Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

11 September 2019*

(Reference for a preliminary ruling — Milk and milk products sector — Quotas — Additional levy — Regulation (EEC) No 3950/92 — Article 2 — Collection of the levy by the purchaser — Deliveries exceeding the available reference quantity of the producer — Amount of the price of milk — Mandatory application of a deduction — Reimbursement of the amount of overpaid levy — Regulation (EC) No 1392/2001 — Article 9 — Purchaser — Non-compliance with obligation to implement the additional levy — Producers — Non-compliance with obligation to make monthly payments — Protection of legitimate expectations)

In Case C-46/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy), made by decision of 21 November 2017, received at the Court on 25 January 2018, in the proceedings

Caseificio Sociale San Rocco Soc. coop. arl,

S.s. Franco e Maurizio Artuso,

Claudio Matteazzi,

Roberto Tellatin,

Sebastiano Bolzon

v

Agenzia per le Erogazioni in Agricoltura (AGEA),

Regione Veneto,

THE COURT (Second Chamber),

composed of A. Arabadjiev, President of the Chamber, L. Bay Larsen (Rapporteur) and C. Vajda, Judges,

Advocate General: M. Bobek,

Registrar: R. Schiano, Administrator,

having regard to the written procedure and further to the hearing on 17 January 2019,

* Language of the case: Italian.

after considering the observations submitted on behalf of:

– Caseificio Sociale San Rocco Soc. coop. arl, S.s. Franco e Maurizio Artuso, C. Matteazzi and R. Tellatin, by M. Aldegheri, avvocatessa,

– S. Bolzon, by M. Aldegheri and E. Ermondi, avvocati,

– the Italian Government, by G. Palmieri, acting as Agent, and by P. Gentili, avvocato dello Stato,

– the European Commission, by F. Moro and D. Bianchi, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 14 March 2019,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 2 of Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector (OJ 1992 L 405, p. 1), as amended by Council Regulation (EC) No 1256/1999 of 17 May 1999 (OJ 1999 L 160, p. 73) ('Regulation No 3950/92'), and of Article 9 of Commission Regulation (EC) No 1392/2001 of 9 July 2001 laying down detailed rules for applying Regulation No 3950/92 (OJ 2001 L 187, p. 19).

2 The request has been made in proceedings between (1) Caseificio Sociale San Rocco Soc. coop. arl ('the first purchaser'), a limited liability cooperative under Italian law, S.s. Franco e Maurizio Artuso, Claudio Matteazzi, Roberto Tellatin and Sebastiano Bolzon, Italian milk producers, and (2) the Agenzia per le Erogazioni in Agricoltura (AGEA) (Agricultural Payments Agency, Italy) and the Regione Veneto (Veneto Region, Italy) concerning milk quotas and the additional levy for the milk and milk products marketing period from 1 April 2003 to 31 March 2004 ('the reference period').

Legal context

European Union law

Regulation No 3950/92

3 The sixth and eighth recitals of Regulation No 3950/92 state:

'Whereas if any of the total guaranteed quantities is overrun, the consequence for the Member State is that the producers who contributed to the overrun must pay the levy; …

…

Whereas, in order to avoid, as in the past, long delays between collection and payment of the levy, which are incompatible with the scheme's objective, provision should be made for the purchaser, who seems in the best position to carry out the necessary operations, to be liable for the levy, and for him to be given the means to collect the levy from the producers who owe it'.

4 Article 1 of that regulation provides:

‘For eight new consecutive periods of 12 months commencing on 1 April 2000, an additional levy shall be payable by producers of cow’s milk on quantities of milk or milk equivalent delivered to a purchaser or sold directly for consumption during the 12-month period in question in excess of a quantity to be determined.

…’

5 Article 2 of that regulation provides:

‘1. The levy shall be payable on all quantities of milk or milk equivalent marketed during the 12-month period in question in excess of the relevant quantity referred to in Article 3. It shall be shared between the producers who contributed to the overrun.

In accordance with a decision of the Member State, the contribution of producers towards the levy payable shall be established, after the unused reference quantities have been reallocated or not, either at the level of the purchaser, in the light of the overrun remaining after unused reference quantities have been allocated in proportion to the reference quantities of each producer, or at national level, in the light of the overrun in the reference quantity of each individual producer.

2. As regards deliveries, before a date and in accordance with detailed rules to be laid down, the purchaser liable for the levy shall pay to the competent body of the Member State the amount payable, which he shall deduct from the price of milk paid to producers who owe the levy or, failing this, collect by any appropriate means.

…

Where quantities delivered by a producer exceed his reference quantity, the purchaser shall be authorised, by way of an advance on the levy payable, in accordance with detailed rules laid down by the Member State, to deduct an amount from the price of the milk in respect of any delivery by that producer in excess of his reference quantity.

3. As regards direct sales, the producer shall pay the levy payable to the competent body of the Member State before a date and in accordance with rules to be laid down.

4. Where the levy is payable and the amount collected is greater than that levy, the Member State may use the excess to finance the measures referred to in the first indent of Article 8 and/or redistribute it to producers who fall within priority categories established by the Member State on the basis of objective criteria to be determined or who are affected by an exceptional situation resulting from a national provision unconnected with this scheme.’

Regulation No 1392/2001

6 According to recital 6 of Regulation No 1392/2001:

‘In accordance with Article 2(4) of Regulation (EEC) No 3950/92, the Commission is responsible for laying down criteria for determining which priority categories of producer can benefit from reimbursement of the levy where the Member State has decided not to fully reallocate unused quantities in its territory. A Member State may be authorised to use other criteria, in consultation with the Commission, only in the event that the criteria laid down by the Commission cannot be fully applied in that Member State.’

7 Article 9 of Regulation No 1392/2001 is worded as follows:

'1. Where appropriate, Member States shall determine the priority categories of producers as referred to in Article 2(4) of Regulation (EEC) No 3950/92, on the basis of one or more of the following objective criteria, in order of priority:

(a) formal acknowledgment by the competent authority of the Member State that all or part of the levy has been wrongly charged;

(b) the geographical location of the holding, and primarily mountain areas …;

(c) the maximum stocking density on the holding for the purposes of extensive livestock production;

(d) the amount by which the individual reference quantity is exceeded;

(e) the producer's reference quantity.

2. Where the financial resources available for a given period are not used up after the criteria set out in paragraph 1 have been applied, the Member State shall adopt other objective criteria after consulting the Commission.'

Italian law

8 Article 5(1) and (2) of decreto-legge n. 49, recante riforma della normativa in tema di applicazione del prelievo supplementare nel settore del latte e dei prodotti lattiero-caseari (Decree-Law No 49 reforming the rules on the application of the additional levy in the milk and dairy products sector) of 28 March 2003, converted into law, with amendments, by Law No 119 of 30 May 2003 (GURI No 124 of 30 May 2003) ('Law No 119/2003'), provides:

'1. In the month following the reference month, purchasers shall forward to the regions and the autonomous provinces that have recognised them the data deriving from updates to the monthly register maintained pursuant to Article 14(2) of Regulation No 1392/2001 even when they have not taken delivery of milk. Purchasers shall deduct the additional levy, calculated on the basis of Article 1 of Regulation No 3950/92, as amended, in relation to milk delivered in excess of the individual reference quantity allocated to each individual transferring producer, taking into account variations during the period. …

2. Within 30 days of the expiry of the period referred to in paragraph 1, without prejudice to the provisions of Article 10(27) to (32), purchasers shall pay the amounts deducted into the bank account of the AGEA …'

9 Article 9 of Law No 119/2003, relating to the refund of levies overpaid, provides:

'1. At the end of every period, the AGEA:

(a) shall draw up a statement of the deliveries of milk made and the total levy paid by the purchasers in accordance with the performance of the obligations set out in Article 5;

(b) shall calculate the total national levy payable to the European Union for excess production in the deliveries;

(c) shall calculate the amount of the levy overpaid.

…

3. The amount referred to in paragraph 1(c), less the provision referred to in paragraph 2, shall be shared among producers holding a quota that have paid the levy, in accordance with the following criteria and in order:

(a) producers who have been wrongly charged all or part of the levy applied to them or from whom it is no longer due;

(b) producers owning holdings situated in mountain areas …;

(c) producers owning holdings situated in less-favoured areas …;

(c-bis) producers who, pursuant to a decision by the competent health authority and for at least 90 days during a marketing period, have been subject to a prohibition on the movement of animals in areas affected by extensive infectious diseases, and who have therefore been required to produce a quantity higher, by up to 20%, than the reference quantity allocated. …

4. If these repayments do not exhaust the amount available referred to in paragraph 3, the remainder shall be shared among producers holding a quota that have paid the levy, except for those that have exceeded their own individual reference quantity by more than 100 per cent, in accordance with the following criteria and in order …'

10 Article 2(3) of decreto-legge n. 157, recante disposizioni urgenti per l'etichettatura di alcuni prodotti agroalimentari, nonché in materia di agricoltura e pesca (Decree-Law No 157 on urgent provisions on the labelling of some agri-food products, and on agriculture and fisheries) of 24 June 2004 (GURI No 147 of 25 June 2004) ('Decree-Law No 157/2004'), provides as follows:

'Pursuant to Article 9 of [Law No 119/2003], overpaid amounts of the levy paid monthly by producers that are up to date with their payments shall be refunded to the producers. If, at the end of that operation, the remaining total of the levy allocations to be made is greater than the levy payable to the European Union, plus 5%, the AGEA shall cancel the levy overcharged for producers that have not yet made the monthly payments, applying the priority criteria laid down by Article 9(3) and (4), without prejudice to the penalties referred to in Article 5(5) of that same Decree-Law.'

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

11 During the reference period, the applicants in the main proceedings did not comply with the applicable Italian legislation in that the first purchaser failed to make the monthly deduction and payment of the additional levy, and the producers therefore failed to comply with their payment obligation under Article 9(3) of Law No 119/2003 and Article 2(3) of Decree-Law No 157/2004.

12 On 28 July 2004, the AGEA sent a notification to the first purchaser concerning the milk quotas and the additional levy for the reference period.

13 That notification stated, inter alia, that the AGEA had applied Article 2(3) of Decree-Law No 157/2004, according to which overpaid amounts of the levy paid monthly by producers who had fulfilled their payment obligation were to be refunded to those same producers and that if, at the end of that operation, the remaining total of the levy allocations to be made were greater than the levy payable to the European Union, plus 5%, the AGEA would not require payment of the levy overcharged for producers that had not yet made the monthly payments, applying the priority criteria laid down by Article 9(3) and (4) of Law No 119/2003.

14 The AGEA attached to that notification a list relating to the reference period and stating, for each producer, the amounts of the levy already paid and confirmed and the amounts to be refunded, as calculated pursuant to Article 9(3) and (4) of Law No 119/2003. The AGEA also noted that the purchasing undertaking was required to pay the refunded sums to the producers concerned and to pay, in place of the producers, the sums demanded and set out on that list.

15 By an action brought before the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court of Lazio, Italy), the applicants in the main proceedings sought the annulment of that notification, claiming, inter alia, that the obligation placed on the purchaser to make the monthly deduction under Article 5(1) of Law No 119/2003 and the priority criterion for the reallocation of overpaid levy that favoured those producers who had fulfilled their payment obligation as provided for in Article 9(3) of Law No 119/2003 and Article 2(3) of Decree-Law No 157/2004 were incompatible with the third subparagraph of Article 2(2) and with Article 2(4) of Regulation No 3950/92.

16 The Tribunale amministrativo regionale per il Lazio (Regional Administrative Court of Lazio) dismissed the action.

17 On an appeal brought by the applicants in the main proceedings, the referring court, by an interim judgment delivered on 11 December 2017, declared the grounds of appeal to be well founded in part, holding, inter alia, that the obligation under Article 5(1) of Law No 119/2003 could not be applied in relation to the months of January to March 2004 as it was incompatible with Article 2(2) of Regulation No 3950/92.

18 However, the referring court was uncertain as to the consequences of such a finding of incompatibility between the national legislation and EU law on the rights and obligations of producers who had not complied with the national legislation.

19 In those circumstances, the Consiglio di Stato (Council of State, Italy) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) In a situation such as that described in the case in the main proceedings, must EU law be interpreted to the effect that the consequence of the conflict of a legislative provision of a Member State with the third subparagraph of Article 2(2) of Regulation No 3950/92 is that producers are not obliged to pay the additional levy if the conditions laid down by that Regulation are met?

(2) In a situation such as that described in the case in the main proceedings, must EU law and, in particular, the general principle of protection of legitimate expectations, be interpreted as meaning that the expectations of persons who have performed an obligation laid down by a Member State and have benefited from the effects associated with performance of that obligation may not be protected, if that obligation has proved to be in conflict with EU law?

(3) In a situation such as that described in the case in the main proceedings, do Article 9 of Regulation No 1392/2001 and the EU concept of “priority category” preclude a provision of a Member State, such as Article 2(3) of Decree-Law No 157/2004, adopted by the Italian Republic, which lays down varying methods for refunding an additional levy that has been overcharged, drawing a distinction, in terms of timetables and methods of repayment, between producers that have relied upon due compliance with a national provision that has proved to be in conflict with EU law and producers who have not complied with such a provision?’

Consideration of the questions referred

The first question

20 By its first question, the referring court asks, in essence, whether Article 2 of Regulation No 3950/92 must be interpreted as meaning that a finding of incompatibility between that article and national legislation governing the arrangements for the collection of the additional levy by the purchaser from producers means that the producers subject to that national legislation no longer owe that levy.

21 In that regard, it should be recalled that the mechanism for collecting the additional levy on milk, introduced by Regulation No 3950/92, is based on a distinction between direct sales of milk for consumption and deliveries of milk to purchasers (see, to that effect, judgment of 15 January 2004, *Penycoed*, C-230/01, EU:C:2004:20, paragraph 28).

22 In the case of direct sales, the producer is required to pay the levy due directly to the competent body of the Member State in accordance with Article 2(3) of that regulation (see, to that effect, judgment of 15 January 2004, *Penycoed*, C-230/01, EU:C:2004:20, paragraph 29).

23 By contrast, in the case of deliveries, it is incumbent upon the purchaser, who, as is made clear in the eighth recital of Regulation No 3950/92, is in the best position to ensure that the levy is collected from producers, to pay the levy to that body (see, to that effect, judgment of 15 January 2004, *Penycoed*, C-230/01, EU:C:2004:20, paragraph 29).

24 To that end, it is clear from the first and third subparagraphs of Article 2(2) of the same regulation that the purchaser is entitled to deduct from the price of milk paid to a producer the amount owed by that producer by way of additional levy or, failing this, to collect that amount by any appropriate means (see, to that effect, judgment of 29 April 1999, *Consorzio Caseifici dell'Altopiano di Asiago*, C-288/97, EU:C:1999:214, paragraph 32).

25 That being the case, irrespective of those specific rules governing the arrangements for the collection of the levy by the purchaser from the producers, the producer continues to owe the levy in any event.

26 Article 2(1) of Regulation No 3950/92 provides that the additional levy established by Article 1 of that regulation is to be shared between the producers who contributed to the overrun of the reference quantities. Similarly, the sixth recital of that regulation states that, if any of the total guaranteed quantities is overrun, the consequence is that those producers must pay the levy.

27 Pursuant to Article 2(1) of Regulation No 3950/92, when read in conjunction with the eighth recital of the same regulation, it is the producer who owes any levy due on any quantity of milk marketed in excess of the reference quantity for direct sales or deliveries (see, to that effect, judgment of 29 April 1999, *Consorzio Caseifici dell'Altopiano di Asiago*, C-288/97, EU:C:1999:214, paragraph 19).

28 Moreover, that allocation of the levy to the producer has an intrinsic connection to the purpose of the additional levy, which consists, inter alia, in requiring milk producers to observe the reference quantities allocated to them (see, to that effect, judgments of 25 March 2004, *Cooperativa Lattepiù and Others*, C-231/00, C-303/00 and C-451/00, EU:C:2004:178, paragraph 75, and of 24 January 2018, *Commission* v *Italy*, C-433/15, EU:C:2018:31, paragraph 62).

29 Therefore, although, with regard to deliveries, the purchaser is liable for payment of the levy, the fact remains that, in both that situation and in the case of direct sales, the levy is payable by producers and may, in certain circumstances, be recovered directly from them (see, to that effect, judgment of 15 January 2004, *Penycoed*, C-230/01, EU:C:2004:20, paragraphs 29, 38 and 39).

30 It follows that the incompatibility, found by the referring court, between Article 2(2) of Regulation No 3950/92 and the national legislation governing arrangements for the collection of the additional levy by the purchaser from producers cannot release those producers from the responsibility for paying the levy which is, in every case, imposed on them by Article 2(1) of that regulation.

31 On the contrary, that incompatibility merely means, as the Advocate General observed in point 50 of his Opinion, that the national legislation in question should be disapplied and that the purchaser must be able to collect the sums from producers 'by any appropriate means', in accordance with the first subparagraph of Article 2(2) of that same regulation.

32 Consequently, the answer to the first question is that Article 2 of Regulation No 3950/92 must be interpreted as meaning that a finding of incompatibility between that article and national legislation governing the arrangements for the collection of the additional levy by the purchaser from producers does not mean that the producers subject to that legislation no longer owe that levy.

The third question

33 By its third question, which it is appropriate to consider second, the referring court asks, in essence, whether Article 2(4) of Regulation No 3950/92, read in conjunction with Article 9 of Regulation No 1392/2001, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which provides that, when overpayments of the additional levy are refunded, priority is given to producers who, under a provision of national law that is incompatible with Article 2(2) of Regulation No 3950/92, have fulfilled their obligation to make monthly payments.

34 Under Article 2(4) of Regulation No 3950/92, where the levy is payable and the amount collected is greater than that levy, a Member State may decide to redistribute the excess to producers who fall within priority categories established by the Member State on the basis of objective criteria to be determined or who are affected by an exceptional situation resulting from a national provision unconnected with the additional levy scheme in the milk sector.

35 The conditions for the application of that provision are set out in Article 9(1) of Regulation No 1392/2001, which provides that, where appropriate, Member States are to determine the priority categories of producers as referred to in Article 2(4) of Regulation No 3950/92, on the basis of one or more of the five objective criteria listed in that provision, in order of priority.

36 Furthermore, Article 9(2) of Regulation No 1392/2001 states that, where the financial resources available are not used up after those criteria have been applied, the Member State is to adopt other objective criteria after consulting the Commission.

37 Recital 6 of Regulation No 1392/2001 states, in addition, that a Member State may be authorised to use other criteria only in the event that the criteria set out in Article 9(1) of that regulation cannot be fully applied in that Member State.

38 It follows that, as the Advocate General noted in point 71 of his Opinion, the criteria laid down in Article 9(1) of Regulation No 1392/2001 are exhaustive and Member States may add further criteria only where the financial resources available for a given period are not used up after those criteria have been applied in order of priority.

39 None of the criteria listed in Article 9(1) of Regulation No 1392/2001 mentions that the producer concerned must comply with an obligation to make monthly payments.

40 In those circumstances, a Member State cannot validly redistribute the excess by prioritising the reimbursement of producers who have fulfilled that obligation.

41 Such a practice would be tantamount to elevating producers who had fulfilled their monthly payment obligation to a priority category, within the meaning of Article 2(4) of Regulation No 3950/92, on the basis of a criterion used in place of the criteria provided for in Article 9(1) of Regulation No 1392/2001 and without an additional criterion having been validly established pursuant to Article 9(2) of that regulation.

42 In such a situation, a producer who fell into a priority category according to one of the criteria set out in Article 9(1) of that regulation but who had not fulfilled the monthly payment obligation would thus benefit from a reduction in the levy due only after producers who had fulfilled that obligation had been reimbursed and only if there were funds still available after that reimbursement had taken place.

43 In addition, as the Commission essentially argues, payment of the levy, whether directly or through the intermediary of the liable purchaser, is of course, in principle, a logical prerequisite for reimbursement of the excess. However, national legislation such as that at issue in the main proceedings does not merely require that payment to be made, but establishes an order of priority for reimbursement which, moreover, is based on compliance with national legislation governing the arrangements for the collection of the levy that is incompatible with Article 2(2) of Regulation No 3950/92.

44 Furthermore, as the Advocate General observed in point 75 of his Opinion, producers who have satisfied their monthly payment obligation cannot be considered, by that fact alone, to be affected by an exceptional situation resulting from a national provision unconnected with the additional levy scheme in the milk sector, within the meaning of Article 2(4) of Regulation No 3950/92.

45 In the light of all the foregoing considerations, the answer to the third question is that Article 2(4) of Regulation No 3950/92, read in conjunction with Article 9 of Regulation No 1392/2001, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which provides that, when overpayments of the additional levy are refunded, priority is given to producers who, under a provision of national law that is incompatible with Article 2(2) of Regulation No 3950/92, have fulfilled their obligation to make monthly payments.

The second question

46 By its second question, the referring court asks, in essence, whether the principle of protection of legitimate expectations must be interpreted as precluding, in a situation such as that at issue in the main proceedings, a recalculation of the amount of the additional levy payable by producers who have failed to fulfil the obligation, laid down by the relevant national legislation, to pay the levy on a monthly basis.

47 It is apparent from the order for reference that, by that question, the referring court is querying the protection of legitimate expectations afforded to producers who have fulfilled the obligation to pay the additional levy on a monthly basis. Within that context, the referring court wishes to determine the potential consequences for the case at issue in the main proceedings of the fact that any challenge to the rules establishing the order of payment for reimbursement of the overpayment of the additional levy would ultimately entail the recovery of all or part of the reimbursement received by those producers.

48 In that regard, irrespective of whether producers who have fulfilled the monthly payment obligation may rely on the principle of protection of legitimate expectations to contest any recovery of the levy refund from which they have benefited, it must be held that, in any event, the effect of that principle in a situation such as that at issue in the main proceedings cannot be to authorise the competent Italian authorities to fail to correct decisions which they have adopted and which are incompatible with EU law, by refusing to reassess the rights of producers who have not fulfilled that obligation.

49 On the contrary, since it is apparent from the answer given to the third question that the unfavourable treatment suffered by those producers results from the Italian Republic's use of a criterion which was added to the objective criteria listed exhaustively in Article 9(1) of Regulation No 1392/2001 and to which the situation referred to in Article 9(2) of that regulation does not appear to apply, it is the responsibility of those authorities to recalculate the amount of the additional levy payable by those producers by disapplying the national provisions that are incompatible with Regulations No 3950/92 and No 1392/2001.

50 In the light of the foregoing considerations, the answer to the second question is that the principle of protection of legitimate expectations must be interpreted as not precluding, in a situation such as that at issue in the main proceedings, a recalculation of the amount of the additional levy payable by producers who have failed to fulfil the obligation, laid down by the relevant national legislation, to pay the levy on a monthly basis.

Costs

51 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Second Chamber) hereby rules:

1. **Article 2 of Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector, as amended by Council Regulation (EC) No 1256/1999 of 17 May 1999, must be interpreted as meaning that a finding of incompatibility between that article and national legislation governing the arrangements for the collection of the additional levy by the purchaser from the producers does not mean that the producers subject to that legislation no longer owe that levy.**

2. **Article 2(4) of Regulation No 3950/92, as amended by Regulation No 1256/1999, read in conjunction with Article 9 of Commission Regulation (EC) No 1392/2001 of 9 July 2001 laying down detailed rules for applying Regulation No 3950/92, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which provides that, when overpayments of the additional levy are refunded, priority is given to producers who, under a provision of national law that is incompatible with Article 2(2) of Regulation No 3950/92, as amended by Regulation No 1256/1999, have fulfilled their obligation to make monthly payments.**

3. **The principle of protection of legitimate expectations must be interpreted as not precluding, in a situation such as that at issue in the main proceedings, a recalculation of the amount of the additional levy payable by producers who have failed to fulfil the obligation, laid down by the relevant national legislation, to pay the levy on a monthly basis.**

[Signatures]