14(1) of Regulation No 1/2005 must be interpreted as meaning that, in order for transport involving a long journey for animals concerned which commences on the territory of the European Union and continues outside that territory to be authorised by the competent authority of the place of departure, the organiser of the journey must submit a journey log which, in the light of the arrangements for the journey as planned, is realistic and indicates that the provisions of that regulation will be complied with, including for the stages of the journey which are to take place in

the territory of third countries, that authority being empowered, should that not be the case, to require changes to those arrangements to ensure compliance with those provisions throughout the journey.

- 35 It should be noted, as a preliminary point, that it follows, first of all, from recital 1 of Regulation No 1/2005 that that regulation is based on Protocol (No 33) on protection and welfare of animals, annexed to the EC Treaty, under which the Community and the Member States, in formulating and implementing the Community's policies on inter alia agriculture and transport, are to pay full regard to the welfare requirements of animals. According to the case-law, the protection of animal welfare is a legitimate objective in the public interest, the importance of which was reflected, in particular, in the adoption by the Member States of that protocol (see, to that effect, *Viamex Agrar Handel and ZVK*, C-37/06 and C-58/06, EU:C:2008:18, paragraph 22, and *Nationale Raad van Dierenkwekers en Liefhebbers and Andibel*, C-219/07, EU:C:2008:353, paragraph 27). The substance of Protocol No 33 is henceforth to be found in Article 13 TFEU, which is a provision of general application of the FEU Treaty, contained in Part One thereof, setting out the 'Principles'.
- 36 It further follows from recitals 5 and 11 in the preamble to that regulation that the legislature intended to lay down detailed provisions based on the principle that animals must not be transported in a way likely to cause injury or undue suffering to them, considering that, for reasons of animal welfare, the transport of animals over long journeys should be limited as far as possible.
- 37 It should be observed at the outset that it follows from a number of provisions of Regulation No 1/2005 that it imposes obligations not only on the transport of live vertebrate animals taking place entirely within the territory of the European Union, but also to transport operations having their point of departure within that territory and their destination in a third country, such as the transport at issue in the main proceedings. Those provisions are, in addition to Article 14 thereof, Articles 1(1) 2(i), 5(4), 8(2), 15(2) and 21.
- 38 Nor should the examination be limited to an isolated reading of the first part of Article 1(1) of Regulation No 1/2005, according to which that regulation applies to the transport of animals carried out within the European Union. In particular, the second part of that provision, referring to the specific checks to be carried out by officials on consignments entering or leaving the customs territory of the European Union, takes into consideration the external dimension of that territory that such transport may entail. In that context, Article 2(i) of Regulation No 1/2005 provides a definition of the term 'exit point' as referring to the place where the animals leave the territory of the European Union.
- 39 Moreover, the other provisions referred to in paragraph 37 above also cover the transport of animals with a point of departure within the territory of the European Union and a destination in a third country. In particular, the obligations that Articles 5(4) and 8(2) of that regulation impose on organisers, transporters and keepers of animals refer explicitly not only to long journeys between Member States but also to third countries.
- 40 The same is true of the checks to be carried out by the competent authority under Articles 14(1), 15(2) and 21(1) of Regulation No 1/2005. On particular, Article 14 of that regulation, concerning the 'Checks and other measures related to journey log to be carried out by the competent authority before long journeys', applies, according to the very wording of paragraph 1 therein, '[i]n the case of long journeys between Member States and with third countries'.
- 41 In its observations submitted to the Court, the European Commission took the view, based inter alia on Article 21(1) of Regulation No 1/2005, that that regulation makes such transport, for the stages

of the transport taking place outside the European Union, subject to a specific check relating only to certain fundamental requirements under the regulation, namely those following from Article 3 thereof.

- 42 In that regard it should be observed, first of all, that transport having its point of departure within the territory of the European Union and destination in third countries is not transport in respect of which Article 1(2) of Regulation No 1/2005 provides explicitly that only Articles 3 and 27 of that regulation are to apply.
- 43 Next, although Article 21(1) of Regulation No 1/2005 provides for a specific check in which the competent authorities are responsible for checking, inter alia, compliance with a certain number of specific requirements thereunder, the fact remains that that provision also obliges the authorities to ensure ‘that the animals are transported in compliance with [that regulation]’, without restricting the scope of that check to compliance with certain provisions thereof.
- 44 Regarding more specifically the authorisation to be obtained from the competent authority of the place of departure, it should be noted that the wording of Article 14(1)(a)(ii) and (b) of Regulation No 1/2005, which expressly regulates the transport of animals with a point of departure within the territory of the European Union and a destination in a third country, refers to compliance with that regulation. No distinction is provided for in that regard between transport within the European Union and transport with a destination in a third country.
- 45 Similarly, nor do the provisions setting out the essential obligations to be complied with for a long journey, laid down in Articles 5(4), 6(3) and (4) and 8(2) of Regulation No 1/2005, draw a distinction between transport of animals taking place within the European Union and transport with a destination in a third country. Article 5(4) of that regulation provides that, for long journeys between Member States and between Member States and third countries, organisers and transporters are to comply with the provisions on the journey log. The same is true of the obligations keepers of animals have for long journeys under Article 8(2) in terms of checks and documentation in relation to the journey log.
- 46 Lastly, regarding the obligation transporters have under Article 6(3) and (4) of Regulation No 1/2005 to transport animals in accordance with the technical rules set out in Annex I thereto and to entrust the handling of the animals to personnel who have received training on the relevant provisions of Annexes I and II thereto, it must be taken as established that those provisions refer generally to the transport of animals without drawing any distinction according to place of destination.
- 47 Thus, in Article 14, Regulation No 1/2005 does not subject the transport of animals with a point of departure within the territory of the European Union and a destination in a third country to any particular approval scheme, different from that applicable to transport taking place within the European Union.
- 48 It should also be remembered that the dispute in the main proceedings concerns the question whether all the information referred to in Annex II to that regulation, in particular information on journey times and resting periods, must be included in the journey log submitted to the competent authority of the place of departure in respect of the stage of the long journey at issue in the main proceedings which is to take place in the territory of third countries.
- 49 It must be noted, first of all, that Article 5 of that regulation, pertaining to transport planning, provides in paragraph 4 that a journey log must be kept in accordance with the provisions of Annex

II to that regulation for any long journey involving animals concerned, including journeys with a destination in a third country. To that end, point 3(b) of that annex places an obligation on the organiser of a long journey to provide the competent authority of the place of departure with a duly completed copy of section 1 (Planning) of the journey log.

- 50 The information contained in section 1, concerning inter alia scheduled resting, transfer or exit points (No 6) must, as a result of the legal definition of the term ‘journey’ in Article 2(j) of Regulation No 1/2005, cover the entire planned transport operation, from the place of departure to the place of destination. Accordingly, in the case of a long journey with a destination in a third country, the journey log must contain that information both for the stages of the journey taking place in the territory of the European Union and in the territory of third countries.
- 51 Regarding, secondly, the requirements that information must satisfy, it is clear from Article 14(1)(a)(ii) of Regulation No 1/2005 that the competent authority of the place of departure is required to check whether the transport can be regarded as compliant therewith. Thus, as regards planned journey times and resting periods, the journey planning as stated in the journey log must show that the planned transport will observe, inter alia, the technical rules on watering and feeding intervals and journey times and resting periods, specified in Chapter V of Annex I to that regulation, which the transporter is required to observe under Article 6(3) thereof.
- 52 It should be observed in that regard that, under Article 14(1)(a)(ii) of Regulation No 1/2005, the journey log is to be subject to ‘appropriate checks’ by the competent authority of the place of departure. Those checks are to be carried out prior to the long journey with a point of departure in the territory of the European Union and with a destination in a third country and thus relate only to the question whether the journey log submitted by the organiser is ‘realistic’ and ‘indicates’ compliance therewith. In conducting that prior check, the authority thus has a certain margin of discretion allowing it to take due account of the uncertainties involved in a long journey, part of which is to take place in the territory of third countries.
- 53 Moreover, as stated by the Commission at the hearing before the Court, the practice of granting export refunds on the basis of Commission Regulation (EU) No 817/2010 of 16 September 2010 laying down detailed rules pursuant to Council Regulation (EC) No 1234/2007 as regards requirements for the granting of export refunds related to the welfare of live bovine animals during transport (OJ 2010 L 245, p. 16), which involves a post-transport check of the requirements for watering and feeding intervals and journey times and resting periods resulting from Regulation No 1/2005, has not shown that the transport of animals with a point of departure in the territory of the European Union and with a destination in a third country comes up against systemic difficulties in terms of compliance with those requirements in the territory of third countries. As regards in particular the situation in the territory of the Russian Federation, the Commission has no knowledge of any Russian legislation or administrative practice on the part of the competent Russian authorities prohibiting the unloading of animals at resting or transfer points within Russian territory.
- 54 Should it nevertheless be the case that the law or administrative practice of a third country through which the transport will transit verifiably and definitely precludes full compliance with the technical rules of that regulation, the margin of discretion conferred on the competent authority of the place of departure empowers it to accept realistic planning for transport which, in the light inter alia of the means of transport used and the journey arrangements made, indicates that the planned transport will safeguard the welfare of the animals at a level equivalent to those technical rules.
- 55 In any event, under Article 14(1)(b) of Regulation No 1/2005 that authority may require, inter alia, changes to the arrangements for the intended transport in order to ensure that it will pass by enough



resting and transfer points to indicate that the transport will comply with the aforementioned requirements as to watering and feeding intervals and journey times and resting periods.

- 56 In the light of the foregoing considerations, the answer to the questions referred is that Article 14(1) of Regulation No 1/2005 must be interpreted as meaning that, in order for transport involving a long journey for animals concerned which commences on the territory of the European Union and continues outside that territory to be authorised by the competent authority of the place of departure, the organiser of the journey must submit a journey log which, in the light of the arrangements for the journey as planned, is realistic and indicates that the provisions of that regulation will be complied with, including for the stages of the journey which are to take place in the territory of third countries, that authority being empowered, should that not be the case, to require changes to those arrangements to ensure compliance with those provisions throughout the journey.

### Costs

- 57 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

**Article 14(1) of Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 must be interpreted as meaning that, in order for transport involving a long journey for domestic Equidae other than registered Equidae, and domestic animals of bovine, ovine, caprine and porcine species which commences on the territory of the European Union and continues outside that territory to be authorised by the competent authority of the place of departure, the organiser of the journey must submit a journey log which, in the light of the arrangements for the journey as planned, is realistic and indicates that the provisions of that regulation will be complied with, including for the stages of the journey which are to take place in the territory of third countries, that authority being empowered, should that not be the case, to require changes to those arrangements to ensure compliance with those provisions throughout the journey.**

[Signatures]

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\* Language of the case: German.