

### **Case C-5/94 Hedley Lomas [1996]**

**Facts:** The relevant Ministry for English and Wales refused to issue Hedley Lomas a licence for the export of sheep to Spain on the ground that the treatment in Spanish slaughterhouses was contrary to the relevant Directive on stunning of animals before slaughter. Hedley Lomas brought proceedings against the Ministry seeking a declaration that the refusal was contrary to Article 34 of the Treaty and damages. In connection with these proceedings, the High Court of Justice referred for a preliminary ruling several questions on the interpretation of Articles 34 and 36 of the Treaty and the principle of non-contractual State liability for breach of Community law.

**Held:** Recourse to Article 36 of the Treaty, which allows the maintenance of restrictions on the free movement of goods justified on ground of the protection of the health and life of animals, is not possible where Community directives provide for harmonization to achieve the specific objective, independently of whether it lays down a Community procedure for monitoring compliance or penalties. The Member States must rely on trust in each other to carry out inspections on their respective territories and they may not unilaterally adopt corrective or protective measures designed to obviate any breach by another Member State of Community law. The conditions under which State liability for breaches of Community law gives rise to a right to reparation depend on the nature of the breach. In the case of a breach of Community law attributable to a Member State acting in a field in which it has a wide discretion to make legislative choices a right to reparation must be recognized where: the rule of law infringed was intended to confer rights on individuals; the breach was sufficiently serious; and there is a direct causal link between the breach of the obligation resting on the State and the damage. The United Kingdom's refusal to issue the export licence constituted a quantitative restriction on exports contrary to Article 34 of the Treaty, which creates rights for individuals that the national court must protect, and was not justified under Article 36. The United Kingdom was not called upon to make any legislative choices and had no discretion, so the mere infringement of Community law may be sufficient to establish the existence of a sufficiently serious breach; moreover, the United Kingdom could not produce any proof of non-compliance with the Directive by the relevant slaughterhouse. It is for the national court to determine the existence of a direct causal link.