JUDGMENT OF THE COURT
8 FEBRUARY 1973 [1]

Commission of the European Communities v Italian Republic

'Premiums for grubbing fruit trees'

Case 30/72

Summary

Member States — Obligations — Implementation — Internal order — Adaptation (EEC Treaty, Arts. 5, 189)

A Member State cannot plead the provisions or practices of its internal order, particularly budgetary provisions or practices, in order to justify failure to observe obligations and time-limits arising under Community regulations.

It falls to each Member State to recognize the consequences, in its internal order, of its adherence to the Community, in accordance with the general obligations imposed on Member States by Article 5 of the Treaty, and, if necessary, to adapt its procedures for budgetary provision in such a way that they do not form an obstacle to the implementation, within the prescribed time-limits, of its obligations within the framework of the Treaty.

In Case 30/72

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Legal Adviser, Giancarlo Olmi, as agent, having chosen its address for service in Luxembourg at the offices of its Legal Adviser, Emile Reuter, 4 boulevard Royal,

applicant,

v

ITALIAN REPUBLIC, represented by Adolfo Maresca, Ambassador, as agent, assisted by Giorgio Zagari, Assistant at the Avvocatura generale dello Stato, having chosen its address for service in Luxembourg at the Italian Embassy,

defendant,

1 — Language of the Case: Italian.

Application for a finding that the Italian Republic has failed to fulfil its obligations arising under Regulations (EEC) Nos 2517/69 of the Council and 2637/69 of the Commission, in not having enacted the body of provisions allowing for the effective application within its territory of the system of premiums for grubbing fruit trees,

THE COURT

composed of: R. Lecourt, President, R. Monaco and P. Pescatore, Presidents of Chambers, A. M. Donner, H. Kutscher (Rapporteur), C. Ó Dálaigh and M. Sørensen, Judges,

Advocate-General: H. Mayras
Registrar: A. Van Houtte

gives the following

JUDGMENT

Issues of fact and of law

I — Facts and procedure

The facts and procedure may be summarized as follows:

1. (a) On 2 December 1969, the Council, considering *inter alia* 'that there is a certain disproportion, both quantitative and qualitative, of supply in relation to demand on the Community market for apples, pears and peaches', adopted Regulation (EEC) No 2517/69 'laying down certain measures for reorganizing Community, fruit production' which entered into force on 1 January 1970 (OJ L 318, p. 15). Certain provisions of that Regulation were amended by Regulation (EEC) No 2476/70 of the Council of 7 December 1970 (OJ L 266, p. 2). Taking those amendments into account, the elements of Regulation No 2517/69 of interest in this case may be summarized as follows:

Under the terms of Article 1, 'at their request . . ., Community fruit growers shall qualify for a premium for grubbing apple, pear and peach trees'; the rules for granting that premium were to be determined by the Commission acting on the opinion of the Management Committee. Requests for the granting of premiums were to be lodged before 1 March 1971; the granting of a premium is subject to a written undertaking by the beneficiary to proceed, before 1 March 1973, with the grubbing of the fruit trees for which the premium is claimed and to abstain, for a period of five years, from any replanting of apple, pear and peach trees (Article 2). The amount of the premium 'shall be paid in a single

instalment when the applicant proves that he has actually completed the grubbing' (Article 3 (2), as amended); the European Agricultural Guidance and Guarantee Fund shall refund to Member States 50 % of the premiums paid (Article 7).

(b) On the basis of Regulation No 2517/69, the Commission on 24 December 1969 adopted Regulation (EEC) No 2637/69 'fixing the amount of the premium for grubbing apple trees pear trees and peach trees and the conditions for granting such premium' (OJ L 327, p. 31). This Regulation, which entered into force on 1 January 1970 and was partially amended by Regulation (EEC) No 2565/70 of 18 December 1970 (OJ L 275, p. 22) provides *inter alia* as follows:

'The application for the grant of the premium shall be lodged with the competent authority indicated by each Member State' and must contain certain information (Article 4). 'On receipt of the application the representative nominated by the competent authority shall check' that information; then, after having recorded the signed undertaking of the party concerned not to plant any new fruit trees for a period of five years, the competent authority 'shall state that the application can be approved' (Article 5). 'At the request of the party concerned the representative nominated by the competent authority shall certify that grubbing has been carried out and when it took place' (Article 6). 'The grower shall furnish the proof referred to in the second sentence of Article 3 (2) of Regulation (EEC) No 2517/69 through the certificate referred to in Article 6' (Article 7).

2. (a) By Circular No 7 of 14 February 1970, the Italian Ministry of Agriculture and Forestry drew the attention of the competent local authorities to Regulation No 2517/69. While declaring that it 'reserved the right to give appropriate instructions, as soon as possible, for the granting of the premium', it prohibited the said authorites from granting subsidies in respect of expenditure incurred on work carried out on apple orchards and pear and peach plantations.

By Circular No 17 of 12 May 1970, the same Ministry:

— after setting out the aims of Regulations Nos 2517/69 and 2637/69 repeated certain essential details:

— gave detailed instructions as to lodging the applications for the grant of premiums, recording them, checking on the spot the information contained in the application, taking the 'decision to grant the premium', certifying, at the request of the party concerned, that grubbing has taken place, granting the premium and the steps to be taken in cases where the beneficiary, in breach of the signed undertaking, carries out replanting.

The forms for use at the different stages of the procedure (application forms, valuation reports etc.) were attached to this circular, which ended as follows:

'After having detailed, the procedure to be followed for granting and paying premiums for grubbing, the Ministry emphasizes that; while waiting for the legislative action allocating the necessary funds for implementing the measures here provided for, the Assessorship and Inspection Authorities must be content, for the moment, to give these measures appropriate publicity and to receive applications lodged by the growers concerned'.

On 26 November 1970, the said Ministry sent to the local authorities Circular No 24 which stated *inter alia:*

'As the legislative action in question has not yet been taken to date and it is not possible to foresee when it will be, and moreover as various provincial Agricultural Inspection Authorities, organizations, associations and private individuals are pressing the department

rapidly to implement the Community provisions, and also taking into account the technically favourable times for grubbing orchards, it has been decided to authorize the appropriate Inspection Authorities by means of this circular to carry out preliminary on-the-spot checks.

Since it is impossible for the Inspection Authorities to give any formal undertaking relating to the granting of the premiums in question before the said legislative action has been taken, it is explicitly stated that, after carrying out the preliminary on-the-spot checks, the Inspection Authorities can, if they think fit, issue provisional grubbing authorizations, stating expressly in the said authorization however that the Inspection Authority gives no undertaking concerning the granting of the premium, as any decision as to this can only be taken afterwards, according to the funds allocated for this purpose and the criteria laid down for implementing the particular measures'.

(b) By letter dated 3 February 1971, the Commission, after stating that to its knowledge the system set up by the provisions referred to 'has not yet been put into effect in detail in Italy', drew the attention of the Italian Government to the disadvantages arising from this situation, and called on that government to take the necessary measures within two months, failing which it would be obliged 'to initiate without further delay the procedures provided for by the Treaty for ensuring the application of Community law'.

As the Italian Government did not reply to this letter, the Commission, by letter dated 2 June 1971, initiated the procedure provided for in Article 169 of the Treaty, by requiring the said Government to submit its observations to it within two months.

When it did not receive those observations, the Commission, on 14 October 1971, delivered a reasoned opinion, within the meaning of Article 169 abovementioned stating that the Italian Republic had failed in its obligations under Regulations Nos 2517/69 and 2637/69, and calling upon that Member State to take the required measures within one month. The statement of reasons in the opinion contains, *inter alia,* the following passage:

'It appears from information available to the Commission that the Italian Government has not enacted the body of provisions allowing for the effective application within its territory of the system of premiums for grubbing fruit trees described above. In particular, the necessary budgetary provisions allowing for the payment of the premiums have not yet been adopted.

Under these circumstances, and according to the information of the Commission, no premium has been paid in Italy for grubbing fruit trees, even though 11 000 Italian growers in respect of a total surface area of 30 000 hectares, have lodged applications in this connection before the deadline of 1 March 1971.'

The opinion was communicated to the Italian Government by letter dated 19 October 1971.

By letter of 29 November 1971, the Permanent Representative of Italy made known to the Commission that 'in order to fulfil the undertakings made at Community level and also to answer the expectations of national growers, the Italian authorities have drawn up an outline draft law for the release of the funds for the payment of the premiums for grubbing fruit trees in question. This measure, which was communicated to the Ministers concerned on 9 November last, will as soon as possible be entered on the agenda of the Council of Ministers for the necessary debate'. The letter ended by confirming that 'the departments concerned shall take all possible steps to ensure that the legislative procedure relating to the draft law in question can be concluded as quickly as possible'.

By telex of 29 December 1971, the Director-General of Agriculture, after

discussions at the meeting of the Management Committee for Fruit and Vegetables on 21 December, requested Italy to furnish the following supplementary information:

'1. After having checked the information contained in the applications for the grant of the premiums lodged by the persons concerned and having recorded the undertaking of the growers referred to in Article 5, second paragraph, of Regulation (EEC) No 2637/69, has the competent national authority stated that those applications can be approved?

2. What are the surface areas over which grubbing operations have already been carried out?

3. In respect of those surface areas, has the representative nominated by the competent authority certified that grubbing has been carried out and when it took place?'

By telex of 25 March 1972, the Permanent Representative of Italy replied 'that a long time ago procedural instructions have been sent to the "Ispettorati provinciali agricoltura" concerning the acceptance of applications for the grant of premiums for grubbing apple, pear and peach trees, as well as the carrying out of preliminary on-the-spot checks. It has not been possible, however, to give any formal undertaking to the applicant farmers, as the national measure releasing the necessary funds has not yet passed through the legislative procedure'. With regard to questions 2 and 3, the Permanent Representative, 'while hoping to be able to complete the information requested' confined himself to communicating definitive figures of the applications for premiums filed within the time laid down and the surface areas concerned.

On 8 June 1972 the Commission commenced the present action.

The Italian Government declined to submit a rejoinder.

After hearing the report of the Judge-Rapporteur and the opinion of the Advocate-General, the Court decided to open the oral procedure without any preparatory inquiries. However, it invited the Commission, by letter dated 30 November 1972, 'to specify in writing the measures other than the payment of premiums which, according to it, should have been taken by Italy, and to indicate the date by which this should have been done in order to fulfil its obligation to enact the body of provisions allowing for the effective application within its territory of the system of premiums for grubbing fruit trees'. The Commission complied with this request.

The oral arguments of the parties were heard on 10 January 1973.

The Advocate-General presented his opinion at the hearing on 24 January 1973.

II — Submissions of the parties

The *Commission* submits that the Court should:

'(a) Find that the Italian Republic, in not having enacted a body of provisions allowing for the effective application within its territory of the system of premiums for grubbing fruit trees, has failed to fulfil its obligations arising under Regulation (EEC) Nos 2517/69 and 2637/69;

(b) order the Italian Republic to bear the costs.'

III — Pleas and arguments of the parties

The pleas and arguments of the parties may be summarized as follows:

The *Commission* sets out the situation as regards Community production and the

Community market for apples, pears and peaches, emphasizing in particular that in this sector supply, of an unsatisfactory quality moreover, is structurally greater than demand, causing each year falls in prices and costly interventions burdensome to the budget of the Guarantee Section of the EAGGF. It is in order to remedy these disadvantages that Regulations Nos 2517/69 and 2637/69 have been adopted.

The application of the system thereby set up was entrusted to the Member States whose duty it was to make the necessary administrative and financial provisions. It now appears that the Italian Republic has not enacted a body of such provisions and that the system of premiums in question has not been effectively applied within Italian territory. In fact, although the Italian Government sent certain instructions to the competent bodies, it has not been able to supply information on the carrying out of the other obligations arising under the regulations in question (certificate that grubbing has been carried out and when it took place etc.). In respect of the financial obligations, it acknowledges not only that it has not started to make any payment but also that it has not given a 'formal undertaking' to the applicants. These omissions have hampered the reestablishment of equilibrium in the Community market, causing an increase in the charges on the Guarantee Section of the EAGGF and seriously prejudicing the Italian producers concerned. This situation can be seen to be an infringement of Regulations Nos 2517/69 and 2637/69.

With regard particularly to the expression 'formal undertaking', used in the telex of 25 March 1972, one cannot allow the idea of an implementation of the said regulations which questions their directly applicable nature and the rights arising in favour of private individuals. When the conditions imposed by these regulations for the grant of the premiums are satisfied, the national departments must proceed to carry out the checks provided for by the regulations and, after having done so, to pay the premiums, whatever the situation under national legislation in the matter. The Court has ruled that any failure of Parliament to act cannot be invoked to cover infringement by a Member State. After all, while admitting that the release of funds by legislative action was necessary, it is found that the Italian Government has not introduced any draft law before its Parliament since the adoption of Regulations Nos 2517/69 and 2637/69 and that it had allowed two years to pass without taking action despite reminders from the Commission. It was only at the expiration of the time-limit set to conform with the reasoned opinion that the said government communicated the information that an 'outline draft law' had been drawn up and that this matter would 'as soon as possible be entered on the agenda of the Council of Ministers . . .'. The Commission is not aware of the date on which a draft law was approved by the Council of Ministers and sent to Parliament. The last information received, by telex of 25 March 1972, stated simply that the measure 'has not yet reached the end of the legislative procedure'.

The *Italian Government* puts forward its Circulars Nos 7, 17 and 24 and submits that on the administrative level Italy had even acted quickly. The department also exerted itself to obtain the intervention of the legislature necessary for the release of funds allowing for payment of the premiums.

The Italian Government is conscious of its obligation to implement Community acts in the shortest possible time. However, within the framework of a procedure initiated under Article 169, there must also be taken into account the particular circumstances which may justify or, at least, explain the non-performance of the said obligations; it is only thus 'that the Court can establish whether there has been . . . a real failure, or whether it is merely a question of a delay in execution.'

In this case, the behaviour of the Italian Government did not arise from a determination not to satisfy its obligations.

With regard to the adoption of the necessary legislative measures, it must firstly be pointed out that certain difficulties arose in the search for the financial means and that the Italian State had 'at the same time to face various heavy financial obligations in finding a solution to the problems posed by the adaptation of the economic and social structure of the country to new methods of production and new social experiments'. Therefore, it is only since the month of November 1971 'that it has been possible to communicate to the other departments for their approval the preliminary draft of the financial law, drafted by the competent Ministries, being those of Agriculture and Forestry and the Treasury'. But 'it is common knowledge that it has been impossible to bring the legislative procedure to a close because of the political vicissitudes which assailed our country at the end of 1971 and the beginning of 1972', as Parliament and the Government were 'vitally concerned firstly with the elections of the Head of State and then with a political crisis of extreme importance' which led to the premature dissolution of Parliament and to new elections, and can be considered as having ended only recently.

In all those circumstances, the Commission had shown excessive zeal in initiating the procedure referred to in Article 169 of the Treaty without waiting for the end of the crisis and during a period of recess of Parliament, at a time therefore when it was impossible for the government to remedy the omission charged. The Community institutions should follow any difficulties of the Member States with understanding and not merely with rigid formalism. The second paragraph of Article 169 entrusts the Commission with the task of choosing the most appropriate moment for the introduction of any appeal; when doing this, it must have recourse to the spirit of the Treaty based on the necessity to avoid measures likely to cause imbalance and to compromise the harmonious development of the activities of the Member States.

The Italian Government has the firm intention of promoting as soon as possible the adoption of legislative measures relating to the financial provision for the payments in question.

The Commission replies that the distinction between total non-feasance and delay is not relevant for the puposes of applying Article 169. This provision refers equally to failure of the obligation to act within the time laid down; further, it enables the Commission to bring the matter before the Court if the State concerned does not comply with the reasoned opinion within the period laid down, quite apart therefore from the question of whether there is reason to think that it will conform to it in the near of distant future.

It is true that the Member States cannot be held answerable for omissions due to extraordinary circumstances beyond their control. But the facts reported by the Italian Government do not show that this principle might be invoked in this case.

The circular of 14 February 1970 was restricted to giving instructions for applying a provision of Regulation No 2517/69, being that prohibiting the grant of aid for the planting or replanting of fruit orchards. The circular of 12 May 1970, it is true, gave 'more than detailed' instructions as to the application of the basic provisions of Regulations Nos 2517/69 and 2637/69. But in the last sentence, it held up the implementation of those regulations by blocking it at the initial stage of registration of the applications lodged.

As for the circular of 26 November 1970, it only made a little further progress, since, first, it wrongly subjected the 'provisional authorizations for grubbing' to an estimation of expediency, and then it enjoined the local authorities to specify that they give no under-

taking concerning the grant of the premium.

The Commission, referring to the judgment of the Court of 17 May 1972 (Leonesio v Italian Ministry of Agriculture, premiums for slaughtering dairy cows, Case No 93/71, Rec. 1972, p. 288), returns to its arguments as to the direct effect of Community Regulations and the impossibility for Member States to oppose them with arguments drawn from national legislation.

In order to accelerate the process of reorganization, Regulation No 2517/69 set 1 March 1971 as the time limit for lodging applications, and reduced to essentials the checks to be carried out before grubbing and payment take place. For the same reasons the Commission had to take prompt action.

Only on 29 December 1971, on the expiration of the period laid down in the reasoned opinion, did the Italian Government report that a 'draft law' had been drawn up and that the matter would be 'entered as soon as possible on the agenda of the Council of Ministers'; however, in its telex of 25 March 1972, it indicated that the measure in question 'has not yet reached the end of the legislative procedure'. It seems that at that time the said draft had not passed the stage of interministerial discussions.

The political difficulties pointed out by the Italian Government do not explain why it has not placed a draft law before Parliament since the publication of the regulations in question. After all, if the practice of *ad hoc* financial laws was adopted also by the other Member States, each of whom in turn is involved in elections, difficulties and crises, the application of Community Regulations would be seriously compromised.

Replying to the invitation of the Court to specify the extent of its grounds of complaint, the *Commission* stated the following in particular:

Disregarding the fact that hitherto no premium has been paid, the omission charged arises from the following circumstances:

— It was only by its circular of 26 November 1970 that the Italian Government authorized the competent local authorities to proceed to certify that the applications for the grant of premiums lodged by the growers concerned could be approved, in accordance with Article 5 of Regulation No 2637/69. This authorization was issued too late. The normal time for grubbing fruit trees is between end of the harvest each year, in either October or November, and the renewal of growth in either March or April. The delay in adopting the abovementioned measure therefore prevented the grubbing period in the 1970/71 winter from being fully utilized.

— Up to now, the competent authorities have still not been authorized to proceed to certify that grubbing has actually been carried out, as provided for by Article 6 of Regulation No 2637/69. In support of this assertion, the Commission has placed on file a certain number of formal requests made in November 1972, whereby Italian growers formally applied to the competent authorities of their State to certify as required and to issue them with the certificate referred to in Articles 6 and 7 of the abovementioned Regulation.

At the hearing, the *Italian Government* stated in particular that the Agricultural Committee of the Senate of the Italian Republic had just approved a legislative decree concerning premiums for grubbing fruit trees and that the plenary Assembly would deal with the matter at its meeting on 15 January 1973. With regard to certifying that grubbing has taken place it had in the meantime been carried out 'in relation to the request that the Court had addressed to the Commission', that is to the letter of the Court of 30 November 1972 referred to above.

Grounds of judgment

1 By application lodged with the Registry on 8 June 1972, the Commission brought an action before the Court, under Article 169 of the EEC Treaty, for a declaration that the Italian Republic, in not having enacted the body of provisions necessary for the effective application of Regulation No 2517/69 of the Council of 9 December 1969 (OJ L 318, p. 15) establishing a system of premiums for grubbing fruit trees with a view to reorganizing Community fruit production, as well as of the implementing Regulation No 2637/69 of 24 December 1969 (OJ L 327, p. 31), has failed in its obligations arising under those Regulations.

2 The Commission firstly points out that the Italian Republic allowed an excessive amount of time to pass before empowering the competent local authorities, by circular of the Ministry of Agriculture and Forestry of 26 November 1970, to proceed to certify that the applications for premiums lodged by the growers concerned could be approved, in accordance with Article 5 of Regulation No 2637/69.

3 The reasoned opinion delivered by the Commission on 14 October 1971 was based on the fact that the Italian Republic had not 'enacted the body of provisions allowing for the effective application within its territory of the system of premiums for grubbing fruit trees'.

As this statement recessarily only refers to provisions which had not yet been enacted at the date of the opinion, it cannot be taken to include reference to the possible lateness of the abovementioned measure.

This fact, therefore, cannot be admitted.

4 The Commission then claims that the Italian Republic has not yet empowered the competent authorities to certify, at the request of the party concerned that grubbing has been carried out in those cases where it has already taken place.

This ground of complaint concerns the application of Article 6 of Regulation No 2637/69, under the terms of which, at the request of the party concerned, the national authorities shall certify that grubbing has been carried out and when it took place.

Further the ground of complaint must be examined in the light of the combined provisions of Article 3 of Regulation No 2517/69 and Article 7 of Regulation No 2637/69, which lay down that the premium shall be paid when the claimant proves that he has actually completed the grubbing and that this proof shall be furnished by presenting to the competent authority the certificate referred to in Article 6 of Regulation No 2637/69.

In support of this ground of complaint the Commission placed on file copies of several formal requests made in November 1972 whereby Italian growers formally applied to the authorities of their State to certify and to issue them with the certificate referred to in Articles 6 and 7 of Regulation No 2637/69.

5 At the hearing on 10 January 1973, the Italian Government alleged that these certifications had since been carried out.

6 In so far as its department has actually carried out those checks and certifications, it can be seen from the explanations of the Italian Government itself that this was done at the earliest in November 1972.

However, under Regulations Nos 2517/69 and 2637/69 such checking and certifying should have been carried out at an earlier date, so that the Italian Republic acted outside the relevant time-limit.

While these Regulations did not lay down express time-limits for the Member States to carry out the measures they contained, nevertheless such time-limits follow from the content of these Regulations and the aims of the system established by them.

The object of these Regulations, which entered into force on 1 January 1970, is to remedy the disadvantages resulting from structural over-production which characterize the fruit sector, entailing costly interventions burdensome to the European Agriculture Guidance and Guarantee Fund.

By the third recital in the Preamble to Regulation No 2517/69, in these circumstances 'some inducement should be offered to growers to relinquish their production, wholly or in part', and, for this purpose, provision should be made for the grant of premiums to growers who agree to grub their orchards wholly or in part.

7 A system with this in view obliges the Member States to act within a time-limit which allows for the attainment of that end, particularly by carrying out the checks and certifications in question so as to ensure that growers can obtain the premium as soon as they have satisfied the required conditions.

Under Article 2 (1) of Regulation No 2517/69, requests for the granting of premiums had to be lodged before 1 March 1971 and could therefore have been made at an earlier date.

It is not disputed that the normal time for grubbing is between the end of the harvest and the renewal of growth, that is between autumn and spring.

Therefore, the Italian Republic should have carried out the checks and certifications in the spring of 1971 at the latest in order to be able to give effect, within an appropriate time, to the requests for premiums lodged in respect of grubbing carried out during the first period to be taken into account, that is in the winter of 1970/71.

It was imperative for the effectiveness of the measures adopted to observe such a time limit, as they would only have been able fully to achieve their objective on condition that they were implemented simultaneously in all the Member States.

8 It was imperative for the effectiveness of the measures adopted to observe such a time limit, as they would have been able to achieve their objective on condition that they were implemented simultaneously in all Member States. It appears therefore that the delay by the Italian Republic in checking and certifying as provided for by Article 6 of Regulation No 2637/69 amounted to a failure to fulfil its obligations.

9 Finally the Commission complains that the Italian Republic has not paid the premiums for grubbing fruit trees, provided for by Regulations Nos 2517/69 and 2637/69, for the benefit of growers entitled to claim them.

10 The Italian Government does not dispute the truth of that allegation, but argues that political circumstances had made it impossible for the competent authorities, despite their good intentions, to fulfil their obligations with the expedition desired.

On the one hand, Italian law required that expenditure by the State must be authorized by law and, on the other hand, the political crisis in Italy at the end of 1971 and the beginning of 1972 paralysed the functioning of the

legislative authorities to the point that made it impossible to enact with the prescribed time a law covering the payment of premiums.

11 A Member State cannot plead the provisions or practices of its internal order in order to justify failure to observe obligations and time-limits arising from Community Regulations.

It falls to a Member State in accordance with the general obligations imposed on Member States by Article 5 of the Treaty, to recognize the consequences, in its internal order, of its adherence to the Community and, if necessary, to adapt its procedures for budgetary provision in such a way that they do not form an obstacle to the implementation, within the prescribed time-limits, of its obligations within the framework of the Treaty.

Therefore, the Italian Republic cannot rely on its legislation or budgetary practice in order to justify the delay in the payment of the premiums in question.

Further, by reason of their participation in the deliberations of the Council, the Member States are informed of the extent of the expenditure which might be entailed in applying acts adopted by that institution and are therefore able in good time to make the appropriate provisions for satisfying the financial obligations incurred.

While the Italian Republic let it be known, after conclusion of the oral proceedings, that a law allowing for the payment of the premiums in question had been passed by its Parliament, this does not in any way alter the fact of the omission charged.

12 It appears, therefore, that the fact that the Italian Republic has not paid the premiums for grubbing fruit trees constitute a failure to fulfit its obligations under Community law.

13 It follows from all these considerations that the Italian Republic has failed in its obligations arising under Regulations Nos 2517/69 and 2637/69, in not having enacted the body of provisions allowing for the effective application within its territory of the system of premiums for grubbing fruit trees established by those Regulations.

Costs

14 Under the terms of Article 69 (2) of the Rules of Procedure the unsuccessful party shall be ordered to bear the costs.

The Italian Republic has failed in its pleas.

On those grounds,

Upon reading the pleadings;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the observations of the parties;
Upon hearing the opinion of the Advocate-General;
Having regard to the Treaty establishing the European Economic Community, especially Articles 5 and 169;
Having regard to Regulation No 2517/69 of the Council of 9 December 1969 (OJ L 318, p. 15);
Having regard to Regulation No 2637/69 of the Commission of 24 December 1969 (OJ L 327, p. 31);
Having regard to the Rules of Procedure of the Court of Justice of the European Communities;

THE COURT

hereby:

1. **Finds that the Italian Republic, in not having enacted the body of provisions allowing for the effective application within its territory of the system of premiums for grubbing fruit trees, has failed to fulfil its obligations arising under Regulations (EEC) Nos 2517/69 of the Council of 9 December 1969 (OJ L 318, p. 15) and 2637/69 of the Commission of 24 December 1969 (OJ L 327, p. 31);**

2. **Orders the Italian Republic to bear the costs.**

Lecourt	Monaco		Pescatore
Donner	Kutscher	Ó Dálaigh	Sørensen

Delivered in open court in Luxembourg on 8 February 1973.

A. Van Houtte
Registrar

R. Lecourt
President