JUDGMENT OF THE COURT (First Chamber)
17 October 2002 *

In Case C-208/01,

REFERENCE to the Court under Article 234 EC by the Tribunal Superior de Justicia de Castilla-La Mancha (Spain) for a preliminary ruling in the proceedings pending before that court between

Isabel Parras Medina,

Adelina Parras Medina

and

Consejería de Agricultura y Medio Ambiente de la Junta de Comunidades de Castilla-La Mancha

on the interpretation of Article 12 of Commission Regulation (EC) No 1294/96 of 4 July 1996 laying down detailed rules for the application of Council

* Language of the case: Spanish.

Regulation (EEC) No 822/87 as regards harvest, production and stock declarations relating to wine-sector products (OJ 1996 L 166, p. 14),

THE COURT (First Chamber),

composed of: M. Wathelet, President of the Chamber, P. Jann (Rapporteur) and A. Rosas, Judges,

Advocate General: C. Stix-Hackl,
Registrar: R. Grass,

after considering the written observations submitted on behalf of:

— Isabel and Adelina Parras Medina, by M.C. Diez Valero, representative *ad litem*,

— the Commission of the European Communities, by S. Pardo Quintillán, acting as Agent,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 28 May 2002,

gives the following

Judgment

1 By order of 3 April 2001, received at the Court on 18 May 2001, the Tribunal Superior de Justicia de Castilla-La Mancha (High Court of Justice, Castilla-La Mancha) referred to the Court for a preliminary ruling under Article 234 EC two questions on the interpretation of Article 12 of Commission Regulation (EC) No 1294/96 of 4 July 1996 laying down detailed rules for the application of Council Regulation (EEC) No 822/87 as regards harvest, production and stock declarations relating to wine-sector products (OJ 1996 L 166, p. 14).

2 Those questions were raised in proceedings between Isabel and Adelina Parras Medina and the Consejería de Agricultura y Medio Ambiente de la Junta de Comunidades de Castilla-La Mancha (Regional Ministry of Agriculture and the Environment, Castilla-La Mancha, 'the Consejería de Agricultura') concerning the latter's decision to reduce the amounts to be paid to the wine-making undertaking Herederos de Damián Parras CB because the time-limit prescribed for submission of the stock declaration required by Regulation No 1294/96 had been exceeded.

Relevant provisions

3 Article 3 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine (OJ 1987 L 84, p. 1) provides that, each year, producers of must and wine are to declare the quantities produced from the last harvest. In addition, each year, producers of must and wine, and merchants other than retailers, are to declare the stocks they hold at the end of the wine year.

4 Article 6(1) of Regulation No 1294/96 requires the persons concerned, in accordance with the provisions of Regulation No 822/87, to declare each year to the competent authorities 'the stocks of concentrated grape must, rectified concentrated grape must and wine held by them on 31 August'.

5 Article 11(2) of Regulation No 1294/96 provides that that declaration must be made 'not later than 7 September in respect of quantities held on 31 August'.

6 Article 12 of Regulation No 1294/96 defines the legal consequences attaching to failure to observe the time-limit for submission of that declaration. It provides:

'Persons required to submit harvest, production, stock, treatment or marketing declarations who do not submit such declarations by the dates specified in Article 11 shall not benefit, except in cases of *force majeure*, from the measures provided for in Articles 32, 38, 41, 45 and 46 of Regulation (EEC) No 822/87 for the wine year in question or the following wine year.

However, exceeding the time-limits specified in the first subparagraph by not more than five working days shall entail only a 15% reduction in the amounts payable for the wine year in question. The reduction in the amounts payable shall be 30% if the said time limits are exceeded by not more than 10 working days.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

7 The national court stated in its order that it was raising its questions on the assumption that the account of the facts given by the plaintiffs in the main proceedings was correct. Those facts are the following.

8 The Herederos de Damián Parras CB is a family wine-producing business, in the form of a community of property (comunidad de bienes), of which Antonio Moreno López, the husband of Adelina Parras Medina, was the director.

9 Mr Moreno López died suddenly on 28 July 1997.

10 The stock declaration which, in accordance with Article 11(2) of Regulation No 1294/96, ought to have been made no later than 7 September 1997, was submitted on 17 September 1997.

11 By decision of 27 October 1977, on the basis of Article 12 of Regulation No 1294/96, the Delegación Provincial de Ciudad Real (Provincial Office, Ciudad Real) ordered a reduction of 30% in the amounts which Herederos de Damián Parras CB could claim for the wine year in question.

12 By decision of 17 December 1997, the Consejería de Agricultura rejected the administrative action brought by Isabel and Adelina Parras Medina.

13 Isabel and Adelina Parras Medina appealed to the Tribunal Superior de Justicia of Castilla-La Mancha which, being uncertain of the interpretation to be given to the applicable provisions of Community law, decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1) Must the concept of *force majeure* used in Article 12 of Regulation (EC) No 1294/96 of 4 July 1996 be interpreted broadly so as to include unforeseen and compelling circumstances, as described in this order, of such a kind that negligence in the observance of the time-limit in question is not regarded as such?

(2) Are the consequences provided for in Article 12 in the nature of a sanction or penalty and, if that is the case, does that fact bear out the need for a broad interpretation of the abovementioned concept of *force majeure* (this question being asked only if it is considered necessary in order to answer the first question)?'

The first question

14 By this question the national court seeks to ascertain what features must be present in order for a situation to be regarded as a case of *force majeure* within the meaning of Article 12 of Regulation No 1294/96, with the result that the operator concerned would be relieved of the legal consequences which that article attaches to non-performance of the duty to make declarations imposed by that regulation.

15 Referring in particular to Case C-12/92 *Huygen and Others* [1993] ECR I-6381, paragraph 30, and Case C-263/97 *First City Trading* [1998] ECR I-5537, paragraph 41, the appellants in the main proceedings and the Commission observe that it is settled case-law that the concept of *force majeure* does not have the same scope in the various spheres of application of Community law and that its meaning must be determined by reference to the legal context in which it is to operate.

16 Isabel and Adelina Parras Medina maintain that, having regard to the legal context of the case in the main proceedings, the concept of *force majeure* must be understood more flexibly, and as equivalent to unforeseen and inevitable circumstances, such as sudden death, which make it impossible to say that there was any negligence in complying with a purely formal obligation.

17 The Commission argues that the concept of *force majeure* must be interpreted from the point of view of the proper operation of the mechanism concerned. Account must be taken of an objective element, the event itself, and a subjective element, the actions of the person in question. From both points of view, the unexpected death of the sole director of a family business is capable of amounting to a case of *force majeure*.

18 It must be borne in mind in this connection that the concept of *force majeure* adopted by the agricultural regulations takes into account the particular nature of the public-law relationships between traders and the national administration, as well as the objectives of those regulations (see, in particular, Case 4/68 *Schwarzwaldmilch* [1968] ECR 377, p. 385; Case 11/70 *Internationale Handelsgesellschaft* [1970] ECR 1125, paragraph 23; Case 25/70 *Köster* [1970] ECR 1161, paragraph 38, and Case C-124/92 *An Bord Bainne Cooperative and Compagnie Inter-Agra* [1993] ECR I-5061, paragraph 11).

19 According to settled case-law, the concept of '*force majeure*' for the purposes of the agricultural regulations is not limited to absolute impossibility but must be understood in the sense of abnormal and unforeseeable circumstances, outside the control of the operator concerned, the consequences of which, in spite of the exercise of all due care, could not have been avoided (see, in particular, *Schwarzwaldmilch*, cited above, page 386; *Internationale Handelsgesellschaft*, cited above, paragraph 23; *Köster*, cited above, paragraph 38; *An Bord Bainne Cooperative and Compagnie Inter-Agra*, cited above, paragraph 11; *Huygen*, cited above, paragraph 31, and Case C-347/93 *Boterlux* [1994] ECR I-3933, paragraph 34).

20 In the light of that analysis, the sudden death of the sole director of a family holding in the form of community of property ('comunidad de bienes'), who was connected to the members of that community by close family ties, may, in principle, be regarded as an abnormal and unforeseeable circumstance outside the operator's control, the consequences of which could not have been avoided by the members of the community of property, taking into account their personal distress and the complexity of the legal situation in which they were placed as a result of the necessary reorganisation of the management of the holding.

21 In any event, it is for the operator to prove that the conditions necessary for a case of *force majeure* to exist have been satisfied (*Schwarzwaldmilch*, cited above, page 386).

22 Thus it falls to the national court to verify the facts alleged by Isabel and Adelina Parras Medina and to determine whether, having regard to the circumstances, they took every care that could have been expected of them to observe the time-limit for making the stock declaration provided for by Regulation No 1294/96.

23 The answer to be given to the first question must therefore be that on a proper construction of Article 12 of Regulation 1294/96:

— the concept of '*force majeure*' referred to therein is not limited to absolute impossibility but must be understood in the sense of abnormal and unforeseeable circumstances, outside the operator's control, the consequences of which, in spite of the exercise of all due care, could not have been avoided;

— it is for the operator to prove that the conditions necessary for a case of *force majeure* to exist have been satisfied and for the national court to verify the facts alleged and to determine whether, having regard to the circumstances, the operators took every care that could have been expected of them to observe the time-limits for making the declaration provided for by the Community legislation;

— the sudden death of the sole director of a family holding in the form of community of property ('comunidad de bienes'), who was connected to the members of that community by close family ties, may, in principle, be regarded as a case of *force majeure*.

The second question

24 This question is raised only if it should be necessary, in order to determine the circumstances which may amount to a case of *force majeure*, to give a decision on the legal character of the measure reducing financial aid provided for in Article 12 of Regulation No 1294/96.

25 It is clear from the foregoing considerations that that legal character is immaterial to the question whether a case of *force majeure* exists or not.

26 Consequently, there is no need to give an answer to the second question.

Costs

27 The costs incurred by the Commission, which has submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, 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 (First Chamber),

in answer to the questions referred to it by the Tribunal Superior de Justicia de Castilla-La Mancha by order of 3 April 2001, hereby rules:

On a proper construction of Article 12 of Commission Regulation (EC) No 1294/96 of 4 July 1996 laying down detailed rules for the application of

Council Regulation (EEC) No 822/87 as regards harvest, production and stock declarations relating to wine-sector products:

— the concept of '*force majeure*' referred to therein is not limited to absolute impossibility but must be understood in the sense of abnormal and unforeseeable circumstances, outside the operator's control, the consequences of which, in spite of the exercise of all due care, could not have been avoided;

— it is for the operator to prove that the conditions necessary for a case of *force majeure* to exist have been satisfied and for the national court to verify the facts alleged and to determine whether, having regard to the circumstances, the operators took every care that could have been expected of them to observe the time-limits for making the declaration provided for by the Community legislation;

— the sudden death of the sole director of a family holding in the form of community of property ('comunidad de bienes'), who was connected to the members of that community by close family ties, may, in principle, be regarded as a case of *force majeure*.

Wathelet Jann Rosas

Delivered in open court in Luxembourg on 17 October 2002.

R. Grass

Registrar

M. Wathelet

President of the First Chamber