JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)

26 June 2008*

In Case T-94/98,

Alfonsius Alferink, residing in Heeten (Netherlands), and the 67 other applicants whose names are set out in the annex, represented initially by H. Bronkhorst and E. Pijnacker Hordijk, subsequently by H. Bronkhorst, E. Pijnacker Hordijk and J. Sluysmans, and finally by E. Pijnacker Hordijk, lawyers,

applicants,

v

Commission of the European Communities, represented by T. van Rijn, acting as Agent,

defendant,

ACTION for compensation pursuant to Article 178 of the EC Treaty (now Article 235 EC) and the second paragraph of Article 215 of the EC Treaty (now the second paragraph of Article 288 EC) for the damage allegedly suffered by the applicants by reason of the fact that the Commission infringed the principle of legal certainty when it adopted Regulation (EEC) No 1033/89 of 20 April 1989 amending

* Language of the case: Dutch.

Regulation (EEC) No 1546/88 laying down detailed rules for the application of the additional levy referred to in article 5c of Council Regulation (EEC) No 804/68 (OJ 1989 L 110, p. 27), which did not provide clearly and precisely that milk production had to be resumed from the initial SLOM holding,

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES (Fifth Chamber),

composed of M. Vilaras, President, M.E. Martins Ribeiro (Rapporteur) and K. Jürimäe, Judges,

Registrar: J. Plingers, Administrator,

having regard to the written procedure and further to the hearing on 25 September 2007,

gives the following

Judgment

Legal context

1 Council Regulation (EEC) No 1078/77 of 17 May 1977 introducing a system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds (OJ 1977 L 131, p. 1) provided for the payment of a non-marketing

premium or a conversion premium to producers who undertook to cease marketing milk or milk products for a non-marketing period of five years or to cease marketing milk or milk products and to convert their dairy herds to meat production for a conversion period of four years.

2 Milk producers who entered into an undertaking under Regulation No 1078/77 are commonly known as 'SLOM producers', the acronym originating from the Dutch expression 'slachten en omschakelen' (slaughter and conversion) describing their obligations under the non-marketing or conversion scheme.

3 Council Regulation (EEC) No 856/84 of 31 March 1984 amending Regulation (EEC) No 804/68 on the common organisation of the market in milk and milk products (OJ 1984 L 90, p. 10) and Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the application of the levy referred to in Article 5c of Regulation No 804/68 in the milk and milk products sector (OJ 1984 L 90, p. 13) introduced, from 1 April 1984, an additional levy on quantities of milk delivered in excess of a reference quantity to be determined per purchaser, within a guaranteed total quantity for each Member State. The reference quantity exempt from the additional levy was equal to the quantity of milk or milk equivalent, either delivered by a producer or purchased by a dairy, as decided by the Member State, during the reference year, which in the case of the Kingdom of the Netherlands was 1983.

4 The detailed rules for the application of the additional levy referred to in Article 5c of Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products (OJ, English Special Edition 1968(I), p. 176) were laid down by Commission Regulation (EEC) No 1371/84 of 16 May 1984 (OJ 1984 L 132, p 11). The latter regulation was repealed by Commission Regulation (EEC) No 1546/88 of 3 June 1988 laying down detailed rules for the application of the additional levy referred to in Article 5c of Regulation No 804/68 (OJ 1988 L 139, p. 12), the purpose of which was, in particular, to consolidate the rules applicable thereto (first recital in the preamble to that regulation).

5 Producers who did not deliver any milk during the reference year adopted by the Member State concerned, pursuant to an undertaking entered into under Regulation No 1078/77, were excluded from the allocation of a reference quantity.

6 In Case 120/86 *Mulder* [1988] ECR 2321 ('*Mulder* I') and Case 170/86 *von Deetzen* [1988] ECR 2355 ('*von Deetzen* I'), the Court of Justice ruled that Regulation No 857/84, as supplemented by Regulation No 1371/84, was invalid in so far as it did not provide for the allocation of a reference quantity to producers who, pursuant to an undertaking entered into under Regulation No 1078/77, did not deliver any milk during the reference year adopted by the Member State concerned.

7 Following *Mulder* I and *von Deetzen* I, cited in paragraph 6 above, on 20 March 1989 the Council adopted Regulation (EEC) No 764/89 amending Regulation No 857/84 (OJ 1989 L 84, p. 2), which entered into force on 29 March 1989, in order to allow the allocation, to the producers who fell within the scope of those judgments, of a special reference quantity representing 60% of their production during the 12 months preceding their undertaking to cease marketing or to convert given under Regulation No 1078/77.

8 Article 3a(1)(a) to (d) of Regulation No 857/84, as amended by Regulation No 764/89, provides as follows:

'Producers referred to in the third paragraph of Article 12(c):

…

shall receive provisionally, if they so request within three months from 29 March 1989, a special reference quantity and provided that such producers:

(a) did not cease farming within the meaning of Article 2(3) and (4) of Regulation … No 1078/77 or transfer the whole of their dairy enterprise before the end of the non-marketing or conversion period;

(b) establish in support of their request, to the satisfaction of the competent authority, that they are able to produce on their holding up to the reference quantity requested;

(c) undertake to sell milk or other products direct to the consumer and/or to deliver milk to a buyer;

(d) undertake, as regards the special reference quantity, not to apply for assistance under any programme for the abandonment of reference quantities until the end of the additional levy scheme.'

9 Article 3a(3) of Regulation No 857/84, as amended by Regulation No 764/89, provides as follows:

'If, within two years from 29 March 1989, producers can prove to the satisfaction of the competent authority that they have actually resumed direct sales and/or deliveries, and that such direct sales and/or deliveries have attained during the previous 12 months a level equal to or greater than 80% of the provisional reference quantity, the special reference quantity shall be definitively allocated to the producers. Should this not prove to be the case, the provisional reference quantity shall be returned in its entirety to the Community reserve …'

10 Article 12(c) of Regulation No 857/84, as amended by Regulation No 764/89, provides that: '[f]or the purposes of applying Article 3a, any natural or legal person or group of natural or legal persons farming a holding located within the geographical territory of the Community shall be deemed to be a producer of an agricultural holding.'

11 Article 12(d) of Regulation No 857/84 provides:

'For the purposes of this regulation the following meanings shall apply:

…

(d) holding: all the production units operated by the producer and located within the geographical territory of the Community.'

12 Article 3a(1) of Regulation No 1546/88, as amended by Commission Regulation (EEC) No 1033/89 of 20 April 1989 (OJ 1989 L 110, p. 27), reads as follows:

'The requests [for a special reference quantity] referred to in Article 3a(1) of Regulation … No 857/84 shall be made by the producers concerned to the competent authority designated by the Member State, in accordance with the procedure laid down by it and provided that the producers can prove that they still operate, in whole or in part, the same holdings as those they operated at the time of the approval, referred to in Article 5(2) of Commission Regulation (EEC) No 1391/78, of their premium applications.

The competent authority shall acknowledge receipt of the request, verify compliance with the conditions laid down in the abovementioned Article 3a(1) and record the written undertakings given by the producer.

Evidence of the producer's ability to produce a quantity equal to the reference quantity requested may involve in particular:

— direct sales and/or deliveries of milk already made since the end of the non-marketing or conversion period,

— the dairy herd, within the meaning of Article 1(1)(b) of Regulation … No 1391/78, kept on the holding,

— the holding's permanent grazing area and/or area under forage resulting from the rotation and sowing plan implemented,

— the investments referred to in the second subparagraph of point 1 of Article 3 of Regulation … No 857/84.'

13 Producers who had entered into non-marketing or conversion undertakings and who, pursuant to Regulation No 764/89, received a 'special' reference quantity are known as 'SLOM I producers'.

14 In its judgment in Case C-189/89 *Spagl* [1990] ECR I-4539, the Court of Justice held that the first indent of Article 3a(1) of Regulation No 857/84, as amended by Regulation No 764/89, was invalid in so far as it excluded from the grant of a special reference quantity under that provision producers whose period of non-marketing or conversion, pursuant to an undertaking given under Regulation No 1078/77, had expired before 31 December 1983 or, in some cases, before 30 September 1983.

15 Following the judgment in *Spagl*, cited in paragraph 14 above, the Council adopted Regulation (EEC) No 1639/91 of 13 June 1991 amending Regulation No 857/84 (OJ 1991 L 150, p. 35), which, by removing the conditions which the Court of Justice had declared invalid, made it possible for the producers concerned to be awarded a special reference quantity. These are generally known as 'SLOM II producers'.

16 By an interim judgment of 19 May 1992 in Joined Cases C-104/89 and C-37/90 *Mulder and Others* v *Council and Commission* [1992] ECR I-3061 ('*Mulder* II'), the Court of Justice ruled that the European Economic Community was liable for the

damage suffered by certain milk producers who had given undertakings under Regulation No 1078/77 and had subsequently been prevented from marketing milk as a result of the application of Regulation No 857/84. The Court of Justice called upon the parties to agree on the amounts of damages payable.

17 By judgment of 27 January 2000 in Joined Cases C-104/89 and C-37/90 *Mulder and Others* v *Council and Commission* [2000] ECR I-203, the Court of Justice ruled on the amount of compensation sought by the applicants in the cases covered by the *Mulder II* judgment, cited in paragraph 16 above.

The facts of the dispute

18 The applicants, Mr Alfonsius Alferink and 67 other milk producers in the Netherlands, entered into non-marketing undertakings under Regulation No 1078/77.

19 Pursuant to the relevant rules, the applicants applied to the Netherlands authorities for the grant of special reference quantities allowing them to produce certain quantities of milk without being subject to the additional levy. Some of the applicants were granted provisional special reference quantities, while others were granted definitive special reference quantities.

20 After the grant of the abovementioned special reference quantities, the Netherlands authorities carried out checks in order to ascertain whether the applicants were producing the reference quantities under the terms laid down in the Community rules. Having established that milk production had not been resumed on the initial SLOM holdings or the same organisational and economic farming units as those involved at the date on which the respective non-marketing undertakings had been entered into, inasmuch as the applicants had made use of production assets leased from third parties to produce milk, the Netherlands authorities took the view that the

requirements under the Community rules for the allocation of definitive reference quantities had not been fulfilled. They therefore refused to grant definitive reference quantities to those applicants who had obtained provisional reference quantities and withdrew the definitive reference quantities from those who had obtained them.

21 The applicants brought an action before the College van Beroep voor het Bedrijfsleven (Netherlands Administrative Court for Trade and Industry) against the decisions of the Netherlands Ministry of Agriculture, Nature Management and Fisheries (the 'Ministry') refusing to grant them definitive reference quantities or withdrawing such quantities as had already been granted to them. They argued, in particular, that, contrary to the Ministry's claim, the relevant rules did not make it a condition for the grant of a special reference quantity that milk production should be resumed from the initial SLOM holding or the same organisational and economic farming unit as that involved at the date on which the non-marketing undertaking had been entered into. The College van Beroep voor het bedrijfsleven dismissed their action.

22 One of the applicants, Mr G.J. Hulter, brought an action for damages before the Rechtbank te 's-Gravenhage (District Court, The Hague, Netherlands) on the ground that neither the Ministry's decision nor the relevant rules set out, or at least set out sufficiently, the conditions applicable to the conversion of a provisional reference quantity into a definitive reference quantity or that correct information as to the criteria for the definitive grant of a reference quantity had not been provided in good time. That action was dismissed by a decision of 20 January 1999.

23 Mr Hulter appealed against that decision to the Gerechtshof te 's-Gravenhage (Regional Court of Appeal, The Hague) which, by judgment of 17 February 2000, upheld the decision of the Rechtbank te 's-Gravenhage.

24 Mr Hulter appealed to the Hoge Raad der Nederlanden (Supreme Court of the Netherlands), which dismissed his appeal by judgment of 8 March 2002.

Procedure

25 By application lodged at the Registry of the Court on 19 June 1998, Mr Alferink and the 67 applicants whose names are listed in the annex brought the present action.

26 On 30 September 1998 an informal meeting with the participation of the parties' representatives took place before the Court. In the course of that meeting, the parties had the opportunity to submit their observations on the Court's analytical classification of the cases concerning the SLOM producers.

27 By order of 8 October 1998 of the President of the Fourth Chamber, the Court stayed the proceedings in the present case.

28 On 17 May 2000, a second informal meeting with the participation of the parties' representatives took place before the Court.

29 On 17 January 2002, a third informal meeting with the participation of the parties' representatives took place before the Court. During that meeting, it was decided, in agreement with the parties, to stay the proceedings in the present case pending the decision of the Hoge Raad der Nederlanden.

30 By order of 30 March 2004 of the President of the First Chamber, the Court ordered the resumption of the present proceedings. A time-limit was therefore fixed for the Commission to submit its statement in defence. The parties subsequently lodged a reply and a rejoinder respectively.

31 As a result of the changes to the composition of the chambers of the Court in the new judicial year, the Judge-Rapporteur was attached to the Fifth Chamber, to which this case has, in consequence, been assigned.

32 Upon hearing the report of the Judge-Rapporteur, the Court (Fifth Chamber) decided to open the oral procedure without any prior measures of inquiry.

33 The parties presented oral argument and replied to questions from the Court at the hearing on 25 September 2007.

Forms of order sought

34 The applicants claim that the Court should:

— order the Community to pay the sums specified in the annex to their application by way of compensation for the damage suffered by them as a result of the defective drafting of Article 3a of Regulation No 1546/88, together with interest thereon at the rate of 8% per annum from 23 February 1998 until the date of full settlement;

— order the Community to pay the costs.

35 The Commission contends that the Court should:

— dismiss the action;

— order the applicants to pay the costs.

The objection based on illegality of Regulation No 1546/88

Arguments of the parties

36 At the hearing, the applicants raised a plea relating to the illegality of Regulation No 1546/88, alleging that that regulation gave rise to discrimination between SLOM producers and other milk producers and that it infringed the principle of the protection of legitimate expectations.

37 The Commission stated that this constituted a new plea in law and, as such, had to be declared inadmissible.

Findings of the Court

38 It follows from Article 44(1)(c), in conjunction with Article 48(2), of the Court's Rules of Procedure that the original application must indicate the subject-matter of the proceedings and contain a summary of the pleas in law relied on, and that new pleas in law may not be introduced in the course of the proceedings unless they are based on matters of law or of fact which come to light in the course of the procedure. However, a submission or argument which may be regarded as amplifying a plea made previously, whether directly or by implication, in the original application, and which is closely connected therewith, will be declared admissible (judgment in Case C-104/97 P *Atlanta* v *European Community* [1999] ECR I-6983, paragraph 29; order of the President of the Third Chamber of the Court of Justice in Case C-430/00 P *Dürbeck* v *Commission* [2001] ECR I-8547, paragraph 17; and judgment in Case T-340/04 France *Télécom* v *Commission* [2007] ECR II-573, paragraph 164).

39 In the present case, it must be held that the plea of illegality in regard to Regulation No 1546/88 is a new plea in law which is not based on any new matter of law or of fact coming to light in the course of the procedure and which cannot be regarded as amplifying, directly or by implication, pleas already put forward in the original application and closely connected therewith (see, to that effect, Case T-40/01 *Scan Office Design* v *Commission* [2002] ECR II-5043, paragraph 96). Moreover, the applicants have failed entirely to provide any reasons as to why the plea of illegality could be raised only at the hearing. It follows that this plea must be rejected as inadmissible.

The claim for damages

Arguments of the parties

40 The applicants point out that, because of the significant number of years which had passed between the acceptance of the non-marketing undertakings and the grant of provisional special reference quantities, it was no longer possible to resume the breeding of dairy cattle on their respective holdings, as they had done previously, with the result that they had recourse to production assets leased from third parties, such as cowsheds or dairy facilities. The provisional reference quantities granted to the applicants were therefore not converted into definitive reference quantities or were withdrawn from them.

41 They point out that, according to the ministry, the College van Beroep voor het bedrijfsleven and the Commission, Community law, and, in particular, Article 3a of Regulation No 1546/88, as amended by Regulation No 1033/89, must be interpreted as meaning that, in order for a definitive reference quantity to be granted, the provisional reference quantity had to be produced from the same initial SLOM holding or the same organisational and economic farming unit as the one involved at the date on which the SLOM undertaking was entered into. Thus, the conditions for the grant

of reference quantities had not been fulfilled inasmuch as the production assets used had been leased from third parties.

42 By letter of 15 February 1995 in answer to a letter from the applicants dated 13 October 1994, the Commission stated that the decision of the College van Beroep voor het bedrijfsleven correctly reflected, in the Commission's view, the state of the Community rules concerning the substance of the holding on which the special reference quantity had to be produced, namely, the initial SLOM holding, in whole or in part, including all additions up to the date on which the provisional reference quantity was granted. The Commission referred in that regard to the judgment of the Court of Justice in Case C-86/90 *O'Brien* [1992] ECR I-6251, in particular paragraphs 16 and 17 thereof, from which it is clear that the relevant holding is the holding as constituted at the time at which the reference quantity was allocated and on condition that, for the purposes of the allocation of a definitive quantity, the producer 'is still operating, in whole or in part, the same holding as he operated at the time of the approval of his premium application' (paragraph 17).

43 The Commission added, in the same letter, that it was clear from the facts submitted to it by counsel for the applicants that the latter were not in the situation mentioned in the previous paragraph because either they were still in possession of the initial SLOM holding, but did not use it for the production of the special reference quantity, or the holding on which the reference quantity was produced had been acquired after the allocation of a provisional special reference quantity. The Commission also stated that the considerations which could be put forward concerning the leasing of the facilities used for the production of the special reference quantities would have to be examined in the light of its previous observations concerning the date at which those assets had been acquired and the date at which they had been added to the initial SLOM holding. Finally, the Commission stated that, contrary to the view of the applicants who had raised the matter before it, the judgment of the Court of Justice in Case C-341/89 *Ballmann* [1991] ECR I-25 did not concern SLOM producers.

44 The applicants, however, consider that it is apparent from Article 3a(1) of Regulation No 1546/88, as amended by Regulation No 1033/89, that an applicant for a provisional reference quantity no longer had to be in possession of the whole of the initial SLOM holding. In so far as it was sufficient that only a part of that holding, even a small part, was still being used, the provisional reference quantity would necessarily

be produced using other production assets. In the applicants' view, it was thus sufficient if the producer still possessed a part of the production units which he had been operating at the time at which the non-marketing undertaking was entered into.

45 In addition, the other provisions of Article 3a of Regulation No 1546/88, as amended by Regulation No 1033/89, confirm that the reference quantity allocated could be produced to a large extent by using production assets which were not part of the initial SLOM holding. The applicants point out in that regard that the area of the holding still under grass and/or the area devoted to fodder plants as determined by the crop rotation and sowing plan drawn up were accepted as proof that the producer had the capacity to produce up to the reference quantity applied for. Article 3a makes no mention of any condition that the areas still under grass or other areas had to belong to the initial SLOM holding. The same principle applies to the investments mentioned in the final indent of Article 3a(1), which generally concern the period after the expiry of the SLOM agreement (that is to say, investments carried out under a development plan lodged before 1 October 1984).

46 Moreover, neither Regulation No 1078/77 nor the implementing regulations based on it lay down an obligation to maintain in the same state the holding in respect of which a SLOM undertaking had been agreed to. If the legislature had wished that milk production be resumed from the initial SLOM holding or using the same organisational and economic unit as that used at the time at which the SLOM undertaking was entered into, it ought to have stated so explicitly in the Community rules.

47 It is thus apparent from a reading of Regulation No 857/84, as amended by Regulation No 764/89, in conjunction with the implementing regulation, No 1546/88, as amended by Regulation No 1033/89, that a producer had to be able to produce the reference quantities applied for by using the production assets which he operated and part, at least, of those assets used for that purpose had to correspond to those which he possessed at the time at which he entered into the non-marketing undertaking. Contrary to the Commission's argument, those regulations in no way provide that production had to be resumed either from the initial SLOM holding or from the same operating unit, from the organisational and economic point of view, as the one in question at the time at which the non-marketing undertaking was entered into.

48 Thus, by adopting rules which did not lay down the abovementioned restriction explicitly and which were therefore inadequate, ambiguous and lacking in clarity, the Commission committed a fault that gives rise to liability on its part inasmuch as it infringed the precautionary principle, which also applies to the way in which the rules are drawn up and which requires that those rules should be adequate. The applicants refer in that regard to the Council Resolution of 8 June 1993 on the quality of drafting of Community legislation (OJ 1993 C 166, p. 1).

49 With regard to the damage and the causal link between the fault and the damage, the applicants claim that there is a fault on the Commission's part which caused them damage. They claim that they fulfilled all of the conditions laid down for the allocation of provisional reference quantities, namely, that they were in a position to produce the reference quantities on their holdings as they existed at the time of the application. The position of the Netherlands authorities, which, according to the Commission, took the view that the applicants had not resumed milk production from the respective initial SLOM holdings or had not resumed it independently, at their own risk and for their own benefit, merely shows that, because of the ambiguity of the Community rules, the applicants had not entirely resumed their production from their respective initial SLOM holdings. If the Community rules had been clearer, they could have chosen to produce through the use of production assets other than those with which they had enlarged their holdings and therefore opted for another form of production on their respective initial SLOM holdings.

50 With the exception of Mr H.J. ten Have, the applicants, by letter of 23 February 1998, requested the Commission to pay them compensation for the damage suffered, which, by letter of 17 April 1998, the Commission refused to do. The applicants state that they are willing to provide further evidence in support of their position.

51 First of all, the Commission points out that, according to settled case-law, the Community may incur non-contractual liability only if three conditions are satisfied: the conduct complained of must be illegal; actual damage must have occurred; and there must be a causal link between the illegal conduct and the damage alleged. The requirement, to which the applicants refer, that rules should be adequate is a corollary of the principle of legal certainty, which, the Court of Justice has held, requires that rules imposing obligations on persons must be clear and precise so that they may know without ambiguity what are their rights and obligations and take steps

accordingly (Case C-439/01 *Cipra and Kvasnicka* [2003] ECR I-745, paragraph 47) and, in interpreting a provision of Community law, it is necessary to consider not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it forms part. Article 3a of Regulation No 1546/88, as amended by Regulation No 1033/89, fulfils that criterion.

52 The Commission argues that, because Regulation No 1546/88, as amended by Regulation No 1033/89, is an implementing regulation which it adopted pursuant to the provisions of Regulation No 857/84, as amended by Regulation No 764/89, a regulation adopted by the Council, it must be read in conjunction with the latter. The principal obligation appears in the Council regulation and the implementing regulation can impose only certain criteria or more detailed conditions.

53 Referring to the content of Article 3a(1)(b) and (3) of Regulation No 857/84, as amended by Regulation No 764/89, the Commission expresses the view that those two provisions, read together, imply that the definitive allocation of a special reference quantity may be made only if direct sales and/or deliveries are actually resumed from the SLOM producer's initial holding. It is for that reason that every SLOM producer attached to his application for a special reference quantity a declaration that he was 'able to produce on his holding up to the special reference quantity allocated'.

54 In addition, the Commission points out that Article 3a(1) of Regulation No 1546/88, as amended by Regulation No 1033/89, refers expressly to Article 3a(1) of Regulation No 857/84, as amended by Regulation No 764/89, and provides, in the third subparagraph thereof, that '[e]vidence of the producer's ability to produce a quantity equal to the reference quantity requested may involve in particular …'. That provision, which should be read in conjunction with Article 3a(1) of Regulation No 857/84, as amended by Regulation No 764/89, is addressed primarily to the national implementing authorities, which must assess whether a SLOM producer fulfils the condition, laid down in the Council regulation, that he must be able to produce the reference quantity on his holding. The Commission observes that that provision contains a non-exhaustive list ('may') of the evidence which the national implementing

authorities may accept in connection with that condition, evidence which must be supplied '[i]n accordance with rules to be laid down by the Member State'.

55 The Commission points out that Regulation No 1546/88, as amended by Regulation No 1033/89, establishes clearly that the SLOM producer must be able to show that he is able to produce the reference quantity requested on his holding, a condition which it is for the Netherlands authorities to assess and which they have interpreted as meaning that production had to be resumed on the initial SLOM holding or the same organisational and economic unit as that involved at the date on which the non-marketing undertaking was entered into, an interpretation which has been confirmed by the College van Beroep voor het bedrijfsleven The applicants cannot hold the Commission liable for the interpretation adopted by the Netherlands authorities, which, moreover, did not suggest that the Community rules were ambiguous.

56 The Commission notes that the applicants raised no argument designed to demonstrate that Article 3a of Regulation No 857/84, as amended by Regulation No 764/89, is not clear and precise and did not enable them to know unambiguously what their rights and obligations were and to take steps accordingly. The Commission considers that its own regulation is clear and indicates precisely what evidence the national authorities may take into account in assessing whether a producer has fulfilled the condition laid down in the Council regulation, namely, that he be able to produce on his holding up to the reference quantity requested. The Commission also points out in its rejoinder that the applicants themselves have acknowledged (see paragraph 47 above) that producers had to be able to produce the reference quantities requested using production facilities which they operated, it being understood, in their view, that a part of the production assets used had to correspond to the assets which they possessed at the time at which they entered into the non-marketing undertaking. Under those circumstances, Article 3a of Regulation No 1546/88, as amended by Regulation No 1033/89, the only purpose of which was to ensure implementation of Article 3a of Regulation No 857/84, as amended by Regulation No 764/89, was, in the same way as the latter provision, clear to the applicants and its meaning is that adopted by the Commission, with the result that the applicants cannot claim that the Commission acted unlawfully. The action for damages must therefore, in its view, be dismissed.

57 With regard to the damage and the causal link, the Commission contends that, even though the applicants claim that they were all able to produce the reference quantity

on their holdings, as they existed at the time at which they submitted their respective requests for the allocation of such quantities, their application does not make it possible to determine clearly whether they were able to produce those quantities on the respective initial SLOM holdings. In any event, the Netherlands authorities took the view that they had not resumed milk production from the respective initial SLOM holdings or that they had not resumed it independently, on their own account and at their own risk, a fact which has, moreover, been confirmed by the courts in the Netherlands. Since the applicants did not fulfil the conditions laid down in the Council regulation, they cannot claim that there is a causal link between the damage suffered and the allegedly irregular nature of the Commission regulation.

58 Finally, with regard to the extent of the damage, the Commission considers that the application does not contain sufficient information for it to be able to define its position. The applicants were not sufficiently precise in setting out the extent to which they were able to produce the reference quantities in question on the respective initial SLOM holdings. The Commission states that it reserves the right to return to the nature and extent of the damage at a later stage of the proceedings.

Findings of the Court

59 According to case-law, in order for the Community to incur non-contractual liability for damage caused by the institutions, provided for in the second paragraph of Article 215 of the EC Treaty (now the second paragraph of Article 288 EC), a number of conditions must be satisfied: the institutions' conduct must be unlawful, actual damage must have been suffered and there must be a causal link between the conduct and the damage pleaded (Case 26/81 *Oleifici Mediterranei* v *EEC* [1982] ECR 3057, paragraph 16; see Case T-87/94 *Blom and Others* v *Council and Commission* [2006] ECR II-1385, paragraph 102 and the case-law cited therein).

60 In addition, according to settled case-law, it is for the applicant to produce before the Court the evidence to establish the unlawfulness of the conduct of the institutions which he alleges, actual damage and the existence of a causal link between that

conduct and the damage suffered (Case 26/74 *Roquette Frères* v *Commission* [1976] ECR 677, paragraphs 22 to 24, and Case T-271/04 *Citymo* v *Commission* [2007] ECR II-1375, paragraph 159).

61 It should also be borne in mind that if any one of those cumulative conditions is not satisfied, the action must be dismissed in its entirety and it will be unnecessary to consider the other conditions (Case C-146/91 *KYDEP* v *Council and Commission* [1994] ECR I-4199, paragraphs 19 and 81, and Case T-170/00 *Förde-Reederei* v *Council and Commission* [2002] ECR II-515, paragraph 37).

62 With regard to the first of those conditions for consideration, the case-law requires a sufficiently serious breach to be shown of a rule of law intended to confer rights on individuals (Case C-352/98 P *Bergaderm and Goupil* v *Commission* [2000] ECR I-5291, paragraph 42). The decisive criterion for finding that a breach of Community law is sufficiently serious is whether the Community institution concerned manifestly and gravely disregarded the limits on its discretion. Where the institution in question has only a considerably reduced, or even no, discretion, the mere infringement of Community law may be sufficient to establish the existence of a sufficiently serious breach (Case C-312/00 P *Commission* v *Camar and Tico* [2002] ECR I-11355, paragraph 54, and Joined Cases T-198/95, T-171/96, T-230/97, T-174/98 and T-225/99 *Comafrica and Dole Fresh Fruit Europe* v *Commission* [2001] ECR II-1975, paragraph 134).

63 In the present case, the applicants allege that the unlawfulness of the conduct attributed to the Commission consists of a breach of the precautionary principle. Although the applicants claim that the Community is liable inasmuch as the Commission infringed the precautionary principle, they are in fact referring to the principle of legal certainty, inasmuch as they complain that the Commission did not lay down clearly and precisely, in the rules at issue, the conditions applicable to the allocation of a special reference quantity.

64 It must be noted at the outset that, just as the principle of the protection of legitimate expectations constitutes a rule of law conferring rights on individuals, infringement of which can cause the Community to incur non-contractual liability (Case T-43/98 *Emesa Sugar* v *Council* [2001] ECR II-3519, paragraph 64; see also *Mulder II*; cited in paragraph 16 above, paragraph 15), so too the principle of legal certainty also constitutes a rule of law conferring rights on individuals.

65 In that connection, it must be observed that both the Court of Justice and the Court of First Instance have already held that the principle of legal certainty is a fundamental principle of Community law which requires, in particular, that rules should be clear and precise, so that individuals may be able to ascertain unequivocally what their rights and obligations are and may take steps accordingly (Case 169/80 *Gondrand and Garancini* [1981] ECR 1931, paragraph 17; Case C-143/93 *Van Es Douane Agenten* [1996] ECR I-431, paragraph 27; Case C-177/96 *Banque Indosuez and Others* [1997] ECR I-5659, paragraph 27; Case C-110/03 *Belgium* v *Commission* [2005] ECR I-2801, paragraph 30; Case C-158/06 *ROM-projecten* [2007] ECR I-5103, paragraph 25; Case T-81/95 *Interhotel* v *Commission* [1997] ECR II-1265, paragraph 61; and Joined Cases T-141/99, T-142/99, T-150/99 and T-151/99 *Vela and Tecnagrind* v *Commission* [2002] ECR II-4547, paragraph 391).

66 That imperative of legal certainty must be observed all the more strictly in the case of rules liable to have financial consequences (*ROM-projecten*, cited above at paragraph 65, paragraph 26).

67 It is therefore necessary to determine whether the wording of Article 3a of Regulation No 1546/88, as amended by Regulation No 1033/89, was clear as to the conditions applicable to the allocation of a special reference quantity.

68 It should be borne in mind that, according to settled case-law, in interpreting a provision of Community law it is necessary to consider its wording, its context and its aims (Case C-84/95 *Bosphorus* [1996] ECR I-3953, paragraph 11, and *Banque Indosuez and Others*, cited in paragraph 65 above, paragraph 18).

69 From that perspective, it must be stated, as the Commission has correctly pointed out, that since Regulation No 1546/88, as amended by Regulation No 1033/89, is an implementing regulation, inasmuch as it gives effect to Regulation No 857/84, it must be interpreted in a manner consistent with the latter (Case C-275/05 *Kibler* [2006] ECR I-10569, paragraph 20; see also, to the same effect, Case C-44/89 *von Deetzen* [1991] ECR I-5119, paragraph 14), the validity of which, moreover, is not under challenge in the present case.

70 In that regard, first of all, it must be pointed out that Article 3a(1) of Regulation No 857/84, as amended by Regulation No 764/89, provides that producers whose period of non-marketing or conversion, pursuant to the undertaking given under Regulation No 1078/77, had expired after 31 December 1983 or, in some cases, after 30 September 1983, were to be granted, provisionally, a special reference quantity under certain conditions determined therein. In particular, Article 3a(1)(a) of that regulation provides that the grant of a provisional special reference quantity was to be subject to the proviso that the person concerned did not cease farming or transfer the whole of his dairy enterprise before the end of the non-marketing or conversion period (Case C-98/91 *Herbrink* [1994] ECR I-223, paragraph 11).

71 Secondly, Article 3a(1)(b) of Regulation No 857/84, as amended by Regulation No 764/89, lays down, as a condition for the grant of a provisional special reference quantity, that the producer must establish in support of his request that he is able to produce on his holding up to the reference quantity requested.

72 Thirdly, it should be noted that the system of special reference quantities provided for in Article 3a of Regulation No 857/84, which was introduced by Regulation No 764/89 in the light of the judgments in *Mulder I* and *von Deetzen I*, cited in paragraph 6 above, with a view to ensuring the grant of a special reference quantity to producers who did not, pursuant to an undertaking given under Regulation No 1078/77, supply any milk during the reference year, enshrines the general principle that every reference quantity is to remain attached to the land in respect of which it is allocated (*Herbrink*, cited in paragraph 70 above, paragraph 12).

73 It thus follows from Regulation No 857/84, as amended by Regulation No 764/89, that a producer who has entered into a non-marketing undertaking must, in order to be able to obtain a special reference quantity, still be in possession, in whole or in part, of his initial SLOM holding and to establish that he is able to produce that quantity on his holding.

74 It must be stated that Regulation No 1546/88, as amended by Regulation No 1033/89, in no way departs from the scheme put in place by Regulation No 857/84, as amended by Regulation No 764/89.

75 Article 3a of Regulation No 1546/88, as amended by Regulation No 1033/89, merely applies the provisions of Regulation No 857/84, as amended by Regulation No 764/89, concerning the grant of a specific reference quantity by drawing attention to the fact that the producer must prove to the competent authority designated by the Member State that he still operates, in whole or in part, the same holding as that which he operated at the time of the approval of his premium application. That provision then lays down a non-exhaustive list of the evidence which may be put forward to establish that the producer is able to produce a quantity equal to the reference quantity requested, in particular, direct sales or deliveries of milk already made since the end of the non-marketing or conversion period, the dairy herd kept on the holding, the holding's permanent grazing area or area under forage resulting from the rotation and sowing plan implemented, and the investments carried out without a development plan.

76 Thus, when the third indent of the third subparagraph of Article 3a(1) of Regulation No 1546/88, as amended by Regulation No 1033/89, provides that evidence of the producer's ability to produce a quantity equal to the reference quantity requested may involve the 'holding's' permanent grazing area and/or area under forage, that term can only be understood as referring to the holding operated by the producer which, in whole or in part, constitutes the same holding as that which he operated at the time of the approval of his premium application. It cannot therefore be interpreted as meaning that the abovementioned areas may belong to a holding other than that operated by the producer.

77 The same interpretation is dictated by the second indent of the third subparagraph of Article 3a(1) of Regulation No 1546/88, as amended by Regulation No 1033/89, which requires that the dairy herd, which is also evidence capable of establishing that the producer is able to produce a quantity equal to the reference quantity requested, be kept on the 'holding', a term which can also be understood only as referring to the holding operated by the producer which, in whole or in part, constitutes the same holding as that which he operated at the time of the approval of his premium application. The purpose of that provision is therefore precisely to prevent the special reference quantity being produced by a producer with animals kept on a holding other than that which he operates.

78 The same is true in regard to the investments referred to in the fourth indent of the third subparagraph of Article 3a(1) of Regulation No 1546/88, as amended by Regulation No 1033/89, which, for the same reasons as mentioned in paragraphs 76 and 77 above, must be connected to the holding operated by the producer and therefore cannot be detached therefrom.

79 In that regard, the Court of Justice has already held, concerning the transfer of a holding by way of assignment or by a surrender upon the expiry of a lease, that the entire system of reference quantities is characterised by the principle that a transfer of land in respect of which a reference quantity has been allocated necessarily entails the transfer of the reference quantity itself. It is therefore with a view to ensuring the application of that principle also with respect to special reference quantities that Article 3a(1) of Regulation No 1546/88, as amended by Regulation No 1033/89, reinforces the condition laid down in Article 3a(1) of Regulation No 857/84 by requiring that the producer must still be operating, in whole or in part, the same holding (*Herbrink*, cited above in paragraph 70, paragraph 13).

80 Thus, the third recital in the preamble to Regulation No 1033/89 states that 'applications [for a special reference quantity] may be submitted solely by producers in a position to operate at least in part the same production units as those they operated when applying for the premium for the non-marketing [of] milk or for … conversion' and that 'where producers no longer operate the same holdings, they have thereby demonstrated, according to the logic of the premium scheme, their intention of ceasing milk production'.

81 In addition, although, to obtain a special reference quantity, the producer must still operate, in whole or in part, the same holding as the one he operated at the time of the approval of his premium application, the holding consists, within the meaning of Article 12(d) of Regulation No 857/84, of 'all the production units operated by the producer and located within the geographical territory of the Community'.

82 The definitions of 'producer' and, consequently, 'holding' in Article 12(c) and (d) of Regulation No 857/84, as amended by Regulation No 764/89, indicate that the term 'producer' refers only to farmers who, for the purposes of milk production, operate a set of production units on their own account (Case C-236/90 *Maier* [1992] ECR I-4483, paragraph 11, and Case C-463/93 *St. Martinus Elten* [1997] ECR I-255, paragraph 17).

83 It thus follows clearly from the provisions of Article 3a(1) of Regulation No 857/84, as amended by Regulation No 764/89, in conjunction with Article 3a(1) of Regulation No 1546/88, as amended by Regulation No 1033/89, that the provisional grant of a special reference quantity is subject to the condition that the producer concerned establishes that he still operates, in whole or in part, the same holding as that which he operated at the time of the approval of his premium application, that is to say, the holding which was the subject of the non-marketing or conversion undertaking (*O'Brien*, cited in paragraph 42 above, paragraph 12; see also, to the same effect, *Herbrink*, cited in paragraph 70 above, paragraphs 12 and 13; Case C-164/01 P *van den Berg* v *Council and Commission* [2004] ECR I-10225, paragraph 71; and Case T-373/94 *Werners* v *Council and Commission* [2006] ECR II-4631, paragraph 81) and that he demonstrates that he is able to produce a quantity equal to the reference quantity requested on that holding.

84 In *O'Brien*, cited in paragraph 42 above, at paragraph 17, the Court of Justice held that Article 3a(3) of Regulation No 857/84, as amended by Regulation No 764/89, was to be interpreted as meaning that, for the purposes of the definitive allocation of a special reference quantity, account could also be taken of sales or deliveries of milk from production units added to the holding in question between the date of expiry of the period of non-marketing or conversion and the date of the provisional allocation of the special reference quantity, on condition that the producer concerned was still

operating, in whole or in part, the same holding as that which he had been operating at the time of the approval of his premium application.

85 It thus follows from all of the foregoing that Article 3a(1) of Regulation No 1546/88, as amended by Regulation No 1033/89, in conjunction with Article 3a(1) of Regulation No 857/84, as amended by Regulation No 764/89, provides that milk production must be carried out from the initial SLOM holding (*Werners* v *Council and Commission*, cited in paragraph 83 above, paragraph 81; see also, to that effect, *O'Brien*, cited in paragraph 42 above, paragraphs 11 and 12; *Herbrink*, cited in paragraph 70 above, paragraphs 12 and 13; and *van den Berg* v *Council and Commission*, cited in paragraph 83 above, paragraph 71), which may include, in some cases, production units which the producers operated on their own account at the time at which the special reference quantity was allocated and which had to include, in whole or in part, the initial SLOM holding.

86 That interpretation is in line with the underlying justification for the system. First of all, it takes account of the consideration that a special reference quantity should not be allocated to a producer who no longer has the initial SLOM holding, because he has shown his intention to no longer market milk, without which the allocation of a reference quantity would no longer be the consequence of the setting up of the system. Moreover, that interpretation also takes account of the fact that, since the reference quantities are attached to the lands which gave rise to their allocation, the production thereof must take place on those lands. Finally, it takes account of the points made by Advocate General Jacobs in his Opinion in *O'Brien*, cited in paragraph 42 above ([1992] ECR at I-6266), to the effect that, during the period in which the producers concerned were excluded from milk production, their holdings would undoubtedly have undergone changes, which the Court of Justice acknowledged by ruling that account was also to be taken of sales or deliveries of milk from production units added to the holding in question between the date of expiry of the period of non-marketing or conversion and the date of the provisional allocation of the special reference quantity, provided that the producer concerned is still operating, in whole or in part, the same holding as that which he operated at the time of the approval of his premium application.

87 Finally, it must be noted that the applicants' arguments, as they themselves set them out in their pleadings, do not seem to depart from the meaning given to the provisions at issue in paragraphs 70 to 86 above, and that, in particular, they contest more

specifically the interpretation of the Community rules adopted by the national courts and their application in the present case in the criticisms which they make of those Community rules.

88 As is clear from paragraphs 44 and 47 above, the applicants claim that it follows from Article 3a(1) of Regulation No 1546/88, as amended by Regulation No 1033/89, that an applicant for a provisional reference quantity was no longer required to be in possession of the whole of the initial SLOM holding. In their view, the special reference quantities had to be produced using production facilities which they operated and part of those facilities had to have been operated by them at the time when they entered into the respective non-marketing undertakings.

89 It follows from all of the foregoing that the Commission did not infringe the principle of legal certainty and that the action must accordingly be dismissed.

90 In the alternative, even if one were to suppose that the Community rules on the matter were to be regarded as containing a degree of ambiguity or lack of precision in regard to the conditions under which the special reference quantities allocated had to be produced in order to make possible a definitive allocation of such quantities, it must be pointed out that, in order to establish liability on the part of the Community, it is necessary to demonstrate that there has been a sufficiently serious breach of a rule of law intended to confer rights on individuals, in accordance with the requirements set out in paragraph 62 above.

91 In developing its case-law on the non-contractual liability of the Community, in particular as regards legislative measures involving choices of economic policy, the Court of Justice has had regard to the wide discretion available to the institutions in implementing Community policies (Joined Cases C-46/93 and C-48/93 *Brasserie du Pêcheur and Factortame* [1996] ECR I-1029, paragraph 44).

92 The strict approach taken towards the liability of the Community in the exercise of its legislative activities is attributable to two considerations. First, even where the legality of measures is subject to judicial review, exercise of the legislative function must not be hindered by the prospect of actions for damages whenever the general interest of the Community requires legislative measures to be adopted which may adversely affect individual interests. Second, in a legislative context characterised by the exercise of a wide discretion, which is essential for implementing a Community policy, the Community cannot incur liability unless the institution concerned has manifestly and gravely disregarded the limits on the exercise of its powers (Joined Cases 83/76, 94/76, 4/77, 15/77 and 40/77 *HNL and Others* v *Council and Commission* [1978] ECR 1209, paragraphs 5 and 6, and *Brasserie du Pêcheur and Factortame*, cited in paragraph 91 above, paragraph 45).

93 The Court of Justice has also held in that regard that the system of rules which it has worked out with regard to non-contractual liability of the Community takes into account, inter alia, the complexity of the situations to be regulated, difficulties in the application or interpretation of the texts and, more particularly, the margin of discretion available to the author of the act in question (*Brasserie du Pêcheur and Factortame*, cited in paragraph 91 above, paragraph 43; *Bergaderm and Goupil* v *Commission*, cited in paragraph 62 above, paragraph 40; and *Commission* v *Camar and Tico*, cited in paragraph 62 above, paragraph 52).

94 In the present case, it must be stated that the Commission had only a considerably reduced discretion to the extent to which, as has been pointed out in paragraph 69 above, Regulation No 1546/88, as amended by Regulation No 1033/89, is an implementing regulation which merely gives effect to Regulation No 857/84.

95 However, it has already been found in paragraphs 69 to 78 above, that the Commission merely applied the provisions of Council Regulation No 857/84, as amended by Regulation No 764/89, in accordance with the requirements laid down therein and cannot therefore be held liable for any infringement of Community law.

96 Thus, any potential lack of precision or clarity in Regulation No 1546/88, as amended by Regulation No 1033/89, cannot be attributed to the Commission, since it merely complied with Council Regulation No 857/84, as amended by Regulation No 764/89.

97 Suffice it to note that the applicants have in no way challenged, in the present action, the validity of Regulation No 857/84, as amended by Regulation No 764/89, on the ground that it infringes the principle of legal certainty.

98 As the applicants have failed to provide evidence to substantiate their claim that the Commission acted unlawfully, it is unnecessary to determine whether the other conditions governing liability have been satisfied.

99 It follows from all of the foregoing that the action must be dismissed.

Costs

100 Under Article 87(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. As the applicants have been unsuccessful, they must be ordered to pay the costs, in accordance with the form of order sought by the Commission.

On those grounds,

THE COURT OF FIRST INSTANCE (Fifth Chamber)

hereby:

1. Dismisses the action;

2. Orders Mr Alfonsius Alferink and the other 67 applicants whose names are listed in the annex to pay the costs.

Vilaras Martins Ribeiro Jürimäe

Delivered in open court in Luxembourg on 26 June 2008.

E. Coulon M. Vilaras

Registrar President

ANNEX

The Heirs of G. Vloedgraven,

W.L.A. van der Arend, residing in Harmelen (Netherlands),

H.W. Bakker, residing in Middelstum (Netherlands),

B.M.J.B. Beusmans, residing in Noorbeek (Netherlands),

P.J.M. Biermans, residing in Herkenbosch (Netherlands),

J.A.A. de Bont, residing in Rutten (Netherlands),

H. Boskma, residing in Zwaagwesteinde (Netherlands),

B.A. Bouma, residing in Berlikum (Netherlands),

E.A.M. Bouma, residing in Rutten,

J.A. Bouma, residing in Ried (Netherlands),

H. Buwalda, residing in Franeker (Netherlands),

M.V. van Diederen, residing in Doenrade (Netherlands),

R. Dusselaar, residing in Wier (Netherlands),

J. van Duynhoven, residing in Rijkevoort (Netherlands),

H.J. Frederiks, residing in Laag Keppel (Netherlands),

G.J.M. Frieling, residing in Deurningen (Netherlands),

T. de Groot, residing in Creil (Netherlands),

H.J. ten Hagen, residing in Winterswijk (Netherlands),

H.J. ten Have, residing in Beltrum (Netherlands),

P.A.J.N. Hendriks, residing in Valkenburg (Netherlands),

H. Heringa, residing in Leens (Netherlands),

O. Hoekstra, residing in Oosternijkerk (Netherlands),

J. Hoekstra, residing in Oosternijkerk,

W.H.C.M. Holtslag, residing in Lelystad (Netherlands),

J.H.A. Huijsmans, residing in Weert (Netherlands),

M. Huizinga, residing in Firdgum (Netherlands),

G.J. Hulter, residing in Den Velde (Netherlands),

P.J.M. Janssen, residing in Wanssum (Netherlands),

G.C. de Jongh, residing in Marknesse (Netherlands),

C. de Keijzer, residing in Noordgouwe (Netherlands),

P. Kemp, residing in Breukelen (Netherlands),

W. Koopmans-Hut, residing in Ezinge (Netherlands),

H.J. Leemkuil, residing in Winterswijk-Miste (Netherlands),

J.A.J. Leijten, residing in Bant (Netherlands),

G.J. Loozeman, residing in Callantsoog (Netherlands),

A. Lukens Folkers, residing in Vlagtwedde (Netherlands),

P.L. Marinussen, residing in Grijpskerke (Netherlands),

G.J. Meijer, residing in Usquert (Netherlands),

W.H.J. Mulder, residing in Haarzuilens (Netherlands),

Th. Neelen, residing in Nunhem (Netherlands),

G.J. Nijboer, residing in Ane (Netherlands),

A. Nijboer, residing in Ane,

B. Oude Kotte, residing in Fleringen (Netherlands),

J.H.M. Roebroek, residing in Schimmert (Netherlands),

F.M.C. Rommens, residing in Rijsbergen (Netherlands),

J.A.C.M. Soffers, residing in Rijsbergen,

J.G. Rompelberg, residing in Noorbeek,

M.J. Scheele, residing in Mensingeweer (Netherlands),

J. van Sinderen, residing in Ternaard (Netherlands),

J.W.M. Smeets, residing in Papenhoven (Netherlands),

W.C.G.M. Stoffelen, residing in Ottersum (Netherlands),

J.H. Thomassen, residing in Bemelen (Netherlands),

J.H. van Til, residing in Eppenhuizen (Netherlands),

K.J. Veenkamp, residing in Thesinge (Netherlands),

J.T.F.J. op 't Veld, residing in Vlodrop (Netherlands),

J.P.W. Vrencken, residing in Beek (Netherlands),

O. Vries, residing in Engwierum (Netherlands),

K. Vries, residing in Engwierum,

M.W. de Weerd, residing in Tollebeek (Netherlands),

A.M. Weijenberg-Pleijers, residing in Wittem (Netherlands),

H.F.W.M. Wennekers, residing in Creil,

R.W. Werners, residing in Meppel (Netherlands),

C.H.L. Wijnen, residing in Maasbree (Netherlands),

L.G.H. Willems, residing in Ulestraten (Netherlands),

J.G. Wilman, residing in Engwierum,

D. Wilman, residing in Engwierum,

J.M.P. Wolfs, residing in Gronsveld (Netherlands).