OPINION OF ADVOCATE GENERAL JACOBS
delivered on 10 February 1994 *

My Lords,

1. In this case, a wine producer claims the exclusive right to use the name *Château de Calce* to describe a wine made in cellars situated in the château, using grapes cultivated on part of its original estate.

The background to the case

2. The case arises from an event which took place more than a century ago. On 14 August 1863, the owners of the estate known as the 'Château de Calce', at Calce-par-Rivesaltes in the Eastern Pyrenees region of France, divided the estate and sold the resulting parts to 47 local villagers. The estate consisted of a château, containing the original medieval manor-house of the estate, together with its surrounding vineyards. Those vineyards are still owned and cultivated by the successors in title to the villagers, and the wine they produce benefits from the *appellation d'origine contrôlée* 'Côtes du Roussillon'. The producers have formed a cooperative association, the Société Coopérative de Calce, and that association (hereafter 'the cooperative') is the second defendant in the main proceedings. It appears that their wine is made on the premises of the cooperative, using grapes harvested from the vineyards of the individual members.

3. A central part of the original château building is now owned by Claire Lafforgue, who also owns three hectares of vineyards originally belonging to the estate. Mrs Lafforgue and her brother François Baux, who are the plaintiffs in the main proceedings, produce a wine from those vineyards (also designated 'Côtes du Roussillon'), using for that purpose wine-making equipment situated in the château. It appears that parts of the château have also been acquired by the company SCI Château de Calce, which was set up for that purpose by the second defendant. That company is the first defendant in the main proceedings.

4. On 28 July 1986, the plaintiffs registered the name 'Château Lafforgue' with the appropriate national authorities. It appears that, under French law, such a registration gives the proprietor of the name an exclusive right to use the name to describe wine pro-

* Original language: English.

duced by the proprietor. The plaintiffs claim that the authorities had previously refused their request to register the name 'Château de Calce', and had instead offered them a choice between 'Château Lafforgue' and 'Château de Calce-Lafforgue'. However, in December 1986 the cooperative, for its part, succeeded in registering the name 'Château de Calce'. The plaintiffs then brought proceedings before the Tribunal de Grande Instance de Perpignan, claiming the sole right to use the name 'Château de Calce'. That action succeeded, but the judgment of the Tribunal de Grande Instance was reversed on appeal by the Cour d'Appel de Montpellier. Whereas the Tribunal de Grande Instance had held that Mrs Lafforgue's ownership of certain central parts of the historic château gave her the exclusive right to the name 'Château de Calce', the Cour d'Appel decided that such a right was enjoyed equally by all successors in title to the original purchasers of the partitioned estate, and hence also by the cooperative. Since the cooperative had been the first to register the name, it was entitled to use it without the addition of a suffix. The plaintiffs, on the other hand, had not been refused the right to use the name but only been required to combine it with the suffix 'Lafforgue'. The plaintiffs appealed against that judgment to the Cour de Cassation.

5. The Cour de Cassation considers that the case raises issues of Community law, and has accordingly referred two questions for a preliminary ruling. The questions are stated to relate to Article 5(1) of Commission Regulation (EEC) No 997/81 [1] and to 'any other applicable provision', [2] and are in the following terms:

'1) Is the provision applicable where wine-growers produce wine bearing a registered designation of origin on lands forming part of the estate of a château which has been partitioned, and the wine-growers have formed a cooperative society on whose premises the product of the harvest is made into wine?

2) Is the answer any different if the cooperative includes among its members wine-growers whose lands did not form part of the original estate of the château?'

6. In what follows, I shall first set out the relevant Community provisions and then turn to consider what answers should be given to the questions referred.

1 — Commission Regulation (EEC) No 997/81 of 26 March 1981 laying down detailed rules for the description and presentation of wines and grape musts (OJ 1981 L 106, p. 1). It is to be noted that the relevant provisions have been repealed and reenacted by Commission Regulation (EEC) No 3201/90 of 16 October 1990 (OJ 1990 L 309, p. 1).

2 — It appears from the order for reference that the Cour de Cassation refers, in particular, to Council Regulation (EEC) No 355/79 of 5 February 1979 laying down general rules for the description and presentation of wines and grape musts (OJ 1979 L 54, p. 99). The relevant provisions have been repealed and reenacted by Council Regulation (EEC) No 2392/89 of 24 July 1989 (OJ 1989 L 232, p. 13), amended by Council Regulation (EEC) No 3886/89 of 11 December 1989 (OJ 1989 L 378, p. 12).

The Community provisions

7. The basic provisions of Community law governing the common organization of the market in wine were first codified by Council Regulation (EEC) No 337/79. [3] Article 54 of the regulation provides for the adoption by the Council of general rules on the description and presentation of the products covered by the regulation. Pursuant to that provision, the Council adopted Regulation (EEC) No 355/79. [4] Title I (Articles 1 to 38) of that regulation lays down rules for the description of wines, and is divided into two chapters. Chapter I (Articles 2 to 26) is concerned with the description of products originating within the Community, whereas Chapter II (Articles 27 to 38) is concerned with products originating in third countries. Section B (Articles 12 to 21) of Chapter I applies to wines which are designated as 'quality wines produced in specified regions ("psr")', that is to say which satisfy the requirements of Council Regulation (EEC) No 338/79. [5] Such wines include, in particular, French wines designated *appellation d'origine contrôlée* (such as the wines at issue in the present case). [6]

8. Article 12(1) of Regulation No 355/79 specifies the information which must be included on the labelling of a quality wine psr. Article 12(2) provides that:

'In the case of quality wines psr, the description on the labelling may be supplemented by the following information:

...

(m) the name of the vineyard or group of vineyards where the quality wine psr in question was made, where this is likely to enhance the reputation of the wine and in so far as such information is governed by implementing rules or, failing this, by provisions of the producer Member States;

...

(q) a statement that the wines were bottled:

— either at the vineyard where the grapes used were harvested and made into wine,

3 — Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine (OJ 1979 L 54, p. 1). A subsequent codification is contained in Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine (OJ 1987 L 84, p. 1).

4 — Cited above in note 2.

5 — Council Regulation (EEC) No 338/79 of 5 February 1979 laying down special provisions relating to quality wines produced in specified regions (OJ 1979 L 54, p. 48).

6 — See Article 16(2)(b) of Regulation No 338/79, cited in note 5.

— or by a group of vineyards,

— or in an undertaking situated in the specified region indicated or in the immediate vicinity of that region, with which the vineyards where the grapes used were harvested are connected as members of a group of vineyards, and which made wine from the said grapes;

Similar provisions apply to wines classified as 'table wines' rather than as 'quality wines psr', but designated by a geographical ascription: see Article 2(3)(f), corresponding to Article 12(2)(q), and Article 2(3)(g), corresponding to Article 12(2)(m).

9. Articles 2(3)(g) and 12(2)(m) of Regulation No 355/79 are implemented by Article 5(1) of Regulation No 997/81, [8] which provides that:

'When describing a vineyard in which wine concerned was obtained in accordance with Articles 2(3)(g) and 12(2)(m) of Regulation (EEC) No 355/79, the terms:

— "château", "domaine",

[and similar expressions in other Community languages]

...

may be used only if the wine concerned was made exclusively from grapes harvested from [vines] [9] belonging to that vineyard and the wine-making process was carried out there.'

7 — Those provisions correspond to Article 11(2)(m) and (q) of Regulation No 2392/89. Article 11(2)(q) was amended by Article 1(2) of Regulation No 3886/89 (cited above in note 2); in the amended version, the second indent is in the following terms: 'in a group of vineyards, provided that the wine in question was produced by the vineyards belonging to that group or by the group itself, from grapes or must produced in those vineyards'.

8 — Cited above in note 1. See now Article 6(1) of Regulation No 3201/90.

9 — The word 'wines' used in the English version of the regulation is evidently a mistake; the error is not repeated in Article 6(1) of Regulation No 3201/90.

Article 5(2)(a) and (b) permit Member States to impose further restrictions on the use of the terms mentioned in paragraph 1. It is also to be noted that Article 5(3) provides that:

'The name of the vineyard or group of vineyards referred to in Article 28(2)(l) of Regulation (EEC) No 355/79 shall appear in terms similar to those set out in paragraph 1.'

Thus Article 5(3) implements Article 28(2)(l) of Regulation No 355/79. The latter provision permits information on the labelling of wines imported from third countries to include:

'the name of the vineyard or group of vineyards where the wine in question was made, where this is likely to enhance the reputation of the wine and in so far as such information is governed by provisions laid down by the third country of origin.'

It can be seen therefore that the wording of Article 28(2)(l) is closely similar to that of Articles 2(3)(g) and 12(2)(m).

10. Articles 2(3)(f) and 12(2)(q) of Regulation No 355/79 are implemented by Article 17(1) of Regulation No 997/81, which states that:

'The terms referred to in Articles 2(3)(f) and 12(2)(q) ... shall be:

...

(b) for French wines: "mis en bouteille à la propriété", "mise d'origine", "mis en bouteille par les producteurs réunis" and, when the conditions of Article 5 hereof are satisfied, "mis en bouteille au château" or "mis en bouteille au domaine";

... .'

11. Finally, it is to be noted that Article 43(1) of Regulation No 355/79 provides that:

'The description and presentation of the products ... must not be liable to cause con-

fusion as to the nature, origin and composition of the product; this shall apply to the information referred to in Articles 2, 12, 27, 28 and 29.' [10]

12. At the time the main proceedings were commenced, the applicable provisions were those of Regulation No 355/79 and Regulation No 997/81 rather than those reenacted by Regulation No 2392/89 and Regulation No 3201/90 respectively, although it is the latter provisions which are currently in force. Since the remedies requested in the main proceedings relate in part to the period when the earlier regulations were in force, I shall continue to refer to those regulations. In any event, as we have seen, the relevant provisions are in substance the same in the two sets of regulations.

The submissions of the parties

13. Written observations were submitted by the parties to the main proceedings as well as by the Commission and the French and Italian Governments. With the exception of the Italian Government, all were present in addition for oral argument at the hearing.

14. The plaintiffs do not dispute that, under certain circumstances, a cooperative of wine-growers can be permitted to use a name containing the term 'château' to describe the wine produced by the cooperative. In their view, however, it can be permitted to do so only if two conditions are fulfilled. In the first place, the château to which the name refers must not be the property of another wine-grower, who in that case will alone have the right to use the name in question. In the second place, there must be a sufficient degree of unity in the wine-growing techniques used by the members of cooperative, in particular as regards the harvesting and vinification of the grapes, and the storage and bottling of the wine. Furthermore, if some of the members of the cooperative cultivate land not forming part of the estate of the château, the wine bearing the name of the château must be produced separately, and must be made exclusively from grapes grown on lands belonging to the estate.

15. For the defendants, on the other hand, a name containing the term 'château' can be used to describe a wine wherever the wine is produced from a single wine-growing holding. In that respect, the decisive criterion is whether the holding in question is under the control of a single economic entity. Since, in the defendants' view, a cooperative of wine producers must be regarded as such an entity, the defendants would answer the first question referred with an unqualified 'yes'. Thus the term 'château' can be used to designate a wine produced by such a cooperative. In relation to the second question, the circumstance that some of the members of the cooperative may cultivate land which does not belong to the original estate of the château does not, in the defendants' view,

10 — The corresponding provision of Regulation No 2392/89, namely Article 40(1), is in similar but more elaborate terms.

modify the answer to be given to the first question, provided that the vinification of the grapes from the lands of the château is kept separate from that of the grapes cultivated on other lands.

16. In the view of the Commission, it is essentially for national law to decide which wine producer has the right to use the name 'Château de Calce'. The provisions of Article 5(1) of Regulation No 977/81 must of course be respected; those provisions require however only that the wine be made exclusively from grapes belonging to the vineyard and that the wine-making process is carried out there. The fact that the land in question consists of a number of separate holdings, each of which is cultivated by a different member of a cooperative, does not preclude the application of Article 5(1). Despite its wording, that provision can apply to a group of vineyards as well as to a single vineyard, as long as the vinification process is carried out in common. In the Commission's view, moreover, the application of Article 5(1) is not affected by the circumstance that some members of the cooperative cultivate land which does not belong to the original château estate.

17. The French Government submits that Community law does not prevent either a cooperative of wine producers or its individual members from using the term 'château'. The French Government points out that, under French law, an agricultural cooperative has a legal personality distinct from that of its members; a cooperative of wine-growers is accordingly more than simply a group of different producers. On the other hand, a cooperative cannot properly be regarded as a 'third party' in relation to its members, since it exists only to continue and facilitate the activities of the latter. In the view of the French Government, it follows that the term 'château' may be used to designate the wine of a producer who is a member of a cooperative, even where the vinification is carried out by the cooperative, as long as the wine produced from the producer's harvest is kept separate from the other wine made by the cooperative. The same holds true, in the view of the French Government, where a number of such producers collectively make use of the wine-making facilities of the cooperative.

18. Finally, the Italian Government submits that Article 5(1) precludes the use of the term 'château' to designate wine made from grapes cultivated on land which no longer forms part of the estate of a château. In the view of the Italian Government, that will be the case where the original estate has been divided into parts which have then been sold.

Consideration of the questions referred

19. In answering the questions referred, it is clearly important to distinguish matters which pertain exclusively to national law from those which raise issues of Community law.

20. One of the central issues raised in the main proceedings is whether the proprietors of the building known as the 'Château de Calce' have the exclusive right to use that name to describe, *inter alia*, wine produced from land originally belonging to the estate of the château. It seems to me, however, that the provisions of Regulation No 997/81 can have no direct bearing on that question. In particular, it is to be noted that Article 5(1) of the regulation makes no distinction between the use of the terms 'château' and 'domaine' (or indeed between 'Schloß', 'Domäne' and 'Burg'). Actual ownership of the château building is therefore presumably not relevant, for the purposes of that provision, although it may of course be relevant from the point of view of national law; and it appears that the cooperative was in fact advised to acquire parts of the château in order to protect its right to use the name under French law. In contrast, there appears to be no requirement even under French law for the wine described as 'Château de Calce' to be made on the actual premises of the château.

21. At least as regards wine produced by a single vineyard, Article 5(1) imposes essentially two requirements: the wine must be made exclusively from grapes harvested from the vineyard concerned, and the wine-making process must be carried out at the vineyard. As I have already observed, the requirements apply equally to the use of the expressions 'château' and 'domaine'. Additional criteria for the use of those expressions may of course be laid down by the producer Member State, pursuant to Article 5(2)(a) of the regulation. Thus it might well be thought desirable, from the point of view of the consumer, to require that wine bearing the name of a particular château be produced from land having some connection with the original château building. Indeed, it might be argued that it is necessary to impose some such requirement in order to protect the consumer against false or misleading information, pursuant to Article 43(1) of Regulation No 355/79: see *Weigand* v *Schutzverband Deutscher Wein*. [11] However, in the present case it is clear that both the plaintiffs and the defendants can lay claim to a connection with the château building, even if their ownership of parts of the building is left out of account. For both the plaintiffs and the second defendant produce wine from lands which originally formed part of the estate attached to the château. Whether, on the other hand, their wines are on that account more appropriately described as coming from the 'Château de Calce' or from the 'Domaine de Calce' is a matter which only a French court is equipped to answer, just as only a French court is in a position to determine the precise limits of the estate in question. Such questions will be matters of national law, and of the application of national law to the facts.

22. It is clear, moreover, that no question arises on the interpretation of the Trade Marks Directive. [12] The plaintiffs refer in their written observations to Article 4(4)(c)(i) of the Directive, which provides that the registration of a trade mark may be

11 — Case 56/80 [1981] ECR 583, paragraph 19.

12 — First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1).

refused, or revoked, to the extent that its use is prohibited by virtue of an earlier right to a name. However, the implementation of that provision is optional for the Member States. It would in any event be for the national court to determine what rights in the name 'Château de Calce' subsisted prior to an application to register the name as a trade mark.

23. Accordingly, the only questions which need be considered here are whether, for the purposes of Article 5(1) of Regulation No 997/81, the harvesting of the grapes and the making of the wine can both be said to take place at the same 'vineyard'. It must therefore be considered whether the grapes used to produce the wine described as 'Château de Calce' can be said to be harvested from a 'vineyard', for the purposes of Article 5(1), and whether the wine-making process can also be said to take place at that 'vineyard'. It will be recalled that, although the cooperative is responsible for the vinification of the grapes, the grapes themselves are harvested from land belonging to individual members of the cooperative. It seems to me that a cooperative of wine producers which does not produce wine from lands of its own must, for the purposes of the regulation, be regarded as a group of holdings rather than as a single holding. It would follow that the wine described as 'Château de Calce' is produced, not from grapes harvested from a single vineyard, but rather from the harvest of a group of vineyards, each of which is owned and cultivated by an individual member of the cooperative. [13]

24. The question therefore arises whether a group of vineyards can be regarded as satisfying the conditions laid down by Article 5(1) for the use of the terms 'château' or 'domaine'. It is to be noted that, in contrast to several other provisions of the regulation, Article 5(1) does not refer expressly to groups of vineyards. Article 5(2)(c), on the other hand, provides that producer Member States may:

'reserve the use of other similar terms for wines made entirely from grapes harvested from vines belonging to a wine-growing holding *or a group of wine-growing holdings* thus described, provided that the making process was carried out in that vineyard *or by that group*.' [my emphasis]

Similarly, as we have seen, Article 5(3) applies to the 'name of the vineyard *or group of vineyards* referred to in Article 28(2)(l) of Regulation (EEC) No 355/79', and provides that such a name 'shall appear in terms similar to those set out in paragraph 1'. It will be

13 — In Article 5 of Regulation No 997/81 'wine-growing holding' and 'vineyard' are used as synonyms, each of which translates the French expression 'exploitation viticole'.

recalled, furthermore, that both Article 5(1) and Article 5(2) implement Article 12(2)(m) of Regulation No 355/79, which refers to 'the name of the vineyard *or group of vineyards* where the quality wine psr in question was made', [14] and that Article 28(2)(l) contains a parallel provision applying to wines imported from third countries. [15]

25. In view of those provisions, Article 5(1) of Regulation No 997/81 can be interpreted as applying, at least in some circumstances, to names which describe a group of vineyards, and not merely to a name describing a single vineyard. In giving such an extensive interpretation of Article 5(1), however, it is important to bear in mind the objectives of the provision.

26. Those objectives are set out in the preamble to the regulation. Thus according to its sixth recital:

'... certain terms and details have a commercial value or can contribute to the prestige of the product offered for sale without being absolutely necessary; ... the use of such terms should be permitted provided that they are justified and are not misleading as regards the quality of the product; ... however, in view of the specific nature of certain of these terms, Member States should be empowered to limit the options offered by Community legislation to the parties concerned.'

That recital appears to provide reasons for both Article 2(3) and Article 5(1) of the regulation. Article 2(3) contains a list of terms (e.g. 'Grand cru classé', 'Cru bourgeois') which may be used on the labelling of a quality wine psr; it implements Article 12(2)(i) of Regulation No 355/79, which permits the use of 'additional details of a traditional kind, provided that they are used in the manner prescribed by the laws of the producer Member State and are entered in a list to be drawn up'.

27. It is clear that the use of terms, such as those mentioned in Articles 2(3) and 5(1) of Regulation No 997/81, which can contribute to the value or prestige of the product presupposes a degree of uniformity and consistency in the quality of the product offered for sale. Thus, as the sixth recital makes clear, the terms must not be misleading as regards the quality of the product; a requirement which is equally clear from Article 43(1) of Regulation No 355/79. [16] Where a wine is described as coming from a vineyard bearing the name of a particular 'château' or 'domaine', there is a clear implication that

14 — See paragraph 8 above.

15 — See paragraph 9.

16 — Cited above in paragraph 11.

the process of production has been under the control of an individual producer who is concerned to maintain the quality and reputation of his product. Member States are accordingly permitted to continue to allow the use of such traditional expressions, provided that the implication is not a misleading one.

28. That interpretation of the objective pursued by Article 5(1) of Regulation No 977/81 is confirmed by the 27th recital of the regulation, [17] which states that:

'... the information that a wine has been bottled at the wine-growing holding where the grapes from which it was made were harvested and turned into wine, or under equivalent conditions, expresses the idea that all the stages of production have been carried out under the supervision and responsibility of the same natural or legal person, thereby enhancing the prestige of the wine thus obtained in the estimation of some purchasers; ... the terms which may be used to convey such information should therefore be specified.' [18]

29. It is true that the 27th recital relates to terms which concern the bottling of the wine, rather than to terms descriptive only of the holding on which the wine was produced. It therefore provides reasons for Article 17(1) of the regulation rather than Article 5(1). It is clear, on the other hand, that those two provisions are closely related, and address essentially the same problem. Thus the information that a wine is bottled as described in Article 17(1) implies that not only the bottling but also the earlier stages of production have been carried out under the control of a single directing mind. It follows that a producer should not be permitted to use an expression such as 'mis en bouteille au château' unless that unified control can be guaranteed throughout the wine-making process. By the terms of Article 17(1), the expression 'mis en bouteille au château' may be used where the requirements of Article 5 are satisfied in addition to the requirements relating to bottling; it appears to follow that Article 5 also must be interpreted in the light of the objective explained in the 27th recital.

30. As regards the stages of production antecedent to bottling, therefore, the use of the terms 'château' and 'domaine' will be subject to similar conditions to those which apply in the case of the expressions mentioned in Article 17(1). Indeed, the expressions 'château' and 'domaine' (and hence 'mis en bouteille au château' and 'mis en bouteille au domaine') may be subject to more stringent conditions than the other expressions mentioned in Article 17(1)(b), namely 'mis en

17 — This recital appears as the 26th recital in the English version.

18 — It is to be noted that the term 'wine-growing holding' in that recital once more translates the French term 'exploitation viticole', an expression which as we have seen is translated in Article 5 by both 'vineyard' and 'wine-growing holding': see note 13 above. However, 'vineyard' and 'holding' are not always used as synonyms in the regulation: see the expression 'vineyard belonging to the holding' in Article 4(3). In that case 'vineyard' translates the French 'vignes', in the expression '(des) vignes faisant partie de l'exploitation viticole'.

bouteille à la propriété', 'mise d'origine' and 'mis en bouteille par les producteurs réunis'. There is one respect, in particular, in which the conditions for the application of Article 5(1) appear to be more stringent. As we have seen, Articles 5(1) and 17(1) of Regulation No 997/81 implement, respectively, Article 12(2)(m) and (q) of Regulation No 355/79. [19] Article 12(2)(m) is stated to apply to two kinds of name: those which describe a 'vineyard', and those which describe a 'group of vineyards' where the wine in question was made. Article 12(2)(q), on the other hand, is stated to apply to three kinds of case: namely, wines bottled 'at the vineyard'; wines bottled 'by a group of vineyards'; and wines bottled in an undertaking connected with the group of vineyards from which the grapes are harvested. [20]

31. As I have already suggested, Article 5(1) of Regulation No 997/81 can be interpreted as permitting the use of the terms 'château' and 'domaine' not only in the case of a wine produced by a single vineyard, but also in the case of a wine produced by a group of vineyards. We have seen that such an interpretation is supported both by the terms of Article 12(2)(m) of Regulation No 355/79, which Article 5(1) implements, and by the wording of Article 5(2) and (3). [21] In contrast, however, it would seem that Article 5(1) cannot apply to cases where the wine is made, not by the group of vineyards from which the grapes are harvested, but by a separate undertaking with which the vineyards are connected. For neither Article 12(2)(m) of Regulation No 355/79 nor the other provisions of Article 5 of Regulation No 997/81 envisage such a possibility. It seems to me therefore that, where wine is made from grapes harvested from a group of vineyards, a minimum condition for the application of Article 5(1) is that the wine be made on the premises of the group, or at least under conditions which provide equivalent guarantees. Such guarantees would be present where the wine-making process took place under the actual direction and strict, continuous supervision of the cooperative and on its sole responsibility: see *Goldenes Rheinhessen* v *Land Rheinland-Pfalz*. [22]

32. I conclude that, for the term 'château' to be used to describe wine produced by a group of vineyards, three conditions must be satisfied. First, the grapes from which the wine is made must be harvested exclusively from vineyards belonging to the designated estate. Secondly, the wine-making process must take place at the premises of the group or under equivalent conditions. Thirdly, the wine-making process must be carried out under the control of a single directing authority, for instance the board of administration of a cooperative. If those conditions are fulfilled, it seems to me that the term 'château' can be used even where the lands of the estate have been partitioned and now

19 — See paragraphs 8 to 10, above.

20 — It will be recalled that in the last case the undertaking must also be situated 'in the specified region indicated or in the immediate vicinity' and must have made the wine from the grapes in question.

21 — See paragraph 24 above.

22 — Case 311/87 [1988] ECR 6295, paragraph 15.

belong to the individual members of the group.

33. I would add that the stages of the wine-making process which must be under the control of a single directing authority are all those from the stage of the pressing of the grapes. It might of course be desirable, from the point of view of quality control, if earlier stages of production were also under the supervision of the authority concerned. However, the preamble to Council Regulation (EEC) No 3886/89, [23] which amended, in the light of the judgment in *Goldenes Rheinhessen*, the provision currently in force corresponding to Article 12(2)(q) of Regulation No 355/79, [24] refers only to the condition that 'the various stages of production have been carried out, *at least as from the grape-pressing stage*, under the control of the producer' (my emphasis). It appears therefore that the 'stages of production' referred to in the 27th recital of Regulation No 997/81 should not be interpreted as including earlier stages such as the selection, cultivation and harvesting of the grapes. [25] Nor, in my view, can such a requirement be derived as a matter of Community law from any other source, in particular from the sixth recital of the regulation, [26] or from the wording of Article 12(2)(m) of Regulation No 355/79. [27] Thus it is for national law to impose any requirements which might be thought necessary relating to those earlier stages.

34. By its second question, the Cour de Cassation asks whether the application of Article 5(1) is affected by the circumstance that the producers concerned are members of a cooperative which also includes among its members wine-growers who cultivate vineyards not forming part of the château estate.

35. In such a case there is clearly a danger that wine made from grapes harvested from the estate of the château might be mixed with wine made from other grapes. If that were to happen, the consumer of the wine would evidently be misled, since the designation of the wine as (for instance) 'Château de Calce' would no longer provide a guarantee that the wine was made from grapes harvested from lands of the château estate. That danger will however be averted if reliable procedures are put in place to ensure the separate vinification of grapes harvested from the lands of the château. If that additional condition is satisfied, I can see no objection to the name 'Château de Calce' continuing to be used to describe wine made from the appropriate grapes. For, as long as that wine is made separately from any other wines made at the same premises, the use of the name will not lead to any confusion as regards the nature, origin and composition of the product; thus the requirements of Article 43(1) of Regulation No 355/79 will be fulfilled.

23 — Cited above in note 2.

24 — Namely Article 11(2)(q) of Regulation No 2392/89: see note 7 above.

25 — And similarly in the 28th recital of Regulation No 3201/90. The question whether the condition extends to the stages of the harvesting and cultivation of the grapes is discussed by Advocate General Mischo in paragraph 19 of his Opinion in *Goldenes Rheinhessen* (cited above in note 22).

26 — Cited in paragraph 26 above.

27 — Cited in paragraph 8 above.

Conclusion

36. I am accordingly of the opinion that the questions referred by the Cour de Cassation should be answered as follows:

(1) Article 5(1) of Commission Regulation (EEC) No 997/81 (or, as the case may be, Article 6(1) of Commission Regulation (EEC) No 3201/90) must be interpreted as meaning that, where a number of wine-growers harvest grapes from lands which originally formed part of the estate of a château, which was subsequently partitioned, and the wine-growers have formed a cooperative society for the purposes of making the grapes into wine, the term 'château' may be used in the description on the wine provided that:

(a) the wine is made exclusively from grapes harvested from lands which originally formed part of the estate of the château,

(b) the wine-making process takes place at the premises of the cooperative or under equivalent conditions, and

(c) all stages of production, at least as from the grape-pressing stage, are under the supervision and control of a single responsible authority.

(2) However, if wine is also made on the same premises from grapes harvested from land which did not form part of the château estate, procedures must be put in place to ensure that those grapes are made into wine separately from grapes harvested from the estate, and that the wine described as coming from the château is not mixed with other wine.