JUDGMENT OF THE COURT (Fifth Chamber)

5 July 2001 *

In Case C-100/99,

Italian Republic, represented by U. Leanza, acting as Agent, assisted by D. Del Gaizo, avvocato dello Stato, with an address for service in Luxembourg,

applicant,

v

Council of the European Union, represented by G. Maganza and I. Díez Parra, acting as Agents, with an address for service in Luxembourg,

and

Commission of the European Communities, represented by K.-D. Borchardt and F. Ruggeri Laderchi, acting as Agents, with an address for service in Luxembourg,

defendants,

* Language of the case: Italian.

APPLICATION for annulment of:

— 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) and, more particularly, Articles 2 and 3 thereof;

— Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro (OJ 1998 L 349, p. 1) and, more particularly, Articles 4 and 5 thereof and the annex thereto, in particular paragraphs 1 and 2 thereof;

— 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); and

— 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),

THE COURT (Fifth Chamber),

composed of: A. La Pergola, President of the Chamber, M. Wathelet, D.A.O. Edward, P. Jann (Rapporteur) and L. Sevón, Judges,

Advocate General: F.G. Jacobs,
Registrar: H.A. Rühl, Principal Administrator,

having regard to the Report for the Hearing,

after hearing oral argument from the parties at the hearing on 18 January 2001, when the Italian Republic was represented by D. Del Gaizo, the Council by F. Ruggeri Laderchi, acting as Agent, and the Commission by L. Visaggio, acting as Agent,

after hearing the Opinion of the Advocate General at the sitting on 15 March 2001,

gives the following

Judgment

1 By application lodged at the Court Registry on 17 March 1999, the Italian Republic brought an action under the first paragraph of Article 173 of the EC Treaty (now, after amendment, the first paragraph of Article 230 EC) for annulment of

— 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) and, more particularly, Articles 2 and 3 thereof;

— Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro (OJ 1998 L 349, p. 1) and, more particularly, Articles 4 and 5 thereof and the annex thereto, in particular paragraphs 1 and 2 thereof;

— 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); and

— 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).

Legal framework

2 The purpose of the Community agrimonetary system is to reduce the impact of monetary fluctuations on the value of the amounts paid to Community farmers in a specific currency but expressed, in the measures relating to the common agricultural policy, in another currency or in a unit of account.

3 Before the introduction, with effect from 1 January 1999, of the euro as the single currency in 11 Member States of the European Union, the Community agrimonetary system was essentially based on the four following regulations:

— 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), most recently amended 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);

— Council Regulation (EC) No 2990/95 of 18 December 1995 regulating compensation for appreciable reductions in the agricultural conversion rates before 1 July 1996 (OJ 1995 L 312, p. 7), as amended by Council Regulation (EC) No 1451/96 of 23 July 1996 (OJ 1996 L 187, p. 1);

— 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).

4 With the introduction of the euro, the agrimonetary system ceased to be of relevance to the Member States which adopted that currency pursuant to the Treaty ('the participating Member States'). As regards the States which did not adopt the euro pursuant to the Treaty ('the non-participating Member States'), the Community legislature decided to abolish the specific agricultural conversion rates and to introduce a new agrimonetary system based on different principles.

5 To that end, Regulation No 2799/98 provides, in Article 2(1) and (2):

'1. Prices and amounts fixed in legal instruments relating to the common agricultural policy shall be expressed in euro.

2. They shall be granted or collected in euro in the participating Member States. In the other Member States, they shall be converted into their national currency by means of an exchange rate, and, without prejudice to Article 8, granted or collected in national currency.'

6 Article 1(f) of that regulation contains the following definition:

'For the purposes of this Regulation:

...

(f) "appreciable revaluation" means: a situation where the annual average exchange rate is below a threshold defined as the lowest average annual conversion rate applied during the preceding three years and the exchange rate of 1 January 1999.'

7 Article 4(1) to (4) of that regulation provides:

'1. For prices and amounts other than those referred to in Article 5, the Member State may grant compensatory aid to farmers in cases of appreciable revaluation. The payments shall be made in three successive tranches lasting 12 months each, starting in March following the month of the appreciable revaluation.

These compensatory payments shall not take the form of aid linked to production, other than production during a stipulated, prior period. They shall not favour any particular type of production or be dependent on production subsequent to the period stipulated.

2. The maximum amount of the first tranche of compensatory aid shall be established, for the Member State concerned as a whole, in accordance with the procedure laid down in Article 9, by multiplying the appreciable part of the revaluation by the flat-rate income loss determined in accordance with points 1 to 3 of the Annex.

3. The maximum amount of the first tranche shall be reduced or cancelled where appropriate, taking account of the market situation observed during the year up to the time of the appreciable revaluation.

4. No aid shall be granted for the portion of the amount calculated in accordance with paragraph 2 that does not exceed appreciable revaluation of 2.6%.'

8 Article 5(1) and (2) of that regulation is worded as follows:

'1. In cases where the exchange rate applicable on the date of the operative event for:

— flat-rate aid calculated per hectare or per livestock unit,

or

— a compensatory premium per sheep or goat,

or

— amounts of a structural or environmental nature

is below that applicable previously, the Member State concerned may make compensatory payments to farmers in three successive tranches lasting 12 months each, starting on the date of the operative event.

Compensatory aid must be granted in the form of an addition to the aid, premiums and amounts referred to in the first subparagraph.

2. The maximum amount of the first tranche of compensatory aid shall be established, for the Member State concerned as a whole, in accordance with the procedure laid down in Article 9, in accordance with point 4 of the Annex. However, the Member State may waive the grant of the compensatory aid when this amount corresponds to a reduction of less than 0.5%.'

9 The Annex to Regulation No 2799/98 provides in Articles 1 and 2:

'1. The flat-rate income loss referred to in Article 4(2) of the Regulation is to be equal to:

(a) the sum of 1%:

— of final agricultural production of cereals including rice, sugar beet, milk and milk products and beef and veal and

— of the value of the quantities of products supplied under a contract imposing, in accordance with Community rules, a minimum price to the producer, for products not referred to in the first indent, and

— of aid or premiums paid to farmers, with the exception of those; referred to in Article 5 of the Regulation;

(b) ...

2. The amounts referred to in the second and third indents of point 1(a) are not to be taken into account when their sum is less than 0.01% of the final agricultural production of the relevant Member State in the product sector concerned.

...'

10 Furthermore, the Community legislature considered that the transition at midnight on 31 December 1998 from the old agricultural conversion rates to the euro and to the new agrimonetary system might lead to monetary effects analogous to the effects of an appreciable revaluation.

11 Consequently, Regulation No 2800/98 provides in Article 1(2):

'For the purposes of this Regulation, notwithstanding Regulation (EC) No 2799/98:

(a) "appreciable revaluation" means a reduction in the conversion rate applicable on 1 January 1999 which is greater in absolute value than the

differences between that rate and the lowest levels of the conversion rates applicable:

— over the last 12 months, and

— at any time more than 12 months but not more than 24 months previously, and

— at any time more than 24 months but not more than 36 months previously.

Only two thirds and one third respectively of the differences covered by the second and third indents shall be taken into account.'

12 Article 2 of Regulation No 2800/98 provides:

'Where the conversion rate for the euro into national currency units of any Member State or the exchange rate for the euro into the national currency of any Member State at 1 January 1999 undergoes an appreciable revaluation against

the agricultural conversion rate in force on 31 December 1998, Articles 4 and 6 of Regulation (EC) No 2799/98 shall apply to that appreciable revaluation and the appreciable part thereof shall be as specified in Article 1(b).

However, the maximum amount established in conformity with Article 4(2) of Regulation (EC) No 2799/98 shall be reduced or cancelled if necessary as a function of the effect on income of the development of the exchange rate recorded during the first nine months of 1999.'

13 Article 3(1) of Regulation No 2800/98 provides:

'Where the conversion rate for the euro into national currency units or the exchange rate for the euro into national currency applicable on the day of the operative event in 1999 to:

— flat-rate aid calculated per hectare or per livestock unit, or

— compensatory premiums per ewe or she-goat, or

— amounts of a structural or environmental nature

is lower than the rate applied previously, compensatory aid shall be granted.

The aid shall be calculated in accordance with Article 5 of Regulation (EC) No 2799/98.

Notwithstanding the second indent of Article 6(1) of the said Regulation, the first year the Community contribution shall amount to 100% of the aid.'

14 Regulations Nos 2799/98 and 2800/98 were implemented by Regulations Nos 2808/98 and 2813/98.

The action and the procedure before the Court

15 The Italian Republic claims that the Court should declare the regulations and, more particularly, the provisions referred to in paragraph 1 above void and order the Council and the Commission to pay the costs.

16 The Italian Republic puts forward three pleas in law in support of its action. First, it maintains that it was unlawful to fix the same conditions for the grant of compensatory aid, on the one hand, for appreciable revaluations, against the agricultural conversion rate in force on 31 December 1998, of the conversion rate for the euro into the national currency unit of a participating Member State and, on the other hand, for appreciable revaluations of the exchange rate for the euro into the national currency of a non-participating Member State. Second, the applicant claims that the methods for calculating the flat-rate income loss

provided for in Article 4(2) of Regulation No 2799/98 and in the annex thereto unjustly penalise certain products. Third, the applicant considers that to have provided different threshold conditions for intervention on prices and for amounts relating to certain direct aid, referred to in Articles 5 of Regulation No 2799/98 and 3 of Regulation No 2800/98 gives rise to unjustified unequal treatment. Furthermore, the applicant maintains that the illegality of Regulations Nos 2808/98 and 2813/98 follows from the illegality of Regulations Nos 2799/98 and 2800/98.

17 The Council and the Commission contend that the Court should dismiss the action as unfounded and order the applicant to bear the costs.

18 The Commission further considers that the action is inadmissible in so far as it is directed against Regulations Nos 2808/98 and 2813/98.

19 By application lodged on 13 September 1999, the United Kingdom of Great Britain and Northern Ireland sought leave to intervene in support of the pleas in law put forward by the Council and the Commission.

20 By order of the President of the Court of 11 October 1999, the United Kingdom was granted leave to intervene in the present case.

21 By letter received at the Court Registry on 25 January 2000, the United Kingdom withdrew its intervention.

22 By order of the President of the Court of 13 March 2000, the United Kingdom was removed as an intervener in the proceedings.

Council Regulations Nos 2799/98 and 2800/98

First plea in law

Arguments of the parties

23 The Italian Government maintains that the reference to Article 4 of Regulation No 2799/98 in Article 2 of Regulation No 2800/98, whereby participating Member States are subjected to the same prohibition as non-participating Member States — namely, they are not to grant compensatory aid for prices and amounts, other than those referred to in Article 5 of Regulation No 2799/98, which do not exceed appreciable revaluation of 2.6% —, is incompatible with Articles 39 of the EC Treaty (now Article 33 EC) and 40 of the EC Treaty (now, after amendment, Article 34 EC) and also with the principle of proportionality.

24 In the case of the currencies of non-participating Member States, the fact that an appreciable revaluation gives rise to entitlement to compensation only for the part exceeding the non-qualifying portion of 2.6% appears to be justified in the light of the uncertainty about subsequent developments in the exchange rate of

those currencies. For the currencies of participating Member States, on the other hand, from 1 January 1999 currency fluctuation can give rise to a real variation but not to a nominal variation in Community prices and amounts. The loss of income observed in the transition to the single currency can no longer depend on subsequently developments in the exchange rate, since these are limited solely to the relationship with the United States dollar. The application of the 2.6% non-qualifying portion does not therefore appear to be justified, since it is coupled with the filtering effect of the appreciable revaluation criterion. The applicant supports that allegation by reference to the euro's performance against the dollar.

25 Furthermore, it was Regulation No 942/98, amending Regulation No 724/97, that introduced that non-qualifying portion of 2.6%. That resulting arrangement marked a fundamental departure from the arrangements previously in force. Its purpose, from the aspect of the introduction of the euro, was to avoid the negative effects of currency speculation which could no longer be counter-balanced afterwards by rectifying measures.

26 The applicant maintains that it was not necessary, in the case of participating Member States, to provide mechanisms to moderate the compensatory aid when changing over to the euro. The rules applicable during the first half of 1998, which did not provide for a non-qualifying portion of 2.6%, could have been re-employed. In any event, the Community legislature could have set a lower abatement percentage than that applied to non-participating Member States.

27 Furthermore, the mechanism set up by Regulations Nos 2799/98 and 2800/98 has the effect of penalising participating Member States, since they are prevented from receiving compensatory aid for appreciable revaluations which occurred during the years preceding the introduction of the euro.

28 The Council contends that, as regards compensatory aid, it is necessary first to determine whether or not the currency of a Member State has undergone an appreciable revaluation. At this stage, the adoption of the euro by a Member State certainly has an impact on the existence of an appreciable revaluation. Next, it is necessary to apply the provisions governing the possibility of granting compensatory aid. At this stage, the distinction between participating Member States and non-participating Member States is no longer relevant. It was therefore not used as a criterion for varying the application of those provisions.

29 The Council and the Commission observe that the Community institutions have a wide discretion in pursuing the objectives of the common agricultural policy and that judicial review cannot replace that discretion but is limited to cases where there has been a manifest error or misuse of powers or where the institutions have clearly exceeded the bounds of their discretion. In the present case, the Commission contends that the applicant has not shown that the application of the same arrangement to different appreciable revaluations of the conversion rates is manifestly illogical. Nor, it alleges, has the applicant shown that the reasons stated in that regard in the third recital of the preamble to Regulation No 2800/98 are defective.

30 The Commission contends that the fact that the currencies of the non-participating Member States continue to fluctuate against the euro, while the euro is the currency of the participating Member States, justifies maintaining an agrimonetary system solely for the currencies of non-participating Member States but does not mean that there cannot have been, on 1 January 1999, both for participating Member States and for non-participating Member States, appreciable revaluations by comparison with the exchange rate previously used for the purposes of the common agricultural policy.

31 The Commission further states that the application of the non-qualifying portion of 2.6% is justified by the fact that small price variations have no significant

effect on farm incomes. It is therefore necessary to avoid the risk of excessive compensation, which would constitute unjustified aid and distort competition in the common market. The fifth recital of the preamble to Regulation No 942/98 clearly expresses that intention to limit the risk of excessive compensation in cases of small appreciable revaluations.

32 The Commission also denies that that non-qualifying portion of 2.6% was introduced as an exceptional measure, for fear of particularly heavy pressure on the part of speculators during the months preceding the introduction of the euro. The markets had been aware since 3 May 1998 of the bilateral conversion rates which would apply to the currency units of the participating Member States from 1 January 1999.

33 It is also incorrect to state that the participating Member States were unfairly penalised as regards the appreciable revaluations which occurred during the years preceding the introduction of the euro. Regulations Nos 2799/98 and 2800/98 do not prevent compensatory aid from continuing to be paid for appreciable revaluations recorded during those years. Furthermore, the definition of appreciable revaluation in Article 1(f) of Regulation No 2799/98 does not allow non-participating Member States to combine revaluations which took place before and after 1 January 1999.

Findings of the Court

34 In so far as the first plea in law alleges infringement of Article 39 of the Treaty and the principle of proportionality, it must be rejected forthwith, since the applicant has not developed those complaints in its argument.

35 Accordingly, in order to deal with the first plea in law, it is sufficient to consider the complaint alleging infringement of the principle of equal treatment set out in Article 40 of the Treaty. The existence of such infringement presupposes that the effects of currency revaluations recorded during the transition to the euro are substantially different for the currencies of participating Member States and for those of non-participating Member States, so that different treatment is required.

36 Since the comparison of those effects calls for the evaluation of a complex economic situation, it should be pointed out that, according to the Court's case-law, the Community legislature enjoys significant freedom of discretion and the Community judicature, in reviewing the lawfulness of the exercise of such freedom, cannot substitute its evaluation of the matter for that of the competent authority, but must confine itself to examining whether there has been a manifest error or misuse of power or whether that authority has clearly exceeded the bounds of its discretion (see Case C-179/95 *Spain* v *Council* [1999] ECR I-6475, paragraph 29).

37 In the present case the applicant has not relied on a misuse of power, nor has it shown that the Council committed a manifest error or that it clearly exceeded the bounds of its discretion.

38 First, it is common ground that, as the Council stated in the third recital of the preamble to Regulation No 2800/98, the disappearance of the agricultural conversion rates might have had the same effects as an appreciable revaluation, so that provision could justifiably be made for compensatory aid. In the transition from the old to the new agrimonetary system, it was necessary initially to determine for all the currencies concerned whether they had experienced an appreciable revaluation.

39 Second, it appears to be neither illogical nor incoherent for the Community legislature to have made provision for that compensatory aid to be granted according to the same rules as those established, in Regulation No 2799/98, in the case of the agrimonetary system of the euro, including the application of the non-qualifying portion of 2.6% of appreciable revaluation.

40 In that regard, the fifth recital of the preamble to Regulation No 942/98, which introduced that non-qualifying portion, refers to the intention to limit the risk of excessive compensation in cases of small appreciable revaluations. The applicant has not been able to establish that those rules were designed to prevent currency speculation. Regulation No 942/98 did not enter into force until 7 May 1998 and was applicable only to appreciable revaluations which had occurred after 1 May 1998, while the bilateral parities of the currencies of the participating Member States were known on 3 May 1998, which should have precluded from that date any speculation on changes in the exchange rates between those currencies.

41 Nor has the applicant shown that the Council should have taken into account the fact that, for participating Member States, an appreciable revaluation below the 2.6% threshold could not give rise to compensation after that date.

42 First of all, as the revaluation could no longer increase after 1 January 1999 in the case of participating Member States, there are no longer any events in respect of which compensation can justifiably be granted. Then, as the Commission has alleged without being contradicted in that regard by the applicant, the definition of appreciable revaluation in Article 1(f) of Regulation No 2779/98 precludes the possibility, for non-participating Member States, of combining the appreciable revaluations taking place before 1 January 1999 and those occurring after that date in order to reach the 2.6% threshold. Last, the second paragraph of Article 2 of Regulation No 2800/98 allows, as regards non-participating Member States, the reduction or cancellation of the compensatory aid according to the change in the exchange rate recorded during the first nine months of 1999.

43 All those factors show that the uniform application in Regulation No 2800/98 of a non-qualifying portion of 2.6% does not result from a clearly erroneous evaluation of the respective situations existing in participating Member States and non-participating Member States.

44 Third, contrary to what the applicant maintains, Regulation No 2800/98 did not affect the possibility for participating Member States to grant compensatory aid for appreciable revaluations which occurred before the introduction of the euro.

45 Last, the applicant's argument based on the changes in the value of the euro against the United States dollar must be refuted. The substance of that argument presupposes that the purpose of the common agricultural policy is to guarantee the value of agricultural incomes in the Community against the dollar, which the applicant has not demonstrated.

46 It follows that the applicant has not established that the Council committed a manifest error or clearly exceeded the bounds of its discretion in subjecting to the same conditions, in Article 2 of Regulation No 2800/98, the grant of compensation, on the one hand, for appreciable revaluations, in relation to the agricultural conversion rate in force on 31 December 1998, of the conversion rate of the euro into the national currency unit of a participating Member State and, on the other hand, for appreciable revaluations of the rate of exchange of the euro into the national currency of a non-participating Member State.

47 The first plea in law must therefore be rejected.

Second and third pleas in law

Arguments of the parties

48 By the second plea in its application, the Italian Government alleges that the procedures for applying the compensation mechanism set out in Article 4 of Regulation No 2799/98, to which Article 2 of Regulation No 2800/98 refers, appear to penalise certain products unfairly. That is so, more particularly, of the procedures for calculating the flat-rate income loss set out in paragraphs 1 to 3 of the annex to Regulation No 2799/98.

49 While in agricultural sectors which enjoy direct protection in the context of specific market organisations total production is taken into consideration, in the case of production with an indirect or possible guarantee only the amount of the intervention is taken into account. Furthermore, paragraph 2 of the annex to Regulation No 2799/98 renders the compensation provided for the latter types of production de facto inapplicable, since the amount of the intervention is assessed not in the absolute but with reference to all national production in the sector concerned. There is thus unjustified discrimination against the sectors with an indirect guarantee.

50 The Italian Government therefore maintains that Article 4(2) of Regulation No 2799/98, the annex to that regulation and Article 2 of Regulation No 2800/98 are contrary to Articles 39 and 40 of the Treaty, to the principle of equal treatment and to the principle of proportionality. Those provisions are also vitiated by a breach of essential procedural requirements owing to failure to state the reasons on which they are based.

51 By the third plea in law in its application, the Italian Government challenges Article 5 of Regulation No 2799/98, to which Article 3 of Regulation No 2800/98 refers, which reserves especially favourable treatment for certain productions in terms of compensatory aid. That unequal treatment, which has the effect of penalising Mediterranean crops, is without legal basis or valid justification. The references in the fifth recital of the preamble to Regulation No 2799/98 and the fourth recital of the preamble to Regulation No 2800/98 to compensation in accordance with specific rules adapted to the aid in question do not constitute adequate reasoning.

52 The Italian Government therefore maintains that Articles 5 of Regulation No 2799/98 and 3 of Regulation No 2800/98 are contrary to Articles 39 and 40 of the Treaty, to the principle of equal treatment and to the principle of proportionality. They are also vitiated by a breach of essential procedural requirements and a misuse of power.

53 The Council refers, as regards the second and third pleas in law, to the wide discretion enjoyed by the Community legislature. As regards the reasons on which Regulations Nos 2799/98 and 2800/98 are based, the Council refers to the case-law of the Court, according to which the statement of reasons may merely indicate the general situation that led to the adoption of the measure in question, on the one hand, and the general objectives that it is intended to achieve, on the other hand (Case 5/67 *Beus* [1968] ECR 83, at 95).

54 The Commission observes, as regards the second plea in law, that the applicant's arguments call into question the allegedly discriminatory nature of the provisions in question. In that regard, the Commission contends that the procedures adopted for calculating the flat-rate loss of income merely maintain the previous arrangement, which had proved itself over a long period. That arrangement is based on a distinction between sectors in which market prices closely follow

intervention prices and those in which intervention measures have a much more indirect effect and significantly affect only the incomes which farmers derive directly from specific intervention measures.

55 More particularly, in the rice and cereals sector, the sugar beet sector and the milk and milk products sector, and also in the beef sector, the measures of support provided for by the various common organisations of the market have a direct effect on the prices of all production, so that agrimonetary fluctuations in intervention prices are reflected in prices throughout the sector. In other sectors, on the other hand, intervention measures have a more limited effect.

56 The applicant has adduced no evidence that the procedures for calculating the flat-rate loss of income are discriminatory. It has therefore not established that the Community legislature had clearly exceeded the bounds of its discretion or, *a fortiori*, that it had misused its powers.

57 Furthermore, the fourth recital of the preamble to Regulation No 2799/98 sets out reasons which are wholly consistent with the requirements of case-law.

58 As regards the third plea in law, the Commission observes that in Community agricultural law there is no single concept of direct aid. The fact that the aid referred to in Article 5 of Regulation No 2799/98 is, for other purposes and in the context of legislation relating to other matters, associated with aid which is not referred to by that provision does not mean that that aid is of the same kind or that it must be subject to the same agrimonetary rules.

59 The Commission also notes that Italy produces not just Mediterranean crops but also the products referred to in Article 5 of Regulation No 2799/98, while products not referred to in Article 5 are produced by all Member States. There is therefore no discrimination between Member States.

60 The Commission maintains that the choice of the criteria which allow a distinction to be drawn between the aid referred to in Article 5 of Regulation No 2799/98 and the aid to which it does not refer resulted from complex evaluations and discretionary choices for which the Community institutions are responsible in connection with the common agricultural policy. The applicant has not shown that the institutions acted in a manifestly unjustified or illogical manner or that they misused their powers.

Findings of the Court

61 It is appropriate to examine these two pleas in law together and to reject them forthwith in so far as they allege infringement of Article 39 of the Treaty and misuse of powers, since the applicant has not put forward any argument in support of those complaints.

62 As regards the remaining complaints raised in these pleas, the Community legislature enjoys a wide discretion in determining the measures of support to be taken in favour of each agricultural production and the judicial review undertaken in that regard by the Community judicature must therefore remain within the bounds referred to in paragraph 36 above.

63 As regards the statement of reasons for a measure whereby the Community legislature makes such choices, it should be borne in mind that, while it is true

that it must show clearly and unequivocally the reasoning of the Community authority which adopted the contested measure so as to enable the persons concerned to ascertain the reasons for it and to enable the Court to exercise judicial review, the authority is not required to go into every relevant point of fact and law. More particularly, it is not possible to require that the statement of reasons should set out the various facts, often very numerous and complex, on the basis of which a regulation was adopted, or *a fortiori* that it should provide a more or less complete evaluation of those facts (see, in particular, Case C-372/96 *Pontillo* [1998] ECR I-5091, paragraph 36).

64 Furthermore, the question whether a statement of reasons satisfies the requirements must be assessed with reference not only to the wording of the impugned measure but also to its context and to the whole body of legal rules governing the matter in question. Consequently, if the contested measure clearly discloses the essential objective pursued by the institution, it would be excessive to require a specific statement of reasons for each of the technical choices made by the institution (Case C-122/94 *Commission* v *Council* [1996] ECR I-881, paragraph 29).

65 On that point, the Community legislature considered in the fourth recital of the preamble to Regulation No 2799/98 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.

66 The Community legislature also considered, in the fifth recital of the preamble to that regulation, that specific rules adapted to the type of aid were required to offset the effects of major currency revaluations on the level of certain direct aids in national currency.

67 It follows from those reasons that the Community legislature considered it necessary to establish different arrangements for compensation according to the impact which currency revaluations might have on farm incomes.

68 The applicant has not demonstrated that that assessment, for which the Commission provided a thorough and cogent explanation, is manifestly erroneous.

69 As the Advocate General observes at point 61 of his Opinion, the impugned provisions constitute the prolongation of the previous legislative framework. 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 methods of calculating the flat-rate loss in income provided for in Article 4 of Regulation No 2799/98 and the annex thereto already appeared in Articles 4 and 6 of Regulation No 724/97 and also in the annex thereto.

70 The applicant has not shown that by providing for differences between certain categories of products in the compensatory aid system the Community legislature manifestly ignored the bounds of its discretion. Nor has it adduced evidence that the context of the introduction of the euro was capable of having any influence whatsoever on the merits of the distinctions previously drawn.

71 It follows that the second and third pleas in law must also be rejected.

Commission Regulations Nos 2808/98 and 2813/98

72 The applicant maintains that the illegality of Regulations Nos 2808/98 and 2813/98 follows from that of Regulations Nos 2799/98 and 2800/98.

73 Since all the pleas in law put forward in respect of Regulations Nos 2799/98 and 2800/98 have been rejected, the application must also be dismissed in so far as it is directed against Regulations Nos 2808/98 and 2813/98, without there being any need to adjudicate on its admissibility in their regard.

74 In the light of all the foregoing considerations, the application must be dismissed in its entirely.

Costs

75 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for. Since the Council and the Commission asked for costs and the Italian Republic has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Fifth Chamber)

hereby:

1. **Dismisses the application;**

2. **Orders the Italian Republic to pay the costs.**

La Pergola Wathelet Edward

Jann Sevón

Delivered in open court in Luxembourg on 5 July 2001.

R. Grass A. La Pergola

Registrar President of the Fifth Chamber