JUDGMENT OF THE COURT (Fifth Chamber)
14 July 1994 *

In Case C-186/93,

REFERENCE to the Court under Article 177 of the EEC Treaty by the Corte d'Appello di Roma (First Civil Division) for a preliminary ruling in the proceedings pending before that court between

Unione Nazionale tra le Associazioni di Produttori di Olive (Unaprol)

and

Azienda di Stato per gli Interventi nel Mercato Agricolo (AIMA),

Ministero dell'Agricoltura e delle Foreste,

on the interpretation of the Community provisions governing the granting of Community aid and, in particular, Council Regulation (EEC) No 2959/82 of 4 November 1982 laying down general rules in respect of production aid for olive oil for the 1982/83 marketing year (OJ 1982 L 309, p. 30) and Council Regulation (EEC) No 2261/84 of 17 July 1984 laying down general rules on the granting of aid for the production of olive oil and of aid to olive oil producer organizations (OJ 1984 L 208, p. 3),

* Language of the case: Italian.

THE COURT (Fifth Chamber),

composed of: J. C. Moitinho de Almeida, President of the Chamber, R. Joliet, G. C. Rodríguez Iglesias (Rapporteur) F. Grévisse and M. Zuleeg, Judges,

Advocate General: W. Van Gerven,
Registrar: H. von Holstein, Deputy Registrar,

after considering the written observations submitted on behalf of:

— Unione Nazionale tra le Associazioni di Produttori de Olive (Unaprol), by Paolo Mercuri, Giuseppe Castelli Avolio and Andrea Guarino, of the Rome Bar,

— the Italian Government, by Professor Luigi Ferrari Bravo, Head of the Department for Legal Affairs at the Ministry of Foreign Affairs, acting as Agent, assisted by Oscar Fiumara, Avvocato dello Stato,

— the Commission of the European Communities, by Eugenio de March, Legal Adviser, acting as Agent, assisted by Alexandre Carnelutti, of the Paris Bar,

having regard to the Report for the Hearing,

after hearing oral argument from Unaprol, the Italian Government and the Commission at the hearing on 21 April 1994,

after hearing the Opinion of the Advocate General at the sitting on 18 May 1994,

gives the following

Judgment

1 By order of 27 October 1992, received at the Court on 20 April 1993, the Corte d'Appello di Roma (Court of Appeal, Rome, First Civil Division) referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty a question on the interpretation of the Community provisions governing the granting of Community aid and, in particular, Council Regulation (EEC) No 2959/82 of 4 November 1982 laying down general rules in respect of production aid for olive oil for the 1982/83 marketing year (OJ 1982 L 309, p. 30) and Council Regulation (EEC) No 2261/84 of 17 July 1984 laying down general rules on the granting of aid for the production of olive oil and of aid to olive oil producer organizations (OJ 1984 L 208, p. 3) in order to determine the ownership of the interest accruing on funds placed in the accounts of associations of producer organizations, between the time when AIMA credits the funds and the time when they are actually over paid to the beneficiaries of the aid.

2 That question was raised in proceedings between Unaprol (the national association of olive producer groups), on the one hand, and AIMA (the national intervention agency for agricultural products) and the Ministry for Agriculture and Forestry, on the other. Unaprol, which is recognized under Council Regulation (EEC) No 1360/78 of 19 June 1978 on producer groups and associations thereof (OJ 1978 L 166, p. 1), is involved in the management of Community aid for the production of olive oil.

3 By a summons served on 22 October 1986, Unaprol brought proceedings against AIMA and the Ministry for Agriculture and Forestry in the Tribunale (District Court), Rome, for a declaration that the Ministerial Decrees of 29 December 1983 (GURI No 28 of 28 January 1984) and of 2 January 1985 (GURI No 17 of 21 January 1985), which were enacted in implementation of Community Regulations No 2959/82 and No 2261/84, cited above, and which govern the olive oil market, were unlawful.

4 Unaprol claimed that the national rules (fourth paragraph of Article 2 of the Ministerial Decree of 29 December 1983 and the sixth paragraph of Article 17 of the Ministerial Decree of 2 January 1985) are contrary to Community legislation, in so far as they allocate to AIMA, and not to individual producers, the actual and sole beneficiaries of the Community aid, any bank interest accruing on the sums granted until they are actually paid over to the beneficiaries or, in the event of a cheque being returned owing to death or non-delivery to the address shown on the beneficiary's application, until the issue of new payment documentation.

5 The wording of the first six paragraphs of Article 17 of the Decree of the Minister for Agriculture of 2 January 1985 (which in substance reiterates the provisions of the Ministerial Decree of 29 December 1983, save that the words 'recognized producer organizations' are replaced by 'recognized associations of producer groups') is as follows:

'The recognized associations of producer groups shall, in respect of their members, effect payment of the advance on and the balance of the aid by bank transfers or by non-transferable cheques issued by a credit institution chosen by the organizations themselves and to be sent by registered letter to the recipients' address.

The amount of the advance on the balance referred to in the previous paragraph shall be equal to the corresponding amount certified by AIMA on the basis of the memoranda summarizing the applications considered to be eligible for aid in accordance with Community legislation and this decree.

Relations between the recognized associations and the credit institution responsible for payment of Community production aid shall be governed, according to Presidential Decree No 532 of 4 July 1973, by a special agreement to the effect that payment to recipients is to be made at the latest within ten working days from the date on which the credit operations involving the said sums, ordered by AIMA, result in their being made available. With regard to members of oil-producing

cooperatives belonging to producer groups, the non-transferable cheques payable to the various producers may be forwarded through the cooperatives themselves, in order to facilitate payment operations.

Similarly, relations between AIMA and the associations shall be governed by an agreement which must provide that, in the case of cheques returned on account of death or non-delivery to the address given on the beneficiary's application, the sums involved are to be paid to the credit institution responsible for payment into a special blocked current account pending the issue of new duly updated documentation.

Bank statements showing the progressive increase in interest accruing on the sums deposited shall be sent to AIMA every six months by the associations concerned.

Any bank interest accruing shall belong solely to AIMA to whom it must be credited by the producer organizations, after deduction only of sums payable to the Treasury, by the deposit of Treasury bonds into non-interest-bearing current account No 416 in the name of AIMA-Financial Management.'

6 By decisions of 28 June 1989 and 24 January 1990, the Tribunale di Roma declared the action inadmissible both in so far as it was directed against the Minister for Agriculture and Forestry and in so far as it was directed against AIMA. On 29 November 1990, Unaprol gave notice of its intention to appeal against that decision to the Corte d'Appello di Roma.

7 By an interim decision of 27 October 1992, the Corte d'Appello declared that Unaprol had *locus standi* to take action.

8 However, the Corte d'Appello considered it necessary, before examining the substance of the case, to settle the preliminary question of the interpretation of the Community regulations governing Community aid.

9 Accordingly, by a separate order of 27 October 1992, that court decided to refer to the Court of Justice the following question for a preliminary ruling:

'Do the Community provisions governing aid to olive producers, and particularly Council Regulations (EEC) No 2959/82 of 4 November 1982 and No 2261/84 of 17 July 1984, provide that AIMA (the national intervention agency) acts simply as an intermediary in the name and on behalf of the European Economic Community (without ever becoming entitled to the sums granted, which belong, therefore, together with the ancillary interest accruing during the course of the payment procedure, to the individual beneficiaries from the time of their grant), or is AIMA exclusively entitled to those sums, and therefore to the interest thereon, until such time as they are paid over to the beneficiaries?'

10 Unaprol, the plaintiff in the main proceedings, maintained at the hearing that the national court did not ask to whom the interest accruing on the allocated sums belongs, but only whether or not AIMA acts as an intermediary in paying over the aid.

11 The question raised does indeed concern the nature of AIMA's involvement, as owner or as intermediary. Nevertheless, it follows from the order for reference and from the actual wording of the question that the national court seeks to determine the ownership of the bank interest accruing on the sums paid to the associations of producer organizations by way of aid for the production of olive oil, a matter which is central to the main proceedings.

12 However, the solution to the problem does not presuppose that the involvement of the national intervention agency, either as intermediary or as owner of the sums allocated, has to be classified for legal purposes.

13 Accordingly, the national court's question must be recast in so far as is seeks to establish whether the Community provisions on the financing of the common agricultural policy and, in particular, Regulations No 2959/82 and No 2261/84 preclude national legislation from laying down that any bank interest accruing on the sums allocated until they are actually paid over to the beneficiaries belongs to the national intervention agency.

14 In order to reply to that question, reference must be made to the fundamental provisions relating to Community financing of measures in the agricultural market and, more particularly, in the olive oil market.

15 The European Agricultural Guidance and Guarantee Fund (EAGGF), 'Guarantee' Section, finances refunds on exports and measures intended to stabilize the agricultural markets on the basis, in particular, of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (OJ, English Special Edition 1970(I), p. 218).

16 The wording of Article 4(1) and (2) of that regulation is as follows:

'1. Member States shall designate the authorities and bodies which they shall empower to effect, from the date of application of this regulation, the expenditure referred to in Article 2 and 3. They shall communicate to the Commission, as soon

as possible after the entry into force of this regulation, the following particulars concerning those authorities and bodies:

— their name and, where appropriate, their statutes;

— the administrative and accounting conditions in accordance with which payments are made relating to the implementation of Community rules within the framework of the common organization of agricultural markets.

They shall inform the Commission forthwith of any change in those particulars.

2. The Commission shall make available to Member States the necessary credits so that the designated authorities and bodies may, in accordance with Community rules and national legislation, make the payments referred to in paragraph 1.

The Member States shall ensure that those credits are used without delay and solely for the purposes laid down.'

17 In accordance with Commission Regulation (EEC) No 380/78 of 30 January 1978 on the operation of the system of advances in respect of expenditure financed by the Guarantee Section of the EAGGF (OJ 1978 L 56, p. 1), and Commission Regulation (EEC) No 3184/83 of 31 October 1983 on the operation of the system of advances in respect of expenditure financed by the EAGGF Guarantee Section (OJ 1983 L 320, p. 1) — which replaced Regulation No 380/78 — the Commission makes available to Member States the funds needed for payment by the disbursing authorities and agencies of expenditure financed by the EAGGF Guarantee Section, an account being opened for this purpose by each Member State within the

Treasury or some other financial institution (Article 1(1) of both regulations). Each Member State is to ensure that the Community funds are properly managed and is to distribute them among the disbursing authorities and agencies (Article 1(3) of both regulations).

18 The producer groups (referred to as 'producer organizations' in Regulations No 2959/82 and No 2261/84) and the associations of such groups were recognized by Regulation No 1360/78, cited above. That regulation introduces in certain Community regions a system to encourage the formation of producer groups and associations thereof in order to remedy the structural deficiencies affecting the supply and marketing of agricultural products, resulting from insufficient producer organization.

19 The system of aid for the production of olive oil was introduced by Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organization of the market in oils and fats (OJ, English Special Edition 1965-1966, p. 221).

20 The involvement of producer groups and associations thereof in the management of aid for the production of olive oil was established by Regulation No 1360/78, cited above, by Council Regulation (EEC) No 1917/80 of 15 July 1980 amending Regulation No 136/66/EEC on the establishment of a common organization of the market in oils and fats and supplementing Regulation (EEC) No 1360/78 on producer groups and associations thereof (OJ 1980 L 187, p. 1), by Council Regulation (EEC) No 1413/82 of 18 May 1982 amending Regulation No 136/66/EEC on the establishment of a common organization of the market in oils and fats (OJ 1982 L 162, p. 6) and by Council Regulation (EEC) No 2260/84 of 17 July 1984 amending Regulation No 136/66/EEC on the establishment of a common organization of the market in oils and fats (OJ 1984 L 208, p. 1).

21 Finally, Regulations No 2959/82 and No 2261/84, the interpretation of which is sought by the national court, lay down the conditions for granting aid for the production of olive oil and set out the procedure for payment of that aid to olive growers as well as the checks on entitlement to the aid. The conditions for the granting and payment of the aid differ according to whether or not the olive grower belongs to a producer organization recognized under Community rules.

22 More particularly, Regulation No 2261/84, which sets out the rights and obligations of all those affected by the system, takes into consideration the associations of olive oil producer organizations. Under Article 10 of the regulation, those associations are responsible for coordinating the activities of the organizations of which they are composed, ensuring that those activities accord with the provisions of the regulation, lodging with the competent authority the crop declarations and the aid applications forwarded to them by the organizations of which they are composed, receiving from the Member State concerned advances on the production aid and the balance of the aids, and dividing them forthwith amongst the producers who are members of the organizations of which they are composed.

23 Article 11(5) of Regulation No 2261/84 provides that producer Member States are to lay down rules regarding allocation of the aid and the time-limits for payment to olive growers. Likewise Article 6(2) of Regulation No 2959/82 provides that the Member States concerned are to determine the procedure for payment of the aid and the advance by producer organizations to their members.

24 The question of the allocation of any interest accruing, during the procedure for granting the aid, on the sums intended for payment of the aid has not been expressly settled by the aforementioned provisions relating to the olive oil market.

25 Accordingly, it is for the national law of each Member State to determine the legal arrangements applicable to any interest accruing on the sums of aid placed in the accounts of associations of producer organizations before actually being paid over to the beneficiaries.

26 In the absence of a Community provision on the question of interest, that is a matter in respect of which Member States are empowered to adopt rules by Articles 11(5) of Regulation No 2261/84 and 6(2) of Regulation No 2959/82.

27 That interpretation is consistent with the scheme for financing the common agricultural policy, according to which the Community grants production aid in the context of a division of powers with the Member States. The sums corresponding to the aid are placed at the disposal of the Member States who must ensure that they are properly managed and, in particular, determine the conditions for payment of the aid to the beneficiaries by their intervention agencies or authorities.

28 In addition, as the Commission has correctly observed, national rules such as those at issue in the main proceedings would not appear to jeopardize the uniform application or effectiveness of Community law.

29 The answer to the national court's question must therefore be that the Community provisions on the financing of the common agricultural policy and, in particular,

Regulations No 2959/82 and No 2261/84 do not prevent national legislation from providing that any bank interest accruing on the sums allocated until they are actually paid over to the beneficiaries belongs to the national intervention agency.

Costs

30 The costs incurred by the Italian Government and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Fifth Chamber),

in answer to the question referred to it by the Corte d'Appello di Roma (First Civil Division), by order of 27 October 1992, hereby rules:

The Community provisions on the financing of the common agricultural policy and, in particular, Council Regulation (EEC) No 2959/82 of 4 Novem-

ber 1982 laying down general rules in respect of production aid for olive oil for the 1982/83 marketing year and Council Regulation (EEC) No 2261/84 of 17 July 1984 laying down general rules on the granting of aid for the production of olive oil and of aid to olive oil producer organizations, do not prevent national legislation from providing that any bank interest accruing on the sums allocated until they are actually paid over to the beneficiaries belongs to the national intervention agency.

Moitinho de Almeida Joliet Rodríguez Iglesias

Grévisse Zuleeg

Delivered in open court in Luxembourg on 14 July 1994.

R. Grass

Registrar

J. C. Moitinho de Almeida

President of the Fifth Chamber