JUDGMENT OF THE COURT (Second Chamber)
2 May 1990 *

In Case C-27/89

REFERENCE to the Court under Article 177 of the EEC Treaty by the tribunal administratif de Versailles (Administrative Court of Versailles) for a preliminary ruling in the action pending before that court between

Société coopérative agricole de Rozay-en-Brie, Provins et environs (Scarpe) (Agricultural Cooperative of Rozay-en-Brie, Provins and district), Rozay-en-Brie,

applicant,

supported by

Association générale des producteurs de blé et autres céréales (AGPB) (General Association of wheat and other cereal producers) and **Fédération française des coopératives agricoles de céréales (FFCAC)** (French Federation of cereal-producing cooperatives), Paris,

interveners,

and

Office national interprofessionnel des céréales (ONIC) (National intertrade office for cereals), Paris,

defendant,

on the validity of Community agricultural regulations,

* Language of the case: French.

THE COURT (Second Chamber)

composed of: F. A. Schockweiler, President of Chamber, G. F. Mancini and T. F. O'Higgins, Judges,

Advocate General: G. Tesauro
Registrar: D. Louterman, Principal Administrator

after considering the observations submitted on behalf of

the interveners in the main proceedings, by Nicole Coutrelis, of the Paris Bar,

the Council of the European Communities, by J. Delmoly, acting as Agent,

the Commission of the European Communities, by P. Hetsch, acting as Agent,

having regard to the Report for the Hearing and further to the hearing on 8 February 1990,

after hearing the Opinion of the Advocate General delivered at the sitting on 13 March 1990,

gives the following

Judgment

1 By judgment of 22 December 1988, which was received at the Court on 2 February 1989, the tribunal administratif de Versailles referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty a question regarding the validity of Community agricultural regulations.

2 The question arose from an application in which the Société coopérative agricole de Rozay-en-Brie, Provins et environs (hereinafter referred to as 'the Cooperative'), supported by two intervening associations, requested the national court to declare void the decision of the Office national interprofessionnel des céréales (hereinafter referred to as 'ONIC') taking over part of the common wheat of bread-making quality which the Cooperative had offered for intervention, pursuant to a special intervention measure adopted by the Commission.

3 Article 3(1) of Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals (Official Journal 1975, L 281, p. 1), subsequently amended by Regulations (EEC) Nos 1143/76 of 17 May 1976 (Official Journal 1976, L 130, p. 1), 1151/77 of 17 May 1977 (Official Journal 1977, L 136, p. 1) and 1018/84 of 31 March 1984 (Official Journal 1984, L 107, p. 1), provides for the yearly fixing by the Community of a common single intervention price for cereals and, as far as common wheat of bread-making quality is concerned, a reference price at a higher level, designed to encourage production of that cereal. Under Article 3(2) of Regulation No 2727/75 the reference price is fixed for common wheat which meets standard quality criteria and medium bread-making quality requirements.

4 Article 8(2) of that regulation provides that, where necessitated by the situation on the Community market in common wheat of bread-making quality, special intervention measures may be adopted in respect of this cereal with a view to supporting the development of the market therein in relation to its reference price. However, those measures may apply to qualities of common wheat of bread-making quality other than the quality for which the reference price is fixed; such measures may be envisaged *inter alia* for common wheat meeting the minimum requirements for bread-making, subject to the application of a reduction.

5 Article 7(5) of Regulation No 2727/75 provides that the minimum quality and quantity required of each cereal for it to be eligible for intervention, together with the scales of price reductions applicable for the purposes of intervention, are to be fixed by the Commission in accordance with the management committee procedure.

6 After setting the reference price for each marketing year, first at the level of the minimum quality of common wheat for bread-making and then at the level of the medium quality — subject, in this latter case, to the application to the minimum quality of a fixed-rate reduction also determined by it — the Council, in its Regulation (EEC) No 1019/84 of 31 March 1984 fixing cereal prices for the 1984/85 marketing year (Official Journal 1984, L 107, p. 4), expressed the view that the price to be applied in the event of special intervention measures for minimum bread-making quality should not be set therein but should be determined when such measures were introduced.

7 Since, in respect of the marketing year 1985/86, the Council had not fixed either the common single intervention price for cereals or the reference price for common wheat of bread-making quality, the Commission adopted Regulation (EEC) No 2124/85 of 26 July 1985 on precautionary measures in the cereals sector other than durum wheat (Official Journal 1985, L 198, p. 31). In the light of the positions adopted in the Council, Regulation No 2124/85 set the common single intervention price for the marketing year 1985/86 at a level 1.8% lower than that for the marketing year 1984/85.

8 The Commission subsequently adopted Regulation (EEC) No 400/86 of 21 February 1986 on the application of a special intervention measure for common wheat of bread-making quality (Official Journal 1986, L 45, p. 22). Under that regulation the national intervention agencies were to purchase the quantities of common wheat of bread-making quality presented to them, within the limits *inter alia* of 1 000 000 tonnes for the Federal Republic of Germany and 200 000 tonnes for the French Republic, subject to an abatement to be applied to the offers made to the Member States when the total quantity offered exceeded the quantity laid down.

9 In view of the qualitative requirements laid down by the regulation for common wheat of bread-making quality, the Commission adopted for the application of the special intervention measure a price which was 5% higher than the common single intervention price determined by Commission Regulation No 2124/85, mentioned above.

10 The quantities offered by French producers amounted in all to 1 699 740 tonnes, and accordingly ONIC was obliged under Regulation No 400/86 to fix a percentage abatement of 88.23%, applicable to all offers. By contrast, the quantities presented in the Federal Republic of Germany caused the German intervention agency to fix a percentage abatement of 2.55%.

11 On account of that decision taken by ONIC, its regional branch, by a decision of 19 March 1986, took over, under the special intervention scheme, only 1 560 tonnes of common wheat of bread-making quality out of the 13 250 tonnes offered by the Cooperative.

12 The Cooperative brought proceedings before the tribunal administratif de Versailles to have the latter decision declared void. It was alleged before the national court that Regulation No 400/86, on the basis of which the contested decision had been adopted, was unlawful on two counts. First, it was claimed that, by introducing different quantitative limits for intervention purchases for the various Member States, the contested regulation infringed Article 8(2) of Regulation No 2727/75, the principle of non-discrimination enshrined in Articles 7 and 40(3) of the EEC Treaty, and the obligation under Article 190 of the Treaty to state the reasons on which measures are based. Should Regulation No 400/86 be held to be in conformity with the provisions governing the common organization of the markets in cereals, the further question arose as to their validity in terms of the principle of non-discrimination.

13 Secondly, it is argued that the Commission wrongly, and without giving reasons, fixed a special intervention price for the common wheat of bread-making quality in question which was lower than the price used during the 1984/85 marketing year for common bread-making wheat of a lower quality. Accordingly, in relation to the notional reference price, as reconstructed by applying to the reference price for the 1984/85 marketing year the 1.8% reduction indicated by the positions adopted in the Council for the 1985/86 marketing year, the Commission had introduced in the contested regulation a reduction in the special intervention price in excess of that percentage, and hence had exceeded its powers with regard to prices which, in the absence of a Council decision for the 1985/86 marketing year, were confined to the right to adopt precautionary measures.

14 The national court took the view that the dispute raised serious issues and decided to stay the proceedings until the Court had given a preliminary ruling on the following question:

'Do Commission Regulation (EEC) No 400/86 of 21 February 1986, Council Regulations (EEC) Nos 2727/75 of 29 October 1975 and 1146/76 of 17 May 1976 and Commission Regulation (EEC) No 1629/77 of 20 July 1977 infringe the provisions of Articles 7, 40(3) and 190 of the Treaty establishing the European Economic Community?'

15 Reference is made to the Report for the Hearing for a fuller account of the legal background and the facts of the main proceedings, the course of the procedure and the written observations submitted to the Court, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

16 It must be noted that, by judgment of 8 June 1989 in Case 167/88 *Association générale des producteurs de blé et autres céréales* v *Office national interprofessionnel des céréales* [1989] ECR 1653, the Court ruled with regard to the different quantitative limits for intervention purchases for the various Member States that the Court's review of the validity of the same Community provisions as those referred to by the national court in the present case had disclosed no factor of such a kind as to affect their validity.

17 In this case, therefore, it only remains to consider the validity of Regulation No 400/86 with reference to the special intervention price used by the Commission.

Submission alleging the lack of powers of the Commission

18 It is clear from Article 7(2) of Regulation No 2727/75, read in conjunction with Article 7(5) thereof, that the Commission, using the management committee procedure, has the task of setting out the scales of price reductions applicable to the intervention price when the quality of the cereal differs from the standard quality in respect of which the intervention price is fixed.

19 It is also apparent from the legal context of the case that the Council provided merely that the price level to be applied in the case of special intervention measures for common wheat of minimum bread-making quality was to be assessed when any such measures were applied — that is to say, by the Commission.

20 Since by virtue of Article 8(4) of Regulation No 2727/75 the Commission is empowered, in accordance with the management committee procedure, to decide on the nature and application of the special intervention measures, it was necessarily for the Commission to lay down the reduction to be applied to a quality of common wheat for bread-making which was below the medium quality, in the light of market requirements.

21 Those powers of the Commission are implicit in the powers which the Council gave it to adopt special intervention measures for the purchase of common wheat of bread-making quality other than of medium quality, and which indeed the interveners in the main proceedings have not contested.

22 In their written observations the interveners even stated expressly that, as part of its managerial powers, the Commission could also adopt special intervention measures with regard to common wheat of minimum bread-making quality, in which case it had to determine the price level.

23 It follows that the Commission did not exceed its powers in matters of pricing by adopting Regulation No 400/86.

Submission concerning the level of the special intervention price

24 The parties are agreed that in this instance the Commission took account of the more restrictive policy announced by the Council in Regulation No 1019/84 and pursued by the Commission, tending to reduce the surpluses arising in particular on the market in common wheat of bread-making quality.

25 In those circumstances the Commission could legitimately lay down more stringent quality requirements from one marketing year to the next whilst lowering the special intervention price and applying a larger reduction even in respect of a higher quality of common bread-making wheat.

26 It does not therefore appear that, in fixing the contested special intervention price, the Commission made a manifestly wrong assessment.

Submissions alleging the inadequacy of the statement of reasons for the special intervention price

27 According to the settled case-law of the Court, confirmed in particular by the judgment of 22 January 1986 in Case 250/84 *Eridania* v *Cassa Conguaglio Zucchero* [1986] ECR 117, the statement of reasons required by Article 190 of the Treaty must be appropriate to the nature of the measure in question. It must show clearly and unequivocally the reasoning of the Community authority which adopted the contested measure so as to inform the persons concerned of the justification for the measure adopted and to enable the Court to exercise its powers of review. However, the statement of the reasons on which regulations are based is not required to specify the often very numerous and complex matters of fact or of law dealt with in the regulations, provided that the latter fall within the general scheme of the body of measures of which they form part.

28 It follows from the foregoing that the level of the special intervention price set by the contested regulation must be viewed in the legislative context of the provisions governing the market in common wheat of bread-making quality, and in terms of the new direction of pricing policy, as announced and initiated by the Community institutions during the previous marketing year, and hence known to traders in that sector.

29 That being so, it does not appear that the statement of reasons on which Regulation No 400/86 was based was inadequate.

30 For all those reasons, the answer to be given is that consideration of the question submitted to the Court has disclosed no factor of such a kind as to affect the validity of the regulations referred to by the national court.

Costs

31 The costs incurred by the Council and the Commission, which have submitted observations to the Court, are not recoverable. Since these proceedings are, in so far as the interveners in the main proceedings are concerned, in the nature of a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Second Chamber)

in answer to the question referred to it by the tribunal administratif de Versailles, by judgment of 22 December 1988, hereby rules:

Consideration of the question submitted to the Court has disclosed no factor of such a kind as to affect the validity of the regulations referred to by the national court.

Schockweiler Mancini O'Higgins

Delivered in open court in Luxembourg on 2 May 1990.

J.-G. Giraud
Registrar

F. A. Schockweiler
President of the Second Chamber