

Case C-35/76 Simmenthal [1976]

Facts: Simmenthal was charged with fees for the veterinary and public health inspection of beef and veal for human consumption it imported from France via Modena, and commenced proceedings against the Italian administrative authority for their recovery, alleging that these inspections and charges were obstacles to the free movement of goods. In connection with these proceedings, the Pretura di Susa referred for a preliminary ruling on the interpretation of Article 9 et seq, 30 et seq and 95 of the EEC Treaty and of various Regulations and Directives on the common organization of the markets in beef and veal.

Held: Veterinary and public health inspections at the frontiers, carried out systematically or not, when importing meat intended for human consumption constitute measures having an effect equivalent to quantitative restrictions within the meaning of Article 30 of the Treaty, prohibited but subject to the exceptions laid down in particular by Article 36. Article 36 excepts from this prohibition measures justified on grounds of the protection of health and life of humans and animals. Article 36 is not designed to reserve certain matters to the exclusive jurisdiction of Member States but permits national laws to derogate from the principle of the free movement of goods to the extent to which such derogation is justified for the attainment of the objectives referred to in that article. It has to be ascertained whether the measure is still justified within the meaning of Article 36 since the implementation of the relevant Regulations and Directives in this matter, which harmonized the animal health measures in force in the Member States. Their aim is to transfer supervision to the exporting Member State and to replace the multiple systematic measures of protection at the frontier with a uniform system, therefore systematic inspections at the frontier are no longer justified under Article 36. However, some applicable provisions give the Member State of destination a discretion as far as the inspections necessary to ensure that the imported meat meets the requirements. Although a mere examination of the certificates should be enough, occasional inspections are not ruled out, provided that they are not increased to such an extent as to constitute a disguised restriction on trade between Member States. It is for the national court to determine whether the procedures adopted for the inspection are incompatible with the requirements of Article 36.