JUDGMENT OF THE COURT
1 MARCH 1977 [1]

Goulven Collic
v Fonds d'orientation et de regularisation des marchés agricoles
(preliminary ruling requested by the Tribunal Administratif of Rennes)

Case 84/76

Agriculture — Common organization of the markets — Milk — Withholding from market — Premium — Beef and veal — Production — Adult bovine animals — Annual inspection — Number — Calculation — Method
(Regulation No 2195/69 of the Commission, Article 2)

Article 2 of Regulation (EEC) No 2195/69 requires the competent authority, in calculating the number of adult bovine units on a farm, to take such animals into account in proportion to the time for which they have been there. In making that calculation the competent authority must exclude the period during which the cattle were under the age of 4 months.

In Case 84/76

REFERENCE to the Court under Article 177 of the EEC Treaty by the Tribunal Administratif of Rennes, for a preliminary ruling in the proceedings pending before that court between

GOULVEN COLLIC, farmer,

and

FONDS D'ORIENTATION ET DE RÉGULARISATION DES MARCHÉS AGRICOLES (Fund for the Guidance and Stabilization of Agricultural Markets),

on the interpretation of Regulations (EEC) Nos 1975/69 of the Council of 6 October 1969 and 2195/69 of the Commission of 4 November 1969, on Community premiums for withholding milk and milk products from the market,

1 — Language of the Case: French.

THE COURT

composed of: H. Kutscher, President, A.M. Donner and P. Pescatore, Presidents of Chambers, J. Mertens de Wilmars, M. Sørensen, Lord Mackenzie Stuart, A. O'Keeffe, G. Bosco and A. Touffaite, Judges,

Advocate-General: F. Capotorti
Registrar: A. Van Houtte

gives the following

JUDGMENT

Facts

The judgment referring the matter to the Court and the written observations submitted under Article 20 of the Protocol on the Statute of the Court of Justice of the EEC may be summarized as follows:

I — Facts and procedure

The main action arises out of the decision of the competent French authority to recover from the plaintiff in the main action a part of the Community premium paid to him for withholding milk from the market on the ground that he had failed to comply with the requirements laid down.

1. The system of premiums for withholding milk from the market

Article 2 of Regulation (EEC) No 805/68 of the Council of 27 June 1968 on the common organization of the market in beef and veal provides that Community measures to improve stock breeding may be adopted in accordance with the procedure laid down in Article 43 (2) of the EEC Treaty.

In implementation of that provision the Council adopted Regulation (EEC) No 1975/69 of 6 October 1969 introducing a system of premiums for slaughtering cows and for withholding milk and milk products from the market (OJ English Special Edition, Second Series, III, p. 38) having regard to the fact that the situation in milk and milk products in the Community was one of large and increasing surpluses (first recital).

According to the sixth recital to that regulation, it is possible to attain the desired objective, which is to reduce the amount of milk offered for intervention, by granting premiums to farmers who, although not abandoning production, discontinue fully and finally the marketing of milk and milk products.

The seventh recital states that the amount of the premium for withholding milk and milk products from the market should be fixed at a level at which it can be regarded as compensation for the loss of income from the marketing of the products.

Article 5 of the regulation provides that farmers having more than ten cows may,

on application, receive a premium for witholding milk and milk products from the market under the conditions laid down in the regulation. Under Article 6 the granting of the premium is to be subject, in particular, to a written undertaking from the recipient to discontinue fully and finally the sale of milk and milk products. Under Article 7 the amount of the premium is to be 200 u.a. per dairy cow on the farm at the date of making the application. Under Article 8 the amount of the premium is to be paid in five instalments and an amount of 100 u.a. per dairy cow is to be paid in the three months following submission of the written undertaking mentioned in Article 6.

For the purposes of the present case, the most important requirement is that contained in the second subparagraph of Article 8 (2), which provides that:

'The balance shall be paid annually in four equal instalments if the recipient has satisfied the competent authority that the *number of adult bovine units he holds is not less than the number of dairy cows held at the date of making the application* and that the undertaking mentioned in Article 6 has been fulfilled.'

The detailed rules for the implementation of that regulation are to be laid down in accordance with the so-called Management Committee Procedure (Article 9).

In implementation of that regulation the Commission adopted Regulation (EEC) No 2195/69, establishing methods of giving effect to the system of premiums for slaughtering cows and for withholding milk and milk products from the market.

Under the terms of the seventh recital in the preamble to that regulation, it must be ensured that the first instalment of the premium for withholding milk and milk products from the market is *reimbursed* if the condition concerning the number of adult bovine units is not satisfied.

Article 1 (2) of that regulation defines an 'adult bovine unit' in the following terms:

'An animal of the domestic bovine species aged at least 12 months. Cows not yet having calved and intended for milk production shall be excluded.'

Under Article 2 (1) the following rates of conversion are to be applied in calculating the number of adult bovine units:

(a) cattle of less than 4 months: 0 adult bovine units;
(b) cattle of more than 4 months but less than 12 months: 0.4 adult bovine units.

Under Article 15, the balance of the premium is to be paid annually in four equal instalments and at the latest in the 15th, 27th, 39th and 51st months following the date of signature of the undertaking.

Under Article 16

'If the beneficiary has not shown to the satisfaction of the competent authority that he keeps the number of adult bovine units [required] ..., Member States shall take steps to recover the amount' (of 100 u.a. per dairy cow paid in the three months following submission of the written undertaking).

2. The facts of the case

Mr Collic is a farmer in the Department of Finistère, France. On 9 December 1969 he signed a statement with a view to the award of a premium for withholding milk and milk products from the market, in which he stated that on 31 August 1969 there were 14 dairy cows on his farm.

As a result of signing the statement Mr Collic received from the competent

French authority, the Fonds d'orientation et de régularisation des marchés agricoles (Fund for the Guidance and Stabilization of Agricultural Markets) (hereinafter referred to as 'the FORMA') a premium of FF 11 663.79 for withholding milk from the market. This sum was paid on the basis of orders for payment dated 14 May 1970, 25 August 1971 and 18 August 1972.

The inspections carried out on 5 June 1971 and 3 May 1972 by the Direction Départementale de l'Agriculture (departmental directorate of agriculture) for the Department of Finistère had revealed the presence on Mr Collic's farm of 14 adult bovine units and as a result the orders for payment dated 25 August 1971 and 18 August 1972 were issued.

The third inspection, carried out on 13 September 1973, revealed the presence on Mr Collic's farm of only 4.4 adult bovine units. A further inspection made on 12 February 1974 showed him to have only 6.4 adult bovine units.

On 29 April 1975 the FORMA issued an enforceable statement of account in order to obtain reimbursement of the total premium of FF 11 663.79.

In an application lodged at the Registry of the Tribunal Administratif, Rennes, on 16 June 1975, Mr Collic challenged the enforceable statement of account and applied for its annulment on the ground that in counting the adult bovine units present on his farm, calves reared by him and slaughtered after the age of 4 months should be included at a conversion rate of 0.4. In fact, it appears that, in addition to the adult bovine units noted by the FORMA, Mr Collic had on his farm three groups of 50 calves for slaughter aged from 15 days to 4 1/2 months. He accepts that when the inspections were carried out he did not satisfy the condition laid down by the Community regulation but considers that the date to be taken into consideration is that on which the calves were marketed.

The FORMA maintains that even taking into consideration those calves which were less than 4 months old when the inspections were carried out but which were marketed at the age of 4 1/2 months, they would have to be counted in proportion to the length of time which they had spent on the farm. Those calves which were over the age of 4 months were only on Mr Collic's farm for roughly two weeks. Therefore, according to the formula

$$\frac{150 \times 0.5}{12} \times 0.4 = 2.5,$$

his calves for slaughter only counted as 2.5 adult bovine units.

Mr Collic considers that such a method of counting his calves for slaughter is contrary to the Community regulation.

3. Procedure

In a judgment given on 7 July 1976, amended by a decision of 6 August 1976, the Tribunal Administratif, Rennes, asked the Court to give a preliminary ruling on three questions.

The judgment referring the matter to the Court was received on 25 August 1976. In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC, written observations were submitted on behalf of the Fonds d'orientation et de régularisation des marchés agricoles and the Commission of the European Communities.

II — Summary of the written observations

First question

'Does Article 2 of Regulation (EEC) No 2195/69 permit cattle on a farm to be taken into account in proportion to the time for which they have been there?'

The FORMA explains that, in accordance with a circular from the French Ministry for Agriculture dated 15 January 1971

and addressed to all the prefects, the inspections were carried out on the spot before the payment of each of the last four instalments of the premium.

As regards the inspection to verify the number of adult bovine units kept by the recipient of the premium, the circular in question stipulates that: 'Cattle kept on a farm for a period of less than one year shall count in their category in proportion to the length of time for which they are there'.

This rule for calculation *pro rata temporis* is in accordance with the letter and spirit of Article 2 (1) of Regulation No 2195/69. The justification for the rates of conversion laid down by that regulation and for the distinction which is made between animals on the basis of their age appears to be a consideration of the use made of the areas of the farm land available for the provision of fodder.

To say that calves of less than 4 months count as 0 adult bovine units amounts to excluding from the premium farmers who rear calves for slaughter which are sold at the age of about 4 months, on the ground that such animals are not reared on the pastures of their farm.

That explanation is confirmed by the fact that animals aged between 4 and 12 months, as they generally receive a mixed feed, are taken into account at a rate of 0.4 adult bovine units.

Article 2 of Regulation No 2195/69 thus assumes that the *pro rata temporis* rule will be applied in the case of animals which are present on the farm before they reach the ages of 4 and 12 months and are kept on it for a given period between the ages of 4 and 12 months. Any other application of the rule would have the effect of distorting the meaning of the regulations adopted.

The *Commission* points out that the purpose of the system of premiums for withholding milk from the market is to rationalize the milk market and to turn cattle stocks over to the production of meat. The premiums themselves may be regarded, first, as compensation for the loss of the income received from marketing milk and milk products and, secondly, as an aid towards the investment required for the conversion of stocks.

It appears that the aim of Article 2 of Regulation No 2195/69 is to ensure that the person receiving the premium uses the acreage available for the provision of fodder for the production of beef and veal. For that reason paragraph (1) (a) of that article provides that calves for slaughter are excluded from the field of application of equivalents, in adult bovine units, in the replacement of dairy cows.

In fact, for a period of up to 4 months, such animals are reared almost exclusively either on milk from the mother, in the case of sucking-calves, or, in other cases, on substitute milk.

As regards cattle of more than 4 months but less than 12 months it is clear that the method by which they are taken into account must not conflict with the desired aim, which is the retention of stock intended for the production of meat during the whole of the currency of the undertaking to withhold milk from the market. The person receiving the subsidy must be able to show each time an instalment of the premium is paid that he has a sufficient number of adult bovine units on his farm. As a result, therefore, in the 15th, 27th, 39th, and 51st months at the latest following the date on which the person receiving the premium signed the undertaking to withhold milk and milk products from the market, the competent national authority must be able to confirm the existence of a number of adult bovine units which is at least equal to the number of dairy cows kept when the application for the premium was made.

The rule that cattle kept on the farm for a period of less than one year count in

their category in proportion to the length of time for which they are there does not appear to be contrary to the spirit of the regulations, whose intention is to encourage a real and long-term change to the production of meat. On the contrary, it must enable Article 2 of Regulation No 2195/69 to be put into full effect during the periods in which the cattle were actually present on the farm.

Second question

'In order to establish the rate of conversion must account be taken of the age of the cattle at the date of the inspection or at the date on which they are marketed if the person in receipt of the premium produces evidence that his cattle were marketed after reaching the age of 4 months?'

The *FORMA* maintains that in order to apply the conversion rate provided for in Article 2 (1) of Regulation (EEC) No 2195/69, the ages of the cattle must be taken into account at the date on which they are marketed, as prescribed by the French Minister for Agriculture, rather than at the date of the inspection.

To give consideration only to the age of the animals at the date on which the inspection is carried out would amount to not checking whether the obligation imposed on him by the second subparagraph of Article 8 (2) of Regulation No 1975/69 is actually carried out during the full period of five years referred to in the regulation. The replies proposed for the first and second questions render the third question purposeless.

The *Commission* emphasizes that since the premium is an aid towards restructuring of herds and not towards the marketing of the livestock it could not in fact be granted to a producer who only kept the necessary animals on his farm from time to time.

The *pro rata temporis* rule helps to guarantee that the producer receiving the premium carries out the terms of his undertaking. For that reason the rates of conversion laid down in Article 2 (1) of Regulations No 2195/69 must be applied at the date on which the inspections are carried out, within the limits set out in the proposed reply to the first question.

Third question

'Does the interpretation of that regulation, in particular Article 2, thereof, require further details which are necessary for the solution of the case?'

Neither the FORMA nor the Commission considers that any further details are necessary.

III — Oral procedure

The parties to the main action and the Commission of the European Communities submitted their oral observations at the hearing on 26 January 1977.

On behalf of the farmer, Mr Olive pointed out that it appears difficult to reconcile the amount of the subsidy with the double purpose of providing compensation for withholding milk from the market and aid towards the redeployment of stock which, the Commission maintains, is at the basis of the Community regulation. Mr Collic, who had 14 dairy cows, received in all a subsidy of FF 11 668, which might perhaps have compensated for the loss of income caused by withholding milk from the market but could not at the same time help him to recoup the capital expenditure required for the redeployment of his stock.

The *pro rata temporis* rule is not contained in the Community regulation, which merely provides for a rate of conversion.

In the applicant's view the so-called *pro rata temporis* rule is not in accordance

with the spirit of the Community regulation. When the inspection was carried out on 13 September 1973 he had on his farm 4 cows for fattening, one young bull calf aged 4 months and three groups of 51 calves for slaughter aged between 2 weeks and 4 months. In Mr Collic's opinion it was perfectly proper to take those calves into account. They were not calves to be slaughtered before the age of 4 months, but calves to be marketed and slaughtered after the age of 4 months and therefore capable of supplying the market with meat. Furthermore, he was in a position to prove this. Since the actual aim of the Community regulation was the production of meat in place of milk, it seemed that the presence on his farm of calves to be slaughtered after the age of 4 months represented a compliance with his obligation.

In order to justify the application of the *pro rata temporis* rule, the FORMA and the Commission claim that it is based on a consideration of the use made of the area of farmland available for the provision of fodder. However, the Community regulations in question do not refer to this consideration either directly or indirectly.

Mr Collic made a great effort at redeployment by rearing three groups of calves for marketing at the age of 4 1/2 months, and he is now informed that in all those calves only count for 2.5 adult bovine units. The rule applied by the FORMA and approved by the Commission is very severe and does not in fact correspond to the spirit of the Community regulation.

As regards the second question, the only fair solution would be to take into account the date on which the cattle were marketed, which would make it clear that they had then provided the market with meat.

The main purpose of the third question is to ask the Court how to apply the sanctions in view of the combined application of Article 8 (2) of Regulation No 1975/69 and of Article 15 of Regulation No 2195/69.

On behalf of the FORMA, Mr Villey maintains that, in the light of the surplus milk production, the real purpose of the premium was to encourage farmers to reorganize and to substitute the production of meat for that of milk. It was not intended fully to provide for the possible requirements of farmers with regard to the investment necessary in order to achieve that object. It was simply intended to encourage and help them to do so.

The real question is how the inspections are to be carried out and how the rates of conversion fixed by the Commission regulation of 4 November 1969 are to be applied.

The Community regulations provided that for a period of five years the person in receipt of the premium had to have on his farm a certain minimum number of cattle. They provided a method of calculation for determining whether that minimum number was in fact kept.

The regulations did not state under what conditions the rates in question were to be applied. They did not stipulate the extent to which cattle which were not present throughout the whole period of five years or throughout the whole of one year were to be taken into account. However, since the second half of the premium for each dairy cow is payable in four annual instalments after verification of the fact that the minimum number of cattle has remained on the farm, a logical interpretation of the regulation implies that the period of five years during which the undertaking must be fulfilled is divided up and that a check is made for successive periods of one year of the conditions in which it is fulfilled. Since cattle of less than 4 months old are not to be taken into account, there can be no question of including the length of time

for which they are on the farm before they reach that age. Since animals aged between 4 and 12 months must be taken into account at the rate of 0.4 adult bovine units, logic requires that there should be a check as to whether the undertaking given has been fulfilled and that account should be taken of the period during which the cattle have been on the farm. On the other hand, to exclude entirely cattle kept for one part or another of the period of one year and no longer on the farm at the date of the inspection carried out would amount to penalizing farmers who market the meat, although such marketing is in fact the object of the rules in question.

As regards the second question, since the *pro rata temporis* rule is in accordance with the spirit of the regulations, the rates of conversion must be applied when the inspection is carried out — the only time when such an application is possible — but in determining the animals to be taken into consideration, account must be taken of those which were more than 4 months old at the date of marketing.

On behalf of the Commission, Mr Delmoly replied to the questions raised by the Court regarding the practices followed in the various Member States. In the Netherlands and, as a general rule, in Germany, the competent authorities applied the same *pro rata temporis* rule as in France. In Belgium and Luxembourg it appears that the authorities merely applied the rates of conversion at the date of the inspections. In those countries, in which the conversion rates were merely applied at the date of the inspections, farmers only reared calves for slaughter up to the age of less than 4 months and, consequently, all animals not intended for that purpose, that is, those reared for slaughter as adults, necessarily represented adult bovine units.

The difference which may be noticed between the practices followed in the various Member States is a result of the particular features of the system of rearing and marketing in those countries. In France, for example, certain categories of calves (for example, Lyons and St Etienne calves) are not slaughtered at the age of approximately 3 months as for veal but later, between the ages of three and twelve months and these are also categories whose rearing must be encouraged. Where a farm reared calves in rotation, that is, where they left the farm at different dates between the ages of 4 and 12 months, a calf slaughtered at the age of, for example, 8 months, would, according to the applicant have to be counted at the same rate as a calf slaughtered at 4 1/2 months. In the light of the aim of the rules, which was to bring about a certain stability in the market and in the livestock situation but having regard also to the special features of production and marketing, such a result would have been unfortunate.

Only France, Germany and the Netherlands applied the *pro rata temporis* system. However, it must be added that those States account for approximately 85% of the premiums which have been paid, that is to say, the vast majority of the premiums paid for withholding milk from the market.

What the Commission regulation in question laid down was a minimal rule which was easy to apply but which, although applied in certain countries, could not settle every case. Member States were able to refine that rule in order to reconcile the aim of the Community rules — the lasting reorganization to encourage meat production, bringing with it a certain stability in the livestock situation — with the particular features of the production and marketing systems which also needed protection in certain areas of animal husbandry.

The Commission explains that where a Member State simply applied the rate of conversion fixed by the Community

regulation, it had to take account of the age of the cattle at the date of the inspection, since that is the most simple method. However, where the *pro rata temporis* rule is applied the question is settled in a different way since, by definition, and in its essence, that rule takes account of the age at which the cattle leave the farms and, in certain cases, enables the different production patterns in the various countries to be taken into consideration. Mr Delmoly adds that, in the view of the Commission, Article 2 of its regulations lays down an invariable rule. As regards inspections and calculations national administrations are in a better position to adapt the Community rule to the special features of production and marketing in their own States.

The Advocate-General delivered his opinion at the hearing on 16 February 1977.

Law

1 By judgment of 7 July 1976, received at the Court on 25 August 1976, the Tribunal Administratif, Rennes, put to the Court three questions concerning the interpretation of Regulation (EEC) No 2195/69 of the Commission of 4 November 1969 establishing methods of giving effect to the system of premiums for withholding milk and milk products from the market (JO 1969, L 278, p. 6).

2 Those questions arose within the context of a dispute between a farmer and the competent national authority over the question whether the latter's decision to recover a part of the premium which it had paid to the farmer was lawful.

3 The second subparagraph of Article 8 (2) of Regulation (EEC) No 1975/69 of the Council of 6 October 1969 (OJ, English Special Edition, Second Series, III, p. 38), which introduces that system provides that the premium shall only be paid if, in addition to satisfying other conditions, the person receiving the premium has on his farm a number of adult bovine units not less than the number of dairy cows held at the date of making the application for the premium.

4 The file shows that the competent national authority adopted the decision in question as a result of two inspections showing that the farmer did not keep on his farm the number of adult bovine units required by the said second subparagraph of Article 8 (2) of Regulation No 1975/69, as defined in Articles 1 and 2 of Regulation No 2195/69.

5 The first question asks the Court to rule whether Article 2 of Regulation No 2195/69 permits the cattle on the farm to be taken into account in proportion to the time for which they have been there.

6 The second question asks whether, in order to establish the rate of conversion, account must be taken of the age of the cattle at the date of the inspection or at the date on which they are marketed, if the person in receipt of the premium produces evidence that his cattle are marketed after reaching the age of four months.

7 The third question asks whether the interpretation of the said regulation, in particular of Article 2 thereof, requires other details which are necessary for the solution of the case.

8 In replying to all those questions, account must be taken of the common organization of the markets in the beef and veal sector, and, in particular, of the measures to improve stock breeding adopted by the Council in its Regulation No 1975/69.

9 Article 2 of Regulation (EEC) No 805/68 of the Council of 27 June 1968 on the common organization of the market in beef and veal (OJ, English Special Edition, 1968, I, p. 187) provides that Community measures to improve stock breeding may be adopted in accordance with the procedure laid down in Article 43 (2) of the EEC Treaty.

10 In order to reduce the amount of milk offered for intervention and, at the same time, to increase the quantity of beef and veal produced in the Community, Regulation No 1975/69 adopted in 1969 provided for a premium for withholding milk and milk products from the market, to be granted to those farmers who, subject to certain conditions, discontinue fully and finally the sale of those products.

11 The purpose of that premium was to encourage a trend apparent among certain farmers to substitute the production of beef and veal for the marketing of milk and milk products.

12 For that reason, as stated above, the second subparagraph of Article 8 (2) of that regulation provides that the grant of the premium shall involve an

obligation to keep on the farm a number of adult bovine units not less than the number of dairy cows held at the date of making the application for the premium.

13 It merges from the tenor of the regulation as a whole that the purpose of the premium was not only to encourage the person in receipt thereof to use his entire milk production for rearing cattle intended for the production of meat, but also to encourage him to ensure that his farm is efficiently exploited.

14 Article 1 of the Commission's implementing Regulation No 2195/69, defines the term 'adult bovine unit' as 'an animal of the domestic bovine species aged at least 12 months', excluding cows not yet having calved and intended for milk production.

15 Under Article 2 of that regulation, for calculating the number of adult bovine units the following rates of conversion are to be applied:

'(a) bovine animals of less than 4 months: 0 adult bovine units;

(b) bovine animals of more than 4 months but less than 12 months: 0.4 adult bovine units.'

16 As one-half of the premium was to be paid on signature of the undertaking to cease selling milk products, Article 15 provides for the balance to be paid annually in four equal instalments and, at the latest, in the 15th, 27th, 39th and 51st months following the date of that signature.

17 Under the terms of Article 16 of the regulation in question, if the person in receipt of the subsidy has not shown to the satisfaction of the competent authority that he keeps the requisite number of adult bovine units, the Member States shall take steps to recover the first half of the subsidy.

18 The effect of the provision in Article 2 that calves of less than 4 months shall be counted as '0 adult bovine units' is to prevent farmers who rear calves for slaughter which are sold at about the age of 4 months from receiving the premium.

19 A consideration of the objectives of the provisions in question shows that the important factor in the application of the regulation is not the occasional presence on the farm of the required number of adult bovine units but the presence of that number throughout the whole of the reference year.

20 It is for the competent authority to ensure that, on average, the number of adult bovine units required by Regulation No 1975/69 of the Council has been kept throughout the whole of the reference period.

21 The use of the expression 'to the satisfaction of the competent authority' in Article 16 of Regulation No 2195/69 allows the authority to exercise its discretion as regards the evidence which must be provided by the person to whom the premium is paid.

22 It follows that when the annual inspections are made the competent authority must verify not only the number of animals actually kept on the farm at that date but also every factor which is capable of providing evidence of the existence of the animals marketed by the farmer and the length of time for which they were on the farm.

23 Notwithstanding the elliptical terms of Article 2 of the Commission regulation, it appears that the competent authority must exclude from the calculation of the number of adult bovine units the period during which the calves for slaughter were under the age of 4 months.

24 The reply to be given to the national court must therefore be that Article 2 of Regulation (EEC) No 2195/69 requires the competent authority, in calculating the number of adult bovine units on a farm, to take such animals into account in proportion to the time for which they have been there.

25 In making that calculation the competent authority must exclude the period during which the cattle were under the age of 4 months.

Costs

26 The costs incurred by the Commission of the European Communities, which has submitted observations to the Court, are not recoverable.

27 As these proceedings are, in so far as the parties to the main action are concerned, in the nature of a step in the action pending before the Tribunal Administratif, Rennes, the decision on costs is a matter for that court.

On those grounds,

THE COURT,

in answer to the question referred to it by the Tribunal Administratif, Rennes, by judgment of 7 July 1976, hereby rules.

1. **Article 2 of Regulation (EEC) No 2195/69 requires the competent authority, in calculating the number of adult bovine units on a farm, to take such animals into account in proportion to the time for which they have been there;**

2. **In making that calculation the competent authority must exclude the period during which the cattle were under the age of 4 months.**

Kutscher Donner Pescatore Mertens de Wilmars Sørensen

Mackenzie Stuart O'Keeffe Bosco Touffait

Delivered in open court in Luxembourg on 1 March 1977.

A. Van Houtte
Registrar

H. Kutscher
President

OPINION OF MR ADVOCATE-GENERAL CAPOTORTI DELIVERED ON 16 FEBRUARY 1977 [1]

Mr President,
Members of the Court,

1. The questions of interpretation which the Court is called upon to resolve in Case 84/76 *(Collic)* are concerned with an aspect of the system of premiums for withholding milk and milk products from the market, which was introduced by Regulation (EEC) No 1975/69 of the Council of 6 October 1969, the detailed rules for implementation of which are

1 — Translated from the Italian.