



Slaughter of diseased animals: lack of compensation for a company which had failed to comply with health regulations did not infringe its property rights

In today's **Chamber judgment**¹ in the case of [S.A. Bio d'Ardennes v. Belgium](#) (application no. 44457/11) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights

The case concerned the Belgian authorities' refusal to compensate the applicant company for the compulsory slaughter of 253 head of cattle infected with brucellosis.

The Court found, among other things, that the applicant company had been refused compensation because of numerous breaches of animal health regulations; this had been provided for under domestic law. It further observed that the national authorities had a degree of discretion when it came to protecting public health and food safety in their territory and determining the penalties for breaches of the health regulations, depending on the risks arising from the failure to comply and the nature of the animal diseases which the regulations were designed to eradicate. Hence, in view of the importance for States of preventing such diseases and of the margin of appreciation left to them in that regard, the Court held that the applicant company had not had to bear an individual and excessive burden as a result of the refusal to grant it compensation for the slaughter of its cattle.

Principal facts

The applicant company, S.A. Bio d'Ardennes, is a Belgian limited company with its registered office in Bastogne (Belgium).

Trading as a beef producer, the company bought 27 head of cattle of Portuguese origin in July 1998, then 62 more in August 1998, and placed them on its farms. In March 2000 the veterinary inspector notified the company of an outbreak of brucellosis in one of its herds and served it with an order to slaughter the animals concerned. On 22 March 2000, 118 head of cattle were slaughtered. On the same day, another outbreak of brucellosis was detected and another slaughter order was served and executed. Finally, on 28 April 2000, in accordance with the Law of 24 March 1987 on animal health, 76 head of cattle were seized and were also slaughtered.

On 26 July 2000 the veterinary services of the Animal Health Administration of the Ministry for Small and Medium-sized Enterprises and Agriculture (succeeded in 2003 by the Federal Agency for the Safety of the Food Chain, the AFSCA) refused to pay out the slaughter compensation requested by the company for 253 head of cattle on the basis of Article 23 § 3 of the Royal Decree of 6 December 1978 on the prevention of bovine brucellosis. They found that the applicant company had committed numerous infringements which had resulted or could have resulted in the spread of the contamination to its entire stock of cattle.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

In December 2001 the applicant company brought proceedings against the Belgian State in the appropriate court seeking compensation for its slaughter-related losses. In November 2003 the AFSCA replaced the Belgian State as respondent in the proceedings. In February 2006 the applicant company served notice for the approved association DGZ to be joined to the proceedings, claiming that this association had failed to provide it with the correct information, otherwise it would not have bought the Portuguese cattle. In February 2007 the court dismissed all the applicant's claims. The Court of Appeal ruled that the AFSCA's conduct had been legal, legitimate and fair. The Court of Cassation quashed the judgment in so far as it addressed the liability of the DGZ and referred that part of the case back to the Court of Appeal. On 22 February 2013 the Court of Appeal ordered the DGZ to pay an amount of 29,058.48 euros (EUR), corresponding to the value of 27 slaughtered cattle. The applicant company and the DGZ appealed to the Court of Cassation and then reached a friendly settlement under which the DGZ paid compensation of EUR 55,000 for the loss of 62 cattle.

Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, the applicant company alleged that the refusal to award it compensation for the slaughter of its cattle had constituted a disproportionate interference with its right to the enjoyment of its possessions.

The application was lodged with the European Court of Human Rights on 14 July 2011.

Judgment was given by a Chamber of seven judges, composed as follows:

Georgios A. **Serghides** (Cyprus), *President*,
Paul **Lemmens** (Belgium),
Paulo **Pinto de Albuquerque** (Portugal),
Alena **Poláčková** (Slovakia),
María **Elósegui** (Spain),
Gilberto **Felici** (San Marino),
Erik **Wennerström** (Sweden),

and also Stephen **Phillips**, *Section Registrar*.

Decision of the Court

[Article 1 of Protocol No. 1 \(protection of property\)](#)

The Court observed at the outset that the slaughter orders in question amounted to interference with the applicant company's property rights. The interference had been provided for by law (Royal Decree of 6 December 1978) and had pursued a legitimate aim in the public interest.

The Court went on to state that it would verify whether, in the instant case, the slaughter of the cattle without payment of compensation had struck a fair balance between the general interest and the fundamental rights of the applicant company, or whether it had imposed an individual and excessive burden on the company. In that regard the Court noted the following.

Firstly, the Royal Decree of 6 December 1978 provided in principle for partial compensation for the slaughter of cattle with brucellosis. However, the applicant company had been refused such compensation because of its numerous breaches of the regulations. The refusal of compensation in such cases was expressly provided for by Article 23 § 3 of the Royal Decree, and the applicant company had not claimed that it had been unaware of its obligations under the regulations or that it had not committed the breaches in question.

Secondly, the domestic courts had verified that the conditions warranting interference with property rights as interpreted by the Court had been satisfied. The Court saw nothing in the courts' reasoning that would lead it to conclude that their decisions had been arbitrary or manifestly unreasonable.

Thirdly, the Court noted the fact that the applicant company had obtained financial compensation for 89 of the slaughtered cattle on account of the DGZ's negligence, and took that fact into account in assessing the proportionality of the measures complained of.

Fourthly, the fact that other legislation penalised failure to comply with the health regulations laid down therein by reducing the entitlement to compensation rather than excluding it, was not apt in the present case to upset the fair balance to be struck between the protection of property and the requirements of the general interest. The domestic authorities had a degree of discretion when it came to protecting public health and food safety in their territory and determining the penalties for breaches of the health regulations, depending on the risks arising from the failure to comply and the nature of the animal diseases which the regulations were designed to eradicate.

Finally, the applicant company had been able to continue its activities by acquiring new cattle once the health measures had been lifted, and it had not maintained that this had been impossible or excessively difficult.

Consequently, the Court held that, in view of the importance for States of preventing animal diseases and of the margin of appreciation left to them in that regard, the applicant company had not had to bear an individual and excessive burden on account of the refusal to compensate it for the slaughter of its cattle. There had therefore been no violation of Article 1 of Protocol No. 1.

The judgment is available only in French.

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Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

Inci Ertekin (tel: + 33 3 90 21 55 30)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Patrick Lannin (tel: + 33 3 90 21 44 18)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.