# OPINION OF ADVOCATE GENERAL JACOBS

delivered on 15 March 2001 [1]

1. In this case, the Italian Republic seeks the annulment of two Council regulations adapting agrimonetary arrangements to the introduction of the euro at the beginning of 1999, and concomitantly of the two Commission regulations implementing them. It challenges in particular the way in which those regulations determine the amount of compensatory aid which Member States may in certain circumstances pay to their farmers, with Community participation.

2. It argues, essentially, that the same regime should not have been applied to the Member States which had not yet adopted the euro as to those which had, and that the arrangements adopted penalise certain types of agriculture, particularly those more prevalent in Mediterranean countries.

1 — Original language: English.

## Agrimonetary arrangements

### *Background*

3. The two principal means whereby the Community aids farmers are guaranteed prices for produce and direct payments based on numbers of hectares, units of livestock etc. Both are, as a matter of principle, uniform throughout the Community. The former is often referred to as indirect aid and the latter, which is increasingly the more important, as direct aid, although those terms are not always used precisely.

4. The amounts involved are calculated in a central currency or accounting unit — successively the agricultural unit of account (which was based on the gold value of the United States dollar), the European unit of account, the ecu (based on a 'basket' of Community currencies) and the euro —

then converted into the relevant national currencies. Although each successive unit has on introduction been equal to its predecessor, changing exchange rates and definitions have meant that there is now no linkage between the euro and the dollar.

5. Such a system is unlikely to give rise to disparity where exchange rates are essentially stable (as was the case during the 1960s and until the breakdown of the international monetary system agreed on at Bretton Woods) or where a single currency is used as an immutable standard by a number of Member States (as has been the case with the euro since 1 January 1999).

6. Distortions inevitably arise, however, where exchange rates fluctuate to any appreciable extent. If a national currency is revalued against the central currency or accounting unit, guaranteed prices and the amount of aid will automatically fall in that national currency unless steps are taken, and the reverse is true in the case of a devaluation. The first and most striking instance occurred in 1969, when the French franc was devalued by 11% and the German mark revalued by 9%. Had no action been taken, considerable disparity between French and German farmers would have ensued.

7. The solution initially adopted was the introduction of monetary compensatory amounts ('MCAs'), which were in fact equivalent to import subsidies and export levies or import levies and export subsidies — depending on whether a currency had been devalued or revalued — on agricultural trade between Member States. In addition, in order to maintain the stability of intervention prices in national currencies fluctuating against the central accounting unit, a fictitious agricultural conversion rate, often known as the 'green' rate and different from the market rate, was introduced.

8. With the introduction of the European Monetary System and the establishment of the single market, a number of reforms became necessary. Further reform took place in 1995, leading to the system immediately preceding the one in issue in the present case. MCAs finally disappeared, but the separate agricultural conversion rate remained, its determination thus acquiring primordial importance.

9. Before attempting to set out in summary the measures in force immediately before and after 1 January 1999, I should perhaps point out that the legislation has accrued in

piecemeal fashion over the years and has occasionally lost in clarity what it has gained in complexity.

*The arrangements prior to 1999*

10. The arrangements in force immediately prior to the adoption of the single currency were governed largely by Council Regulations Nos 3813/92, 1527/95 and 724/97. [2]

11. Regulation No 3813/92 laid down the rules governing adjustments to the agricultural conversion rates. Essentially, those rates were based initially on the 'representative market rate' for each currency (a monthly average exchange rate with respect to the ecu) but did not immediately follow any changes in that rate. The agricultural conversion rate was modified only when the 'monetary gap' (the difference between the agricultural conversion rate and the representative market rate, expressed as a percentage of the former) exceeded a certain threshold.

12. In the case of a positive monetary gap, where the agricultural rate exceeded the market rate, no adjustment was made to the former until the difference exceeded 5 points at the end of a reference period. In the contrary case of a negative gap, an adjustment was triggered when the difference exceeded 2 points in absolute terms or 5 points in relation to any other currency. Where an adjustment was made, the new rate was determined by reducing the absolute value of the gap by half. [3]

13. There could thus be a difference, not wholly or immediately corrected, between the agricultural conversion rate and the market rate. Farmers in countries whose currencies showed a positive gap would benefit since they would be receiving payments at an exchange rate more favourable than the market rate. In the event of a negative gap, however, farm incomes would suffer. To deal with the latter situation, Regulation No 3813/92 provided

2 — Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy, OJ 1992 L 387, p. 1, as amended principally by Council Regulation (EC) No 150/95 of 23 January 1995, OJ 1995 L 22, p. 1; Council Regulation (EC) No 1527/95 of 29 June 1995 regulating compensation for reductions in the agricultural conversion rates of certain national currencies, OJ 1995 L 148, p. 1; and Council Regulation (EC) No 724/97 of 22 April 1997 determining measures and compensation relating to appreciable revaluations that affect farm incomes, OJ 1997 L 108, p. 9, as amended by Council Regulation (EC) No 942/98 of 20 April 1998, OJ 1998 L 132, p. 1.

3 — See in particular Articles 1, 3 and 4 of the regulation, as amended.

for an increase in amounts of direct aid and allowed Member States to grant compensatory aid to their farmers, subject to certain conditions but with a Community contribution to its financing. [4]

14. Subsequently, Regulations Nos 1527/95 and 724/97 froze the agricultural conversion rates for certain categories of direct aid until 1 January 1999 and allowed Member States to make compensatory payments to farmers in three 12-month tranches, again with a Community contribution, in the event of appreciable revaluation of a currency (equivalent to a negative monetary gap). The maximum amount of the aid was to be determined by multiplying the appreciable part of the revaluation by a flat-rate income loss, both of which were to be calculated in accordance with specified rules. [5]

*The arrangements in issue*

15. With the introduction of the euro on 1 January 1999 and the fixing of irrevocable parities for the currencies of all the participating Member States, [6] it would clearly no longer be possible for market rates to vary as between those currencies and the euro, so that the previous agrimonetary arrangements would to that extent lose their purpose. The changeover to the single currency would, however, require certain transitional arrangements and provision would still have to be made for conversion rates for the States not yet participating.

16. New rules were therefore introduced by Council Regulations Nos 2799/98 and 2800/98, [7] with detailed implementing rules in Commission Regulations Nos 2808/98 and 2813/98. [8] It is these regulations which the Italian Republic wishes to see annulled, with particular emphasis on certain specific provisions of the two Council regulations.

4 — See Articles 7 and 8 of the regulation.

5 — See Articles 2 and 3 of Regulation No 1527/95 and 3 to 6 of Regulation No 724/97.

6 — In fact, the currency of the participating Member States became the euro as from 1 January 1999, but the euro is also divided, until 31 December 2001, into 'national currency units' equal to the units of the currencies of those States as defined on 31 December 1998; see Articles 1 to 6 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro, OJ 1998 L 139, p. 1.

7 — Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro, OJ 1998 L 349, p. 1; Council Regulation (EC) No 2800/98 of 15 December 1998 on transitional measures to be applied under the common agricultural policy with a view to the introduction of the euro, OJ 1998 L 349, p. 8.

8 — Commission Regulation (EC) No 2808/98 of 22 December 1998 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture, OJ 1998 L 349, p. 36; Commission Regulation (EC) No 2813/98 of 22 December 1998 laying down detailed rules for applying the transitional measures for the introduction of the euro to the common agricultural policy, OJ 1998 L 349, p. 48.

— Regulation No 2799/98

17. According to its preamble, the aim of Regulation No 2799/98 is to replace the previous agrimonetary system, no longer appropriate, with a simpler one closer to the actual monetary situation, based on the euro for participating States and on the actual exchange rate for non-participating States. [9] It was recognised, however, that a major currency revaluation (for non-participating States) could in certain conditions reduce farm incomes, that aid could temporarily be granted to offset such reduction, subject to specifically adapted rules for certain types of direct aid, and that provision should be made for the possibility of interim measures. [10]

18. Under Article 2, prices and amounts fixed in legal instruments relating to the common agricultural policy are to be expressed in euro. They are to be granted or collected in euro in the participating Member States, and in the other Member States to be converted into the national currency (although provision is made in Article 8 for the possibility of such States also using the euro).

19. The remainder of the regulation deals, essentially, with the results of future fluctuations in the exchange rates between the euro and the national currencies of non-participating Member States. [11]

20. Articles 4 and 5 deal with cases justifying the payment of compensatory aid. In such cases, for reasons perhaps inherited from the wording of previous disparate legislation, Article 4 refers to a revaluation, whereas Article 5 describes what is apparently the same phenomenon as a fall in the exchange rate (of the euro; this is of course again the equivalent of what had previously also been known as a negative monetary gap, a situation in which an exchange rate movement implies reduction of the amounts of aid received by farmers in national currency).

21. Article 4 allows Member States, in cases of appreciable revaluation, to grant compensatory aid in respect of all prices and amounts other than those referred to in Article 5. (An appreciable revaluation is defined in Article 1(f) as 'a situation where the annual average exchange rate [of the euro] is below a threshold defined as the lowest average annual conversion rate applied during the preceding three years

9 — See recitals 1 and 2.

10 — See in particular recitals 4 to 7 and 10.

11 — 'National currencies' are defined in Article 1(d) so as to exclude the national currency units of participating Member States, and the definitions of 'exchange rate' and 'appreciable revaluation' flow from that.

and the exchange rate of 1 January 1999'.) The Member State concerned may make compensatory payments to farmers in three successive 12-month tranches, with a maximum amount to be determined for the first tranche and a progressive reduction for the other two. In addition, under Article 4(4), no aid is to be granted for the portion of the amount that does not exceed appreciable revaluation of 2.6%.

22. Article 5 covers flat-rate aid calculated per hectare or per livestock unit, compensatory premiums per sheep or goat, and amounts of a structural or environmental nature. (Aid of those kinds, which all involve direct payments to farmers, was already grouped together as a specific category in Article 7 of Regulation No 3813/92, and it was in respect of that category that the agricultural conversion rate had been frozen by Regulation No 724/97.) In such cases, where the applicable exchange rate of the euro falls, compensatory aid in three 12-month tranches is again permitted, again with a maximum amount and a progressive reduction. Member States may, but need not, waive the grant of compensatory aid when the amount calculated corresponds to a reduction of less than 0.5%.

23. The maximum amounts for the first tranche of payment are in both cases to be established for the Member State concerned as a whole, in accordance with rules laid down in the annex to the regulation.

24. In the case of Article 4 payments, that involves multiplying the appreciable part of the revaluation (namely, in accordance with Article 1(g), the percentage by which the annual average falls short of the threshold taken for the definition of an appreciable revaluation in Article 1(f)) by a flat-rate income loss. That flat-rate loss is to be equal, according to point 1 of the annex, essentially to 1% of final agricultural production in the case of cereals, sugar beet, milk and milk products and beef and veal, 1% of the value of products supplied under a contract imposing a minimum price to the producer in the case of other products, and 1% of aid or premiums paid to farmers, other than aid referred to in Article 5. That calculation is essentially the same as had previously been applied under Regulation No 724/97.

25. The method of calculating the maximum amount for Article 5 payments, however, is less clear. Article 5(2) refers for that purpose simply to the procedure in Article 9 for adopting implementing rules and to point 4 of the annex. The implementing rules appear to be those contained in Commission Regulation No 2808/98, Article 10(2) of which states that the maximum

amount of the aid is to be determined in accordance with Article 5(2) of Regulation No 2799/98. Point 4 of the annex states that the aid is to be calculated as a function of certain data but without specifying how the data are to be used. There is thus apparent circularity and a lack of any clear indication as to quite how the maximum is to be calculated.

27. Under Article 6, the Community contributes 50% to the financing of the aid.

28. Those provisions, since they concern changes to the exchange rate as defined in the regulation (that is to say, the rate of exchange between the euro and the national currencies of non-participating States), affect only the situation in Member States not participating in the euro and only after its introduction. Changes resulting from the transition to the new arrangements and affecting all States are covered by Regulation No 2800/98.

— Regulation No 2800/98

26. However, one significant distinction is clear as between the compensatory payments allowed under the two articles: where Article 5 is concerned the fall in the exchange rate is taken fully into account (subject to an optional waiver for amounts corresponding to a reduction of less than 0.5%) but under Article 4 revaluation is taken into account only to the extent that it exceeds 2.6%. That 2.6% threshold had already been introduced into Regulation No 724/97, as from 1 May 1998, by Regulation No 942/98, [12] in order to limit the risk of excessive compensation in cases of 'small appreciable revaluations' (sic). [13] Previously, a different type of lower limit had been set in that aid corresponding to less than 0.5% of appreciable revaluation was not payable. [14]

29. According to its title and preamble, Regulation No 2800/98 is intended to make provision for temporary, degressive aid in respect of the transition to the euro on 1 January 1999 which, with the disappearance of the agricultural conversion rates, could have the same effects as an appreciable revaluation.

30. The formula used to define an 'appreciable revaluation' in Article 1 is slightly different from that in Regulation No 2799/98; it amounts essentially to a

12 — Both regulations cited in note 2.

13 — Regulation No 942/98, fifth recital.

14 — Article 4(3) of Regulation No 724/97, last subparagraph.

reduction in the conversion rate on 1 January 1999 in comparison with the lowest levels of the previously applicable rates.

31. Under Article 2, where the conversion rate (for the euro into national currency units of participating Member States) or exchange rate (for the euro into national currencies of non-participating States) undergoes an appreciable revaluation on 1 January 1999 in comparison with the agricultural conversion rate on 31 December 1998, compensatory aid may be granted in the same way as under Article 4 of Regulation No 2799/98 (thus, Article 2 covers the same types of aid, namely all aid other than the direct aid listed in Article 5 of Regulation No 2799/98). There is, however, a proviso in the second paragraph under which the maximum amount may be 'reduced or cancelled' [15] depending on the development of the exchange rate (the proviso thus concerns only the non-participating Member States) during the first nine months of 1999.

32. As regards direct aid (the list is identical to that in Article 5 of Regulation No 2799/98), Article 3 provides that where the conversion or exchange rate applicable on the day of the operative event in 1999 is lower than that applied previously, aid is to be granted and is to be calculated in accordance with Article 5 of Regulation No 2799/98. Exceptionally, however, the Community contribution in that case is to be 100% for the first year.

— Regulations Nos 2808/98 and 2813/98

33. These are Commission regulations laying down detailed rules for the implementation of the two Council regulations. Although the Italian Government formally seeks their annulment, it does not put forward any specific criticism of any of their provisions but rather concentrates its argument on the Council regulations. In its reply, it states that it seeks the annulment of the Commission regulations only to preclude the institutions from maintaining that they remained valid in the event of the Council regulations being annulled; the claim that the Commission regulations are invalid derives from its arguments against the legality of the Council regulations.

34. In those circumstances, it does not seem necessary to set out the details of their provisions.

15 — I take the word 'cancelled' here to mean 'reduced to zero' rather than implying the removal of any upper limit whatever.

Analysis

35. The Italian Republic seeks the annulment of all four regulations (Council Regulations Nos 2799/98 and 2800/98, Commission Regulations Nos 2808/98 and 2813/98) and the Council and the Commission contend that the application should be dismissed. The Council confines its submissions to its own regulations; the Commission essentially challenges the admissibility of the claim for the annulment of the implementing regulations and concentrates its own submissions on the validity of the Council regulations.

*The Council regulations*

36. The Italian Republic puts forward three pleas in law.

— First plea: illegality of the undifferentiated application of the 2.6% threshold

37. Essentially, the basis of the first plea is that it was illegal to apply the same 2.6% threshold for the payment of compensatory aid both in respect of appreciable revaluations occurring (for participating States) at the moment of the transition from the previous agrimonetary regime to the euro and in respect of those occurring (for non-participating States only) after that moment as a result of fluctuations of exchange rates as between the euro and the currencies of those States.

38. The Italian Republic claims that such treatment is contrary to Article 39 of the EC Treaty (now Article 33 EC), the second and third subparagraphs of Article 40(3) of the EC Treaty (now, after amendment, Article 34(2) EC) and the principle of proportionality.

39. Since the Italian Republic has not identified either the provision of Article 39 of the EC Treaty which it claims has been breached or the way in which the principle of proportionality has allegedly been infringed, I consider that its plea may be dismissed in so far as those allegations are concerned.

40. As regards Article 40(3), however, the Italian Republic refers to the requirements that common organisation of the agricultural markets must exclude any discrimination between producers within the Community (second subparagraph) and that any common price policy must be based on common criteria and uniform methods of calculation (third subparagraph). These are

expressions of the basic principle of equal treatment, which dictates that similar situations may not be treated differently and different situations may not be treated in the same way.

41. The continuing 2.6% threshold is justified, it considers, with respect to the non-participating States because it cushions the effects of exchange rate fluctuations and because rates of exchange with the euro continue to evolve. It was not, however, justified when making the adjustments required on 1 January 1999, involving simply a one-off change with no possibility of further adjustment. These are different situations and should be treated differently.

42. In particular, the Italian Republic asserts, the 2.6% threshold was introduced by Regulation No 942/98 to deal with a serious risk of currency speculation in the run-up to the introduction of the euro. Its retention was justified as regards the exchange rates for the currencies of the non-participating States, still subject to fluctuation and thus to speculation, but not as regards the transition itself, a situation in which all further change was excluded.

43. It would be difficult, I consider, to deny that the two situations present some points of dissimilarity; one concerns a single, never-to-be-repeated change in the exchange rate, the other a series of repeated changes. However, they also present some very strong points of resemblance; they each concern, for every potential application of the mechanism, a single instance of a currency or currency unit being exchanged at a rate different from that which previously prevailed, and that is the very essence of the mechanism.

44. The Council makes the point, correctly in my view, that as regards the transition from the old arrangements to the new, the first stage is to determine for all currencies whether there has been an appreciable revaluation and the only difference in treatment depends on whether that has or has not been the case. Thus, there is no breach of the principle of equal treatment. (After the changeover, however, there is a clear difference between the situation of currencies which can continue to fluctuate as against the euro and that of currency units which have an irrevocably-fixed conversion rate. A difference in treatment can thus be justified at the later stage.)

45. I agree moreover with the Commission that there is nothing in Regulation No 942/98 to suggest that the 2.6% thresh-

old was intended to guard against currency speculation; on the contrary, it is clearly stated in the fifth recital that the intention was to 'limit the risk of excessive compensation in the case of small appreciable revaluations' (an aim which could be just as valid in the circumstances of the transition) and that the limitation took account of the fact that, as a result of Article 4 of Regulation No 3813/92, [16] the agricultural conversion rate could not decline by less than 2.56% (a consideration which remained valid on 1 January 1999). Nor has any external evidence been adduced of currency-speculation concerns as a factor in the introduction of the 2.6% threshold.

46. The further argument that a revaluation of under 2.6% on 1 January 1999 is forever 'lost' for participating Member States whereas it may subsequently creep over the threshold and give rise to compensatory aid for farmers in non-participating States may also be dismissed. On the one hand, it is precisely because the revaluation cannot increase in the participating States that no compensatory aid is payable; on the other, the Council stated at the hearing that the mechanism could not operate in that cumulative manner for the non-participating States. In any event it can certainly work in the opposite way — under the second paragraph of Article 2 of Regulation No 2800/98, the maximum amount of aid payable in those States may be 'reduced or cancelled' as a result of exchange-rate developments.

47. The Italian Republic also alleges unjustified application of different treatment to similar situations: both the euro and the currencies of the non-participating States, it states, fluctuate against the dollar, with the same effects on farm incomes, but only farmers in the non-participating States can receive any compensatory aid in respect of those fluctuations. It claims, even, that the dollar represents 'real' value and that dollar exchange rates determine the agricultural conversion rates for the non-participating States.

48. I can see no evidence for those assertions. There is nothing in any of the regulations which makes any amount or adjustment dependent on variations in any rate of exchange with the dollar, nor are there any grounds for taking that currency as the yardstick against which to measure variations in European farm incomes. The fact that the euro's ancestor, the agricultural unit of account, was originally based on the gold value of the dollar is of purely historical relevance to the current agrimonetary arrangements. The fall of the euro as against the dollar may well have had some

16 — See paragraph 12 above.

(not always adverse) effect on farm incomes in Europe, but the contested regulations deal solely with changes in exchange rates as between European currencies.

49. Thus, it seems to me, no plausible evidence has been adduced of any breach of the principle of equal treatment, taken either in general or in its specific embodiments in Article 40(3) of the EC Treaty.

50. Furthermore, as both the Council and the Commission point out, the arguments put forward by the Italian Republic appear to relate in reality to political choices, which are not properly a matter for scrutiny by the Court. There is abundant case-law to the effect that in complex economic situations the Community legislature enjoys significant freedom of assessment and that the Court, when examining the lawfulness of the exercise of such freedom, cannot substitute its own assessment of the matter for that of the legislature but must restrict itself to examining whether the assessment made contains a manifest error or constitutes a misuse of powers. [17] In respect of the first plea, there is not even any allegation of manifest error or misuse of powers.

— Second and third pleas: illegality of the difference in treatment between agricultural sectors as regards the maximum amount of compensatory aid

51. In these two pleas, which may be considered together, the Italian Republic is claiming essentially that the maximum amount of compensatory aid for the agricultural sectors covered by Article 5 of Regulation No 2799/98 (and Article 3 of Regulation No 2800/98) is calculated in such a way that it is higher than that covered by Article 4 of Regulation No 2799/98 (and Article 2 of Regulation No 2800/98). Within the latter a more favourable treatment is accorded to sectors benefiting from direct aid. The sectors least favourably affected are, moreover, predominantly Mediterranean (olive oil, tobacco, wine, etc.).

52. From the rules as I have summarised them above [18] it appears that, within Article 4 of Regulation No 2799/98, in some sectors — cereals, sugar beet, milk and milk products and beef and veal — one factor in the calculation is the total agricultural production in each sector in the Member State concerned, whereas in others only the production sold under contracts imposing a minimum price is taken into account. This appears to mean that less

17 — See, for a recent example, the judgment of 14 December 2000 in Case C-99/99 *Italy* v *Commission*, ECR I-11535, paragraph 26.

18 — See paragraphs 20 to 32 above, in particular paragraph 24.

compensatory aid is authorised in respect of the latter.

53. There are in addition two differences between the rules governing Article 4 and those governing Article 5 of Regulation No 2799/98. For the prices and amounts covered by Article 4, no aid is to be granted for the portion of the maximum amount that does not exceed appreciable revaluation of 2.6%, a condition that does not apply in the cases covered by Article 5. And under Article 3 of Regulation No 2800/98, which applies Article 5 of Regulation No 2799/98 to the transitional measures, the Community contribution to the aid is exceptionally 100% for the first year, as compared with 50% in all other cases.

54. The Italian Republic again alleges breach of Articles 39 and 40 of the EC Treaty and of the principles of equal treatment and proportionality, adding a further allegation of inadequate statement of reasons and misuse of powers. Again, the principal criticism is that of unequal treatment. Essentially, the Italian Republic fails to understand why there should be any distinction between agricultural sectors and asserts that the sectors concerned by Article 5 of Regulation No 2799/98 correspond largely to those previously treated separately for socio-economic reasons unrelated to the transition to the euro.

55. The Commission states that the methods used for the calculation of the flat-rate loss are the same as those which had proved their worth over a number of years — specific treatment for the categories referred to in Article 5 of Regulation No 2799/98 dates back to Article 7 of Regulation No 3813/92 — and points out that the Italian Government has produced no data substantiating its allegation of a discriminatory effect. The aim, as stated in recital 4 in the preamble to Regulation No 2799/98, is to offset the reduction in farm incomes which may result under certain conditions from a major currency revaluation. Such revaluations have a greater effect, however, where direct aid is involved (since they have an immediate effect on the amount of aid, which forms a significant part of farm incomes) than in the case of indirect aid and, within the latter category, a greater effect in some sectors (such as cereals, where market prices closely follow intervention prices) than in others (for example, the wine sector where wine prices and distillation prices are very different). It is thus justifiable to calculate the amount of compensatory aid differently in order to take account of those different effects.

56. In addition, the Commission submits that the concept of 'Mediterranean' agricultural sectors is misleading: Italy has agricultural production in sectors not covered by Article 5 of Regulation No 2799/98 and all Member States have production in the sectors covered by that provision. Even if there were any discrimination against Mediterranean agriculture,

it could affect Italy, as a participating Member State, only in respect of the transitional arrangements under Regulation No 2800/98.

57. As regards the other alleged grounds of illegality, both the Council and the Commission point essentially to the lack of any substantiation in the pleadings and to the margin of discretion enjoyed by the Community legislature in assessing complex economic situations.

58. I can only agree with the Council and the Commission: the Italian Republic has not substantiated any of its claims.

59. It is clear that the common agricultural policy has never been and can never be a matter of 'one size fits all'. Differences in markets call for differences in approach, and the type of adjustment needed to compensate for exchange-rate fluctuations will necessarily vary according to the type of aid and the way in which it is received by farmers, as the Commission has convincingly explained.

60. That need for differences in treatment is referred to in recitals 4 and 5 in the preamble to Regulation No 2799/98, which state respectively that 'in cases of major currency revaluation with potential effects on prices and amounts other than direct aid, farm incomes may in certain conditions be reduced' and that 'specific rules adapted to the type of aid are required to offset the effects of major currency revaluations on the level of certain direct aids in national currency'.

61. It is true that the preamble gives no precise justification for each detailed choice of rule; however, I do not consider such an omission to constitute a defect in the statement of reasons, especially since the distinction between the categories covered respectively by Articles 4 and 5 of Regulation No 2799/98 dates back to Regulation No 3813/92 and the different methods of calculation under Article 4 of Regulation No 2799/98 appeared in Regulation No 724/97. It may simply be pointed out that compliance with the obligation to state reasons must be assessed in the light of the whole context and that where a measure discloses the essential objective pursued there is no need to give a specific statement of reasons for each of the technical choices made. [19]

19 — See, for example, Case C-122/94 *Commission* v *Council* [1996] ECR I-881, paragraph 29 of the judgment.

62. Against that background, the Italian Republic has not explained why the different detailed rules applied in the past to respond to exchange-rate fluctuations were no longer appropriate to deal with the changes occasioned by the introduction of the euro, which were of the same nature.

63. Since, in addition, the allegation of misuse of powers is in no way substantiated in the Italian Republic's pleadings, I conclude that its second and third pleas in law must also be dismissed.

*The Commission regulations*

64. Since the Italian Republic has not addressed any independent argument to the validity of Regulations Nos 2808/98 and 2813/98, its claims for their annulment may be dismissed without there being any need to enquire whether they are, as the Commission alleges, inadmissible.

## Conclusion

65. I am accordingly of the opinion that the Court should:

(1) dismiss the application and

(2) order the Italian Republic to pay the costs.