JUDGMENT OF THE COURT
8 June 1989 *

In Case 167/88

REFERENCE to the Court under Article 177 of the EEC Treaty by the Conseil d'État (State Council) of the French Republic for a preliminary ruling in the proceedings pending before that court between

Association générale des producteurs de blé et autres céréales (AGPB) (General association of wheat and other cereal producers), Paris,

and

Office national interprofessionnel des céréales (ONIC) (National inter-trade office for cereals)

on the validity of Community agricultural regulations,

THE COURT

composed of: O. Due, President, T. F. O'Higgins and F. Grévisse (Presidents of Chambers), G. F. Mancini, F. A. Schockweiler, J. C. Moitinho de Almeida and M. Diez de Velasco, Judges,

Advocate General: G. Tesauro
Registrar: D. Louterman, Principal Administrator

after considering the observations submitted on behalf of:

AGPB, the plaintiff in the main proceedings, by Nicole Coutrelis, avocat,

* Language of the case: French.

the Government of the French Republic, by Régis de Gouttes, acting as Agent, during the written procedure,

the Council of the European Communities, by J. Delmoly, acting as Agent,

the Commission of the European Communities, by P. Hetsch, acting as Agent,

having regard to the Report for the Hearing and further to the hearing on 21 February 1989,

after hearing the Opinion of the Advocate General delivered at the sitting on 11 May 1989,

gives the following

Judgment

1 By decision dated 22 April 1988 which was received at the Court on 13 June 1988, the Conseil d'État of the French Republic referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty a question on the validity of Community agricultural regulations.

2 That question arose on an application by the Association générale des producteurs de blé et autres céréales, Paris (hereinafter referred to as 'the Association'), to the Conseil d'État for the annulment of the decision of the Office interprofessionnel des céréales (hereinafter referred to as 'ONIC') applying, under Community agricultural regulations, a percentage reduction of 88.23% to quantities of common wheat offered to the intervention agency by French producers.

3 Article 8(1) of Regulation No 2727/75 of the Council of 29 October 1975 on the common organization of the market in cereals (Official Journal 1975, L 281,

p. 1), as amended by Regulation No 1143/76 of 17 May 1976 (Official Journal 1976, L 130, p. 1), provides for the adoption of particular intervention measures for cereals in respect of which there is, in certain regions of the Community, a risk of large quantities being offered to the intervention agencies; Article 8(2) permits special intervention measures to be adopted with a view to supporting the development of the market in common wheat of breadmaking quality in relation to the Community reference price.

4 Article 1 of Council Regulation No 1146/76 of 17 May 1976 on particular and special intervention measures for cereals (Official Journal 1976, L 130, p. 9), adopted pursuant to Article 8(3) of Regulation No 2727/75, provides that particular measures may be taken if, in one or more regions of the Community, market prices show a fall or a weakness which, in view of the size of the harvest or of regional stocks and their geographical location, could oblige intervention agencies to buy in large quantities.

5 Acting under Article 8(4) of Regulation No 2727/75, the Commission adopted Regulation No 1629/77 of 20 July 1977 laying down detailed rules of application for special intervention measures to support the development of the market in common wheat of breadmaking quality (Official Journal 1977, L 181, p. 26).

6 Article 2 of that Regulation defines the criteria in the light of which special measures may be adopted, namely:

the situation and the prospects regarding the availabilities of cereals on the Community market,

the import prospects for cereals and the export prospects for common wheat, and

the trend in the price quotations of common wheat of bread-making quality at the most representative centres in the Community.

7 According to Article 3 of the regulation, the special intervention measures are to specify, in particular, the quality and quantity of the cereals involved, the geographical scope of the measure and any duration thereof.

8 On the basis of those provisions the Commission adopted Regulation No 400/86 of 21 February 1986 on the application of a special intervention measure for common wheat of breadmaking quality (Official Journal 1986, L 45, p. 22). According to Article 1 of that regulation, national intervention agencies were to purchase at the intervention price for the 1985/86 marketing year, plus 5%, the quantities of common wheat of breadmaking quality presented to them up to a limit fixed for each Member State, *inter alia* 1 000 000 tonnes for the Federal Republic of Germany and 200 000 tonnes for France. According to Article 3(1) of the Regulation, if the total quantity offered exceeded the quantity provided for the Member States concerned were forthwith to fix the percentage by which offers made were to be reduced.

9 Since the total amount presented by French producers under the special intervention measure provided for in Regulation No 400/86 was 1 699 740 tonnes, ONIC was obliged under Article 3 of Regulation No 400/86 to fix a percentage of 88.23% by which all offers made were to be reduced. However, the amounts offered to the intervention agency of the Federal Republic of Germany led that body to fix the percentage of reduction at 2.55%.

10 The Association brought an action before the Conseil d'État against ONIC's decision on the ground that the special intervention measure provided for in Regulation No 400/86 infringed the prohibition of discrimination laid down in Articles 7 and 40(3) of the EEC Treaty and that if the measure was considered to be in conformity with the provisions concerning the common organization of the market in cereals, the latter should also be declared void on the basis of the same prohibition. In any event, Regulation No 400/86 did not contain an adequate statement of the reasons on which it was based.

11 Since it considered that that dispute raised a serious issue, the Conseil d'État decided to stay proceedings until the Court had ruled on the following question:

'Do Commission Regulation No 400/86 of 21 February 1986, Council Regulation No 2727/75 of 29 October 1975, Council Regulation No 1146/76 of 17 May 1976 and Commission Regulation No 1629/77 of 20 July 1977 infringe the provisions of Articles 7, 40(3) and 190 of the EEC Treaty?'

12 Reference is made to the Report for the Hearing for a fuller account of the legal background and the facts of the main proceedings, the course of the procedure and the written observations submitted to the Court, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

13 It appears from the statement of the reasons on which the order for reference is based that the national court is asking the Court of Justice, essentially, to rule on the validity of Regulation No 400/86 and, in so far as is necessary to resolve that issue, the validity of Article 8(2) of Regulation No 2727/75, as amended, Article 2 of Regulation No 1146/76 and Article 3 of Regulation No 1629/77, on which, according to the Association, Regulation No 400/86 is based.

14 In order to provide a proper reply to the national court, a reply must first be given to the preliminary question whether the Commission in fact had the power under Regulation No 2727/75, as amended, to adopt special intervention measures with different effects in each of the Member States concerned.

The Commission's powers

15 As the Court has consistently held (see, in particular, the judgment of 11 March 1987 in Joined Cases 279, 280, 285 and 286/84 *Rau and Others* v *Commission* [1987] ECR 1069), the Commission's implementing powers under the common agricultural policy must be given a wide interpretation. Since only the Commission is in a position to keep track of agricultural market trends and to act quickly when necessary, the Council may confer on it wide powers of discretion and action in that sphere and when it does so the limits of those powers must be determined in the light of the essential general aims of the common market organization.

16 It does not appear that the adoption of special intervention measures of varying effect in the light of possible different trends in prices on the market for common wheat of breadmaking quality in different Member States is incompatible with the objective of such measures, namely to support those prices in relation to the single Community reference price.

17 Although, as is stated in the third recital in the preamble of Regulation No 1143/76, Regulation No 2727/75, as amended, abolished regionalization of prices for common wheat and replaced it with a single price intervention system for the Community, it does not appear from the general structure of those provisions that the Commission was no longer entitled to adopt special intervention measures with different effects for each Member State.

18 On the contrary, it appears from the eighth recital in the preamble to Regulation No 1143/76 that the Council envisaged the adoption both of particular and special intervention measures on the basis that particular circumstances in certain regions of the Community might temporarily cause market prices to follow a trend other than that in the rest of the Community.

19 Under those circumstances, Article 8 of Regulation No 2727/75, as amended, cannot be regarded as having sought to preclude the adoption by the Commission of special measures with different effects for each Member State even though such a possibility was expressly provided for only in regard to particular measures.

20 Moreover, if that were the case, the Commission would be obliged to adopt special measures applicable to the entire Community and would thus be prevented from tailoring the price support measures to the specific, real needs of the national markets concerned, although the principle of proportionality requires that measures adopted by Community institutions should not go beyond the limits of what is appropriate and necessary to achieve the desired objective.

21 It follows that the Commission had the power both to provide in Article 3 of Regulation No 1629/77 for the adoption of special measures with varying effects in different geographical areas and, specifically, to adopt, in Regulation No

400/86, the special measure providing for different quantitative limits which is being contested before the national court.

Infringement of the prohibition of discrimination

22 It must be considered whether Regulation No 2727/75, as amended, infringes the prohibition of discrimination inasmuch as it permits the Commission to adopt special measures which vary from one region to another.

23 The Court has already held (see, in particular, the judgment of 17 June 1987 in Joined Cases 424 and 425/85 *Frico* v *Voedselvoorzienings In- en Verkoopbureau* [1987] ECR 2755), that as a specific enunciation of the general principle of equality the prohibition of discrimination expressed in the second subparagraph of Article 40(3) of the Treaty does not prevent like situations from being treated differently where such treatment is objectively justified.

24 The Court has held in particular (see the judgment of 11 July 1974 in Case 11/74 *Union des minotiers de la Champagne* v *French Government* [1974] ECR 877) that the system of regionalized intervention prices varying from one production area to another which prevailed before the introduction of the single Community price system was not discriminatory inasmuch as it was determined on the basis of objective criteria proper to the common rules of the market.

25 It cannot be said that the Council did not apply an objective criterion when it authorized the Commission, under Regulation No 2727/75, as amended, to adopt special intervention measures differing from region to region when there is a danger that national market prices for common wheat of breadmaking quality may no longer follow a normal trend in relation to the level of the Community reference price.

26 It follows that Regulation No 2727/75, as amended, does not entail any discrimination between producers or consumers within the meaning of the second subparagraph of Article 40(3) of the Treaty or any discrimination on grounds of nationality within the meaning of Article 7 of the Treaty.

27 Furthermore, since Article 2 of Council Regulation No 1146/76 is not concerned with the possibility of giving special intervention measures different effects in each Member State, its validity cannot be called in question.

28 It must also be determined whether the Commission has infringed the prohibition of discrimination by fixing, in Regulation No 400/86, significantly different quotas for France and the Federal Republic of Germany in regard to the quantities of common wheat of breadmaking quality to be bought by the intervention agencies.

29 It should be pointed out that in the evaluation of a complex economic situation the Commission enjoys a wide measure of discretion, and in reviewing the legality of the exercise of such discretion the Court must confine itself to examining whether the measure whose validity is challenged contains *inter alia* a manifest error of assessment (see the judgment of 25 January 1979 in Case 98/78 *Racke* v *Hauptzollamt Mainz* [1979] ECR 69).

30 It is common ground that the Commission adopted the contested measure on the basis essentially of the differences in national market prices and sales of common wheat of breadmaking quality observed in particular between the French and German markets during the months preceding the adoption of the measure. During the proceedings it was not contested that the possibility of disposing of common wheat of breadmaking quality on the French market was greater than that observed on the German market.

31 Furthermore, notwithstanding the small difference in prices between the German and French markets it does not appear that the Commission clearly overestimated that difference in dividing the quantities to be purchased by intervention agencies among the Member States. It should also be pointed out that the Commission stated, without being contradicted, that in January 1986 the French authorities indicated their intention to dispose of part of the stock of common wheat of breadmaking quality held by the intervention agency, with the result that the Commission, without committing a manifest error, could consider that the need to support prices was greater on the German market than on the French market.

32 Finally, the drop in the French market price and the increase in the German market price following the adoption of the contested measure and the considerable difference between the percentage of common wheat of bread-making quality bought in by the intervention agencies on the French and German markets respectively are not in themselves sufficient to justify the conclusion that the contested measure is invalid, having regard to the complex nature of the economic forecasts which the measure involved.

33 Under those circumstances, the different treatment resulting from the regulations at issue does not constitute discrimination between producers within the Community within the meaning of the second subparagraph of Article 40(3) of the Treaty or discrimination on grounds of nationality within the meaning of Article 7 of the Treaty.

Statement of the reasons on which Regulation No 400/86 is based

34 According to the settled case-law of the Court, confirmed, in particular, by the judgment of 22 January 1986 in Case 250/84 *Eridania* v *Cassa Conguaglio Zucchero* [1986] ECR 117, the statement of reasons required by Article 190 of the Treaty must be appropriate to the nature of the measure in question. It must show clearly and unequivocally the reasoning of the Community authority which adopted the contested measure so as to inform the persons concerned of the justification for the measure adopted and enable the Court to exercise its powers of review. However, the statement of reasons is not required to specify the often very numerous and complex matters of fact or law dealt with in regulations, provided that the regulations fall within the general scheme of the body of measures of which they form part.

35 Regulation No 400/86, which is part of the body of rules governing the common organization of the market in cereals, meets the Court's requirements as to the statement of the reasons on which it is based because it sets out clearly the Commission's assessment of the state of the market and the essential criteria of assessment — market price levels and disposal possibilities — of which account was taken in fixing the different quantitative limits for purchases.

36 For all of those reasons, the reply to the question referred to the Court should be that consideration of that question has disclosed no factor of such a kind as to affect the validity of the regulations referred to by the national court.

Costs

37 The costs incurred by the French Government, the Council and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, in so far as the parties to the main proceedings are concerned, in the nature of a step in the action pending before the national court, 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 Conseil d'État of the French Republic by decision of 22 April 1988, hereby rules:

Consideration of the question raised by the Conseil d'État of the French Republic has disclosed no factor of such a kind as to affect the validity of the regulations referred to by the national court.

Due O'Higgins Grévisse

Mancini Schockweiler Moitinho de Almeida Diez de Velasco

Delivered in open court in Luxembourg on 8 June 1989.

J.-G. Giraud
Registrar

O. Due
President