Reports of Cases

JUDGMENT OF THE COURT (Sixth Chamber)

13 February 2025 *

(Reference for a preliminary ruling – Agriculture – Common agricultural policy – Regulation (EC) No 1782/2003 – Single payment scheme – Article 33 – Regulation (EC) No 795/2004 – Payment entitlements – Eligibility – Article 15 – Concept of 'scission' – Reduction of the agricultural area after the provisional allocation of payment entitlements – Relevance of that reduction for the definitive allocation of the aid)

In Case C-625/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Corte suprema di cassazione (Supreme Court of Cassation, Italy), made by decision of 17 July 2023, received at the Court on 12 October 2023, in the proceedings

Società Agricola Circe di OL Società Semplice

v

ST, in his own name and as manager of the independent business Agricola Case Rosse di ST,

Agenzia per le Erogazioni in Agricoltura (AGEA),

THE COURT (Sixth Chamber),

composed of T. von Danwitz, Vice-President of the Court, acting as President of the Sixth Chamber, A. Kumin (Rapporteur) and I. Ziemele, Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– ST, in his own name and as manager of the independent business Agricola Case Rosse di ST, by G.M. Masoni, avvocato,

– the Italian Government, by G. Palmieri, acting as Agent, and by M. Di Benedetto and E. Feola, avvocati dello Stato,

* Language of the case: Italian.

– the European Commission, by A.C. Becker and F. Moro, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ 2003 L 270, p. 1), and Article 15 of Commission Regulation (EC) No 795/2004 of 21 April 2004 laying down detailed rules for the implementation of the single payment scheme provided for in Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the Common Agricultural Policy and establishing certain support schemes for farmers (OJ 2004 L 141, p. 1).

2 The request has been made in proceedings between Società Agricola Circe di OL Società Semplice ('Società Agricola Circe') and, on the one hand, ST, acting in his own name and as the owner and manager of the independent business Agricola Case Rosse di ST ('Agricola Case Rosse'), and, on the other hand, the Agenzia per le Erogazioni in Agricoltura (AGEA) (the Agricultural Payments Agency, Italy) concerning the definitive allocation of payment entitlements under the single payment scheme to Società Agricola Circe.

Legal context

European Union law

Regulation No 1782/2003

3 Regulation No 1782/2003 was repealed by Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009 L 30, p. 16).

4 Recitals 16, 21, 24, 25, 28, 29 and 30 of Regulation No 1782/2003 stated:

'(16) The identification of agricultural parcels is a key element in the correct application of schemes linked to surface area. …

…

(21) The support schemes under the common agricultural policy provide for direct income support in particular with a view to ensuring a fair standard of living for the agricultural community. This objective is closely related to the maintenance of rural areas. In order to avoid misallocations of Community funds, no support payments should be made to farmers who have artificially created the conditions required to obtain such payments.

…

(24) Enhancing the competitiveness of Community agriculture and promoting food quality and environment standards necessarily entail a drop in institutional prices for agricultural products and an increase in the costs of production for agricultural holdings in the [European] Community. To achieve those aims and promote more market-oriented and sustainable agriculture, it is necessary to complete the shift from production support to producer support by introducing a system of decoupled income support for each farm. While decoupling will leave the actual amounts paid to farmers unchanged, it will significantly increase the effectiveness of the income aid. It is, therefore, appropriate to make the single farm payment conditional upon cross-compliance with environmental, food safety, animal health and welfare, as well as the maintenance of the farm in good agricultural and environmental condition.

(25) Such a system should combine a number of existing direct payments received by a farmer from various schemes in a single payment, determined on the basis of previous entitlements, within a reference period, adjusted to take into account the full implementation of measures introduced in the framework of Agenda 2000 and of the changes to the amounts of aid made by this Regulation.

…

(28) In order to leave farmers free to choose what to produce on their land, including products which are still under coupled support, thus increasing market orientation, the single payment should not be conditional on production of any specific product. However, in order to avoid distortions of competition some products should be excluded from production on eligible land.

(29) In order to establish the amount to which a farmer should be entitled under the new scheme, it is appropriate to refer to the amounts granted to him during a reference period. … The single payment should be established at farm level.

(30) The overall amount to which a farm is entitled should be split into parts (payment entitlements) and linked to a certain number of eligible hectares to be defined, in order to facilitate transfer of the premium rights. To avoid speculative transfers leading to the accumulation of payment entitlements without a corresponding agricultural basis, in granting aid, it is appropriate to provide for a link between entitlements and a certain number of eligible hectares, as well as the possibility of limiting the transfer of entitlements within a region. Specific provisions should be laid down for aid not directly linked to an area taking into account the peculiar situation of sheep and goat rearing.'

5 Article 1 of that regulation was worded as follows:

‘This Regulation establishes:

…

– an income support for farmers (hereinafter referred to as the “single payment scheme”);

…’

6 Article 2 of that regulation provided:

‘For the purposes of this Regulation, the following definitions shall apply:

(a) “farmer” means a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within Community territory, … and who exercises an agricultural activity,

(b) “holding” means all the production units managed by a farmer situated within the territory of the same Member State,

(c) “agricultural activity” means the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition …

…’

7 Article 33 of Regulation No 1782/2003, headed ‘Eligibility’, provided:

‘1. Farmers shall have access to the single payment scheme if:

…

3. In case of mergers during the reference period or not later than 31 December of the year preceding the year of application of the single payment scheme, the farmer managing the new holding shall have access to the single payment scheme under the same conditions as the farmers managing the original holdings.

In case of scissions during the reference period or not later than 31 December of the year preceding the year of application of the single payment scheme, the farmers managing the holdings shall have access, pro rata, to the single payment scheme under the same conditions as the farmer managing the original holding.’

8 Article 36(1) of that regulation stated:

‘Aid under the single payment scheme shall be paid in respect of payment entitlements as defined in Chapter 3, accompanied by an equal number of eligible hectares as defined in Article 44(2).’

9 Article 38 of that regulation provided:

‘The reference period shall comprise the calendar years 2000, 2001 and 2002.’

10 Chapter 3 of Regulation No 1782/2003, headed 'Payment entitlements', included Article 43, itself headed 'Determination of the payment entitlements', which stated, in paragraph 1:

'Without prejudice to Article 48, a farmer shall receive a payment entitlement per hectare which is calculated by dividing the reference amount by the three-year average number of all hectares which in the reference period gave right to direct payments listed in Annex VI.

The total number of payment entitlements shall be equal to the abovementioned average number of hectares.

…'

11 Article 44(1) and (2) of that regulation stated:

'1. Any payment entitlement accompanied by an eligible hectare shall give right to the payment of the amount fixed by the payment entitlement.

2. "Eligible hectare" shall mean any agricultural area of the holding taken up by arable land and permanent pasture except areas under permanent crops, forests or used for non agricultural activities.'

Regulation No 795/2004

12 Regulation No 795/2004 was repealed by Commission Regulation (EC) No 1120/2009 of 29 October 2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (OJ 2009 L 316, p. 1).

13 Recitals 1, 2, 10 and 11 of Regulation No 795/2004 stated:

'(1) Detailed rules for the implementation of Title III of Regulation [No 1782/2003] establishing the single payment scheme for farmers should be laid down.

(2) For clarity reasons it is appropriate to provide for certain definitions. Where appropriate, definitions which already apply in similar situations and/or which have been already used for years should be used.

…

(10) In order to facilitate the implementation of the single payment scheme, it is appropriate to allow Member States to proceed already in the year preceding the first year of application of the scheme to the identification of the potential beneficiaries of the scheme in particular, in case of modifications in the holding due to inheritance or legal changes and to the provisional establishment of payment entitlements.

(11) Article 33 of Regulation [No 1782/2003] allows farmers to access to the single payment scheme under specific circumstances. In order to avoid that such circumstances may be used to escape the application of the rules on normal transfers of a holding with the attached reference amounts, some conditions and definitions should be set up for the application of such circumstances.'

14 Article 1 of Regulation No 795/2004 stated:

'This Regulation lays down detailed rules for the implementation of the single payment scheme provided for in Title III of Regulation [No 1782/2003].'

15 Article 2 of Regulation No 795/2004 provided:

'For the purposes of Title III of Regulation [No 1782/2003] and of this Regulation, the following definitions shall apply:

…

(j) "Production unit" shall mean at least one area which gave right to direct payments in the reference period, including forage area within the meaning of Article 43(3) of Regulation [No 1782/2003], or one animal which would have given right to direct payments in the reference period, accompanied, where the case may be, by a corresponding premium right;

…'

16 Article 15 of Regulation No 795/2004, headed 'Mergers and scissions', provided, in paragraph 2:

'For the purposes of the second subparagraph of Article 33(3) of Regulation [No 1782/2003], "scission" shall mean the scission of one farmer within the meaning of Article 2(a) of Regulation [No 1782/2003] into at least two new separate [farmers within] the meaning of Article 2(a) of Regulation [No 1782/2003] of which at least one remains controlled, in terms of management, benefits and financial risks, by at least one of the legal or natural persons originally managing the holding or the scission of one farmer within the meaning of Article 2(a) of Regulation [No 1782/2003] into at least one new separate farmer within the meaning of Article 2(a) of Regulation [No 1782/2003] the other one remaining controlled, in terms of management, benefits and financial risks, by the farmer originally managing the holding.

The number and value of the payment entitlements shall be established on the basis of the reference amount and number of hectares relating to the transferred production units of the original holding.'

Italian law

17 By the decreto ministeriale n. 1688 (Ministerial Decree No 1688) of 20 July 2004, the decreto ministeriale n. 1788 (Ministerial Decree No 1788) of 5 August 2004 and the decreto ministeriale n. 2026 (Ministerial Decree No 2026) of 24 September 2004, the rules for the application of Regulations No 1782/2003 and No 795/2004 were adopted in Italian law.

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

18 The brothers OL and ST were shareholders in Società Agricola Circe di ST e OL on the date of the application made by that company for the allocation of payment entitlements under the single payment scheme, and on the date of the provisional allocation of 130 payment entitlements on the basis of the area cultivated by that company.

19 On 1 August 2002, after the provisional allocation of those entitlements, the two brothers concluded an agreement which provided for a series of related legal transactions, namely transfers of shares in that company, but also of shares in a company which was not a party to that agreement, and a transfer of cultivated areas. The effect of those various transactions was that Società Agricola Circe, that is to say the new company formed solely by OL and his spouse, no longer owned, for cultivation, all of the hectares specified in the application for the allocation of payment entitlements under the single payment scheme, on the basis of which such entitlements had been provisionally allocated.

20 The AGEA definitively allocated 71 payment entitlements to Società Agricola Circe. It is apparent from the documents available to the Court that the 59 other payment entitlements, which had been provisionally allocated, were definitively allocated to Agricola Case Rosse which since September 2002 had been using the land transferred by Società Agricola Circe di ST e OL.

21 On 5 June 2006, Società Agricola Circe brought an action before the Tribunale di Roma (District Court, Rome, Italy) against the AGEA, ST and Agricola Case Rosse, seeking to establish its right to receive aid corresponding to 130 payment entitlements and for those parties to be ordered to pay damages, on the ground that the definitive allocation of 71 payment entitlements was unlawful, since it did not result from a genuine scission of Società Agricola Circe di ST e OL. According to Società Agricola Circe, a simple transfer of shares in Società Agricola Circe di ST e OL had taken place.

22 By decision of 27 June 2011, the Tribunale di Roma (District Court, Rome) dismissed that action. That decision was upheld by a judgment of the Corte d'appello di Roma (Court of Appeal, Rome, Italy) of 21 April 2017.

23 The Corte d'appello di Roma (Court of Appeal, Rome) interpreted Article 33(3) of Regulation No 1782/2003 and, more specifically, the term 'scission' contained therein, finding that that term was used in that regulation in a broad and 'non-technical' sense. Thus, according to that court, that term refers not to the concept as defined in company law, but to all situations in which one farmer succeeds another and which involve a modification to the area initially cultivated. Moreover, that court stated that the aid had to be linked to the area cultivated. Accordingly, it proportionally allocated some of the payment entitlements, which had been provisionally allocated to Società Agricola Circe di ST e OL, to the farmer who had cultivated the transferred land since September 2002, namely Agricola Case Rosse.

24 Società Agricola Circe lodged an appeal against the judgment of 21 April 2017 with the Corte suprema di cassazione (Supreme Court of Cassation, Italy), which is the referring court, arguing, inter alia, that that judgment infringed and erroneously applied Article 15 of Regulation No 795/2004, Article 2(a) and Articles 33, 38, 45 and 46 of Regulation No 1782/2003 and the legislation by which the Italian State had implemented rules for those EU provisions, namely Ministerial Decrees No 1668 of 20 July 2004, No 1788 of 5 August 2004 and No 2026 of 24 September 2004.

25 In support of its appeal on a point of law, Società Agricola Circe submits, in particular, that the relevant provisions of EU law define the term 'scission' with reference only to a situation in which an agricultural holding is split into two new holdings. Accordingly, a simple transfer of land is irrelevant for the purposes of the definitive allocation of payment entitlements.

26 According to the referring court, in order to resolve the dispute before it, the interpretation of Article 15 of Regulation No 795/2004, of Article 33 of Regulation No 1782/2003 and the other provisions of that latter regulation is necessary in order to determine, first, the scope of the concept of 'scission' of the agricultural holding. Second, assuming that that concept corresponds to the concept of 'division' in company law, including, inter alia, in Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions (OJ 2019 L 321, p. 1) and, therefore, would not cover a situation such as that before the referring court, such an interpretation would also be necessary in order to determine if and to what extent a reduction in the cultivated area, which took place after the submission of the application for the allocation of payment entitlements and the provisional allocation of those entitlements, but before the definitive allocation of those entitlements, would be relevant for that definitive allocation.

27 In those circumstances, the Corte suprema di cassazione (Supreme Court of Cassation) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Must the term "scission" contained in Article 33(3) of Regulation [No 1782/2003] and Article 15 of Regulation [No 795/2004] be understood as referring to the legal construct in company law, thus entailing a change in the company resulting in the original property and areas under cultivation of one company being split into two separate properties belonging to different legal entities, or can it be interpreted broadly and thus apply to any contractual legal event that results in the original property and areas under cultivation of the original "agricultural" company being allocated to two different entities, including through the transfer of quotas and the sale of land?

(2) According to the correct interpretation to be given to the provisions of Regulation No 1782/2003 (Articles 2, 23, 24, 33, 34, 36, 38, 43 and 44) for the [definitive] allocation of CAP [payment entitlements], when the single payment is first applied, is it relevant that the area under cultivation and the eligible hectares were reduced in 2002, after the submission of the application by the "farmer" and the provisional allocation of the certificates, if that reduction occurred as a result of the sale of a portion of the land in question in 2002, and the reduction can be applied automatically during the [definitive] allocation?'

Consideration of the questions referred

The first question

28 By its first question, the referring court asks, in essence, whether the second subparagraph of Article 33(3) of Regulation No 1782/2003, read in conjunction with Article 15(2) of Regulation No 795/2004, must be interpreted as meaning that the concept of 'scission', within the meaning of those provisions, covers a situation in which related legal transactions that took place between several farmers during the reference period, including the transfer of shares and cultivated

agricultural areas, have the effect that the original property of one farmer and all of those areas are allocated to two new separate farmers, even where such a situation does not constitute a 'division' within the meaning of EU company law, inter alia, Directive 2019/2121.

29 As a preliminary point, it must be observed, first, that the fact that Regulations No 1782/2003 and No 795/2004 have been repealed has no bearing on the subject matter of the dispute in the main proceedings given that it is apparent from evidence before the Court that those regulations are, in the present case, applicable *ratione temporis*.

30 In that context, the Court notes, second, that, under the second subparagraph of Article 33(3) of Regulation No 1782/2003, in case of scissions during the reference period, which includes, according to Article 38 of that regulation, the calendar years 2000 to 2002, or not later than 31 December of the year preceding the year of application of the single payment scheme, the farmers managing the holdings, who are parties to that scission, are to have access 'pro rata' to the single payment scheme, that is to say, to income support.

31 It follows from the order for reference and, furthermore, it is not contested that the related legal transactions, which entailed, for Società Agricola Circe, inter alia a reduction in cultivated agricultural areas in relation to those cultivated by Società Agricola Circe di ST e OL, took place during 2002 and, therefore, during the reference period laid down in Article 38 of Regulation No 1782/2003.

32 Third, it should be noted that, according to the referring court, the concept of 'division', as defined in company law, entails the modification of a single company resulting in the original property and all of the cultivated areas of that company being split into two separate properties belonging to different legal entities. In that regard, the referring court refers, in particular, to Directive 2019/2121 which includes a definition of that concept. In addition, that court finds that, in the present case, Società Agricola Circe di ST e OL was not the subject of a division, within the meaning of company law. It follows that only a broader interpretation of that concept than that applied in company law allows the referring court to find that Società Agricola Circe di ST e OL was the subject of a scission, within the meaning of the second subparagraph of Article 33(3) of Regulation No 1782/2003, read in conjunction with Article 15(2) of Regulation No 795/2004.

33 For the purposes of interpreting the latter provisions, it must be noted that Article 1 of Regulation No 795/2004, read in conjunction with recital 1, lays down detailed rules for the implementation of the single payment scheme provided for in Title III of Regulation No 1782/2003. To that end, as is apparent from recital 2 of Regulation No 795/2004, that regulation, for clarity reasons, provides for certain definitions.

34 Thus, according to Article 15(2) of Regulation No 795/2004, for the purposes of the second subparagraph of Article 33(3) of Regulation No 1782/2003, 'scission' is to mean the scission of one farmer as defined in Article 2(a) of Regulation No 1782/2003 into at least two new separate farmers of whom at least one remains controlled, in terms of management, benefits and financial risks, by at least one of the legal or natural persons originally managing the holding or the scission of one farmer within the meaning of the abovementioned Article 2(a) into at least one new separate farmer, the other one remaining controlled, in terms of management, benefits and financial risks, by the farmer originally managing the holding.

35 It must be held that the wording of those provisions does not include any reference to instruments of EU company law, such as Directive 2019/2121, which provides a narrower definition of the concept of 'division'.

36 In addition, it follows from the wording of those provisions that those provisions do not contain any reference to the law of Member States as regards the determination, for the purpose of applying the second subparagraph of Article 33(3) of Regulation No 1782/2003, of the concept of 'scission'.

37 In that regard, it should be observed that according to settled case-law of the Court, it follows from the need for uniform application of EU law and from the principle of equality that the terms of a provision of EU law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an independent and uniform interpretation throughout the European Union; that interpretation must take into account not only its wording but also its context and the objective pursued by the legislation in question (see, to that effect, judgments of 25 October 2012, *Ketelä*, C-592/11, EU:C:2012:673, paragraph 34 and the case-law cited, and of 20 April 2023, *EEW Energy from Waste*, C-580/21, EU:C:2023:304, paragraph 23 and the case-law cited).

38 While Article 15(2) of Regulation No 795/2004 defines the concept of 'scission' as the scission of one farmer into at least two new separate farmers of which at least one remains controlled, in terms of management, benefits and financial risks, by at least one of the legal or natural persons originally managing the holding or the scission of one farmer into at least one new separate farmer, the other one remaining controlled, in terms of management, benefits and financial risks, by the farmer originally managing the holding, that provision does not specify what form the scission of the farmer managing the original holding must take in order to fall within that concept and, accordingly, for the farmers managing the holdings resulting from such a scission to be eligible for the single payment scheme. Therefore, by focusing on the situation resulting from such a transaction, that provision defines that concept in relation to the effects of that transaction.

39 It follows that the wording of Article 15(2) of Regulation No 795/2004 permits the view that the concept of 'scission', set out in the second subparagraph of Article 33(3) of Regulation No 1782/2003, applies to a situation resulting from related legal transactions and, in particular, from a transfer, during the reference period, of cultivated agricultural areas, even if such a situation does not necessarily fall within the concept of 'division' as defined in instruments of EU company law, including, inter alia, Directive 2019/2121.

40 Such an interpretation is confirmed by the general scheme of Regulation No 1782/2003 and by the objective pursued by that regulation.

41 In that regard, it should be noted, in the first place, that it is apparent from Article 36(1), Article 43(1) and Article 44(1) of Regulation No 1782/2003, read together, that, first, the income support for farmers granted under the single payment scheme is to be paid in respect of payment entitlements, second, every farmer is to receive a payment entitlement per eligible hectare for that aid and, lastly, any payment entitlement accompanied by an eligible hectare is to give right to the payment of the amount fixed by that payment entitlement.

42 Therefore, it must be held that Regulation No 1782/2003 recognises that there is a link between, on the one hand, the payment entitlements on the basis of which income support is paid and, on the other hand, the agricultural areas (see, to that effect, judgment of 21 January 2010, *van Dijk*, C-470/08, EU:C:2010:31, paragraphs 28 to 30).

43 The existence of that link is also reflected in the context of a scission of a farmer taking place during the reference period. It is apparent from a joint reading of the second subparagraph of Article 33(3) of Regulation No 1782/2003 and of the second subparagraph of Article 15(2) of Regulation No 795/2004 that, due to the scission, the number of payment entitlements for each of the farmers managing a part of the original agricultural holding must necessarily be lower than that which was paid to that agricultural holding as a whole.

44 Accordingly, under the first of those provisions, in case of scissions during the reference period or not later than 31 December of the year preceding the year of application of the single payment scheme, the farmers managing the holdings concerned are to have access, pro rata, to the single payment scheme under the same conditions as the farmer managing the original holding. Similarly, according to the second of those provisions, the number and value of the payment entitlements are to be established on the basis of, inter alia, the number of hectares relating to the transferred production units of the original holding.

45 In the second place, as regards the objective pursued by Regulation No 1782/2003, it must be noted, first of all that, as set out in recital 24 thereof, that regulation sought to facilitate the transition from production aid to producer aid by the gradual reduction of direct payments and the introduction of an income support scheme decoupled from production, namely the scheme for single payments determined on the basis of previous entitlements within a reference period, in order to make farmers in the European Union more competitive (judgment of 19 September 2013, *Panellinios Syndesmos Viomichanion Metapoiisis Kapnou*, C-373/11, EU:C:2013:567, paragraph 17).

46 Second, it follows from recital 29 of Regulation No 1782/2003, under which the single payment should be established at farm level, that the EU legislature wished to reserve the payment of aid on the basis of payment entitlements per hectare, to the farmer who actually manages the agricultural holding, namely a group of production units.

47 In that regard, it is important to note that the Court has already held that agricultural areas are allocated to a farmer's holding where the farmer has the power to manage those areas for the purposes of an agricultural activity, that is to say, where the farmer enjoys a degree of autonomy with regard to those areas sufficient for the carrying-out of his or her agricultural activity (judgment of 9 June 2016, *Planes Bresco*, C-333/15 and C-334/15, EU:C:2016:426, paragraph 37 and the case-law cited).

48 Lastly, as is apparent from recital 30 of Regulation No 1782/2003, that regulation also pursued the objective of avoiding speculative transfers of payment entitlements leading to the accumulation of such entitlements without a corresponding agricultural basis.

49 To interpret the concept of 'scission', set out in the second subparagraph of Article 33(3) of Regulation No 1782/2003 as not permitting the inference that a new farmer, to whom cultivated agricultural areas have been transferred in related legal transactions during the reference period, may access the single payment scheme, would undermine all the objectives pursued by Regulation No 1782/2003, referred to in paragraphs 45, 46 and 48 above, in so far as that interpretation

implies that, on the one hand, access to that scheme would be granted solely and entirely to a farmer who no longer manages those areas and, on the other hand, the aid would be paid for payment entitlements which are no longer linked to those areas.

50 It follows from all the foregoing considerations that the second subparagraph of Article 33(3) of Regulation No 1782/2003, read in conjunction with Article 15(2) of Regulation No 795/2004, must be interpreted as meaning that the concept of 'scission', within the meaning of those provisions, covers a situation in which related legal transactions that took place between several farmers during the reference period, including the transfer of shares and cultivated agricultural areas, have the effect that the original property of one farmer and all of those areas are allocated to two new separate farmers, even where such a situation does not constitute a 'division' within the meaning of EU company law, inter alia Directive 2019/2121.

The second question

51 It is apparent from the order for reference that the second question is asked in the event that the answer to the first question implies that the concept of 'scission', set out in the second subparagraph of Article 33(3) of Regulation No 1782/2003, read in conjunction with Article 15(2) of Regulation No 795/2004, refers to the concept of 'division' used in company law.

52 Therefore, in the light of the answer given to the first question, there is no need to answer the second question.

Costs

53 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring 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 (Sixth Chamber) hereby rules:

The second subparagraph of Article 33(3) of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001, read in conjunction with Article 15(2) of Commission Regulation (EC) No 795/2004 of 21 April 2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

must be interpreted as meaning that the concept of 'scission', within the meaning of those provisions, covers a situation in which related legal transactions that took place between several farmers during the reference period, including the transfer of shares and cultivated agricultural areas, have the effect that the original property of one farmer and all of those areas are allocated to two new separate farmers, even where such a situation does not constitute a 'division' within the meaning of EU company law, inter alia Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019,

amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions.

[Signatures]