OPINION OF ADVOCATE GENERAL LA PERGOLA

delivered on 15 September 1998 *

1. In the present action, the Kingdom of Denmark (Case C-289/96), the Federal Republic of Germany (Case C-293/96) and the French Republic (Case C-299/96) seek the annulment of Commission Regulation (EC) No 1107/96 of 12 June 1996 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 [1] in so far as it provides for the registration of the word 'feta' as a protected designation of origin. More specifically, the applicants argue that the conditions laid down by Regulation No 2081/92, [2] which would enable feta to benefit from the protection afforded by that regulation, have not been satisfied.

Legislative and factual background

2. In order to reduce the obstacles to the free movement of goods posed by the coexistence of differing national systems for the protection of designations of origin and geographical indications, Regulation No 2081/92 introduced a set of uniform Community rules which make it possible to protect these designations and indications throughout the Member States.

The concepts of 'designation of origin' and 'geographical indication', for the purposes of applying the regulation, are set out in Article 2(2), which provides:

'(a) *designation of origin*: means the name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural product or a foodstuff:

— originating in that region, specific place or country, and

— the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and the production, processing and preparation of which take place in the defined geographical area;

* Original language: Italian.

1 — OJ 1996 L 148, p. 1.

2 — Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ 1992 L 208, p. 1).

(b) *geographical indication*: means the name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural product or a foodstuff:

— originating in that region, specific place or country, and

— which possesses a specific quality, reputation or other characteristics attributable to that geographical origin and the production and/or processing and/or preparation of which take place in the defined geographical area'.

Article 2(3) goes on to provide that:

'Certain traditional geographical or non-geographical names designating an agricultural product or a foodstuff originating in a region or a specific place, which fulfil the conditions referred to in the second indent of paragraph 2(a) shall also be considered as designations of origin'.

The scope of protection afforded by the regulation is defined in Article 13, which provides:

'1. Registered names shall be protected against:

(a) any direct or indirect commercial use of a name registered in respect of products not covered by the registration in so far as those products are comparable to the products registered under that name or in so far as using the name exploits the reputation of the protected name;

(b) any misuse, imitation or evocation, even if the true origin of the product is indicated or if the protected name is translated or accompanied by an expression such as "style", "type", "method", "as produced in", "imitation" or similar;

(c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the product concerned, and the packing of

the product in a container liable to convey a false impression as to its origin;

(d) any other practice liable to mislead the public as to the true origin of the product.

...'

Further, under Article 8, 'the indications PDO [protected designation of origin], PGI [protected geographical indication] or equivalent traditional national indications may appear only on agricultural products and foodstuffs that comply with this Regulation'.

Of fundamental importance for the purposes of the present case is Article 3, which provides that 'names that have become generic may not be registered'. Article 3 goes on to provide:

'For the purposes of this Regulation, a "name that has become generic" means the name of an agricultural product or a foodstuff which, although it relates to the place or the region where this product or foodstuff was originally produced or marketed, has become the common name of an agricultural product or a foodstuff.

To establish whether or not a name has become generic, account shall be taken of all factors, in particular:

— the existing situation in the Member State in which the name originates and in areas of consumption,

— the existing situation in other Member States,

— the relevant national or Community laws.

Where, following the procedure laid down in Articles 6 and 7, an application of registration is rejected because a name has become generic, the Commission shall publish that decision in the *Official Journal of the European Communities*.

2. A name may not be registered as a designation of origin or a geographical indication where it conflicts with the name of a plant variety or an animal breed and as a result is likely to mislead the public as to the true origin of the product.

3. Before the entry into force of this Regulation, the Council, acting by a qualified majority on a proposal from the Commission, shall draw up and publish in the *Official Journal of the European Communities* a non-exhaustive, indicative list of the names of agricultural products or foodstuffs which are within the scope of this Regulation and are regarded under the terms of paragraph 1 as being generic and thus not able to be registered under this Regulation.'

The protection established by the regulation is subject to registration of the name in question in the 'Register of protected designations of origin and protected geographical indications'. That registration must take place in accordance with the procedure laid down in the regulation. In the present case, the relevant procedure is the 'abridged' procedure which is governed by Article 17 and relates to the registration of names already in existence. Article 17 provides:

'1. Within six months of the entry into force of the Regulation, Member States shall inform the Commission which of their legally protected names or, in those Member States where there is no protection system, which of their names established by usage they wish to register pursuant to this Regulation.

2. In accordance with the procedure laid down in Article 15, the Commission shall register the names referred to in paragraph 1 which comply with Articles 2 and 4. Article 7 shall not apply. However, generic names shall not be added.

3. Member States may maintain national protection of the names communicated in accordance with paragraph 1 until such time as a decision on registration has been taken.'

3. Turning now to the facts which gave rise to the present action, it is appropriate to begin by giving a brief description of the characteristics of feta cheese. The word itself — which is of Italian origin and means 'slice' or 'piece' — designates a traditional white cheese in brine which has been made since time immemorial throughout Greece and also in other Balkan states. [3] The cheese is made by allowing milk to coagulate naturally at normal

3 — The particular countries of the Balkan region most closely connected with the traditional production of feta appear to be Albania, Bulgaria, Cyprus, Romania and the former Yugoslavia.

pressure. [4] The resulting substance has a dense texture, a natural whitish colour, a distinctive smell and a slightly acidic, salty, fatty taste.

Until 1988, there was no regulation of the production of feta in Greece. The cheese is produced in numerous locations and there are therefore several local and regional variants of the product. Moreover, given the absence of technical specifications at an international level, other methods of producing feta are to be found in various other Member States of the Community and also in non-member countries, which are none the less quite distinct from the methods used in Greece. The difference lies in the use of cow's milk, rather than the sheep's milk and/or goat's milk that is used in Greece, and in the use of an industrial method of production called ultrafiltration, which is more modern and more economical than natural straining. Outside Greece, as far as the common market is concerned, the production of feta is mainly concentrated in Denmark (which is the largest producer), where production began in the 1960s, and in Germany, the Netherlands, and France. [5]

4. As stated, regulation in Greece of the conditions under which feta is produced and marketed began in 1988 [6] and culminated in the adoption of a decree in 1994, [7] under which the denomination of origin 'feta' was established at national level.

By letter dated 21 January 1994, the Greek Government requested registration of the word 'feta' as a PDO under the abridged procedure laid down by Article 17 of Regulation No 2081/92. On 19 January 1996, in accordance with Article 15 of the regulation, the Commission submitted to the committee provided for by that article a list of the names of which registration had been requested. The list included the word 'feta'. Since the committee failed to deliver its opinion within the time-limit laid down for it, on 6 March 1996 the Commission submitted a proposal to the Council, as provided for in the fourth paragraph of Article 15. The Council too, however, failed to deliver its opinion within the time limit laid down, and so, on 12 June 1996, the Commission, acting pursuant to the fifth

4 — Advocate General Ruiz-Jarabo Colomer, in his Opinion delivered on 24 June 1997 in Case C-317/95 *Canadene Cheese Trading* [1997] ECR I-4681, which was removed from the register by order of the President of the Court of 8 August 1997, gave the following description of the salient phases in the production process:
'— The milk is coagulated either with the traditional rennet or other enzymes or animal origin which act in a similar way.
— The curds are then turned into perforated moulds where natural straining takes place without pressure. As the whey is strained, the curd solidifies and salt is added to the surface leading to the formation of microflora which assist the process of maturing.
— The curds are then put into wooden or metal containers and brine of 7% concentration is added. The containers are placed in maturing rooms under controlled temperature and humidity conditions.
— The cheese ripens in two months, the first two weeks in the maturing rooms and the rest of the time in cold-storage plant' (section 15).

5 — In France, in addition to feta produced from cow's milk, there is also a method which uses sheep's milk. The regions concerned are Corsica and other areas in the *Massif Central*, such as Roquefort. As regards non-member countries, feta is produced and consumed in Iran and Saudi Arabia, where it is principally manufactured using sheep's and/or goat's milk, and in New Zealand and the United States of America, where feta made from cow's milk predominates.

6 — Ministerial Decree No 2109/88 of 5 December 1988.

7 — Decree of the Deputy Minister for Agriculture No 313025/94 of 11 January 1994.

paragraph of Article 15, adopted the contested regulation by which feta was registered as a PDO. [8]

5. The Kingdom of Denmark, the Federal Republic of Germany and the French Republic brought an action for annulment against that regulation. [9] The Hellenic Republic intervened in the proceedings in support of the form of order sought by the Commission, which is the defendant institution.

Substance of the case

In essence, the applicant governments claim that the contested regulation is invalid in so far as it provides for registration of the word 'feta' as a PDO. Two reasons are given. First, they argue that the conditions laid down by Article 2 of Regulation No 2081/92, which must be fulfilled if a product is to benefit from a PDO, have not been satisfied. Second, they submit that the word 'feta' is a generic term and cannot, therefore, in light of Articles 3 and 17 of that regulation, be protected as a PDO.

Infringement of Article 2(2) of Regulation No 2081/92

6. As to the first criticism, the applicants argue that registration of feta as a PDO is contrary to Article 2(2) of Regulation No 2081/92 in that the geographical area which falls under the protection of the registered name would extend to substantially all of Greece, something which the regulation precludes in the case of traditional non-geographical names, such as that in point here. Moreover, feta is not even of purely Greek origin, but originates in the whole of the Balkans.

However, the Commission, supported by the Greek Government, contests this view. It maintains that the geographical region of provenance of feta does not extend to the whole of Greece in that is does not include the archipelagoes of the Ciclades and the Sporades or the Island of Crete, even though a cheese in brine similar to feta is traditionally produced in those areas. The region of origin of feta is therefore mainland Greece

8 — See part A of the Annex, under the heading 'Cheeses — Greece'.

9 — The three cases were joined by order of the President of the Court of 27 November 1997. It should also be mentioned that, at the same time, certain undertakings producing feta in Denmark, Germany and France brought three actions before the Court of First Instance with a view to obtaining the annulment of the contested regulation by that court (Case T-139/96, Case T-140/96 and Case T-141/96). By three orders of 20 February 1997, the Court of First Instance declined jurisdiction in favour of the Court of Justice, which, in turn, referred the cases to the Court of First Instance by order of 29 May 1998. Again on the matter of the problem of the name 'feta', the Opinion of Advocate General Ruiz-Jarabo Colomer in the *Canadene Cheese Trading* case cited above at footnote 4 should be borne in mind, although the subject-matter of those actions was different from the questions referred in the present case. The Advocate General emphasised that 'it might be possible for the name "feta", although not fulfilling the conditions laid down by Regulation No 2081/92 for a PDO at Community level, to meet the criteria laid down by Community case-law relating to geographical names and therefore to be justified under Article 36 of the Treaty' (section 44).

and the Department of Lesbos. Moreover, the area thus defined is characterised by homogenous climatic conditions and vegetation, which give the feta produced in this area distinctive qualities.

7. In my view, the argument put forward by the applicant governments must be upheld. First, it should be noted that the parties have correctly classified the name in question as a 'traditional non-geographical name' under Article 2(3). The word 'feta' is derived from the Latin and means a slice. It does not, therefore, designate 'the name of a region, a specific place or [...] a country', as Article 2(2)(a) requires in the case of geographical names. It therefore falls to be determined whether the requirements laid down by Article 2(3) for giving feta a non-geographical name have been fulfilled.

In my opinion, the answer must be that they have not, for the reasons set out below.

First, under Regulation No 2081/92, only a product '*originating in a region or a specific place*' [10] may avail itself of a protective name. The product must also, 'fulfil the conditions referred to in the second indent of paragraph 2(a)', that is to say the quality or characteristics of the product must be 'essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and the production, processing and preparation [must] take place in the defined geographical area'. Next, it is significant that, with the type of name in issue here, that is, a traditional non-geographical name, the regulation precludes the geographical region under consideration from being co-extensive with the whole of a country, whereas it does allow this in the case of names of other types. [11]

The wording just cited reflects a fundamental requirement in the matter of protected names: the product bearing the name must have a special relationship with a defined area. There are two aspects to this requirement. First and foremost, the product must originate in a specific, defined area. Secondly, the origin of the product must confer on it particular characteristics in terms of quality and reputation. This is what the regulation requires [12] when it provides that the quality and reputation should be 'essentially or exclusively due to [the] [...] geographical environment' in point. I would add that the relationship between product and territory must be *exclusive*, in the sense that the product must have been

10 — See Article 2(3). (My italics.)

11 — The possibility of registering a name which designates a product originating in the entire territory of a country is provided for — albeit 'in exceptional cases' — only by the first indent of Article 2(2)(a). However, the provision concerned here, namely Article 2(3), only refers to the second indent, which does not allow for such a case, and not to the first. Article 2(3) refers to 'traditional geographical or non-geographical names designating an agricultural product or a foodstuff *originating in a region or a specific place*', but not in an entire country. (My italics.)

12 — See the second indent of Article 2(2)(a).

conceived of, developed and established exclusively in that area and nowhere else. Only this exclusive relationship justifies the grant of a collective monopoly for the exploitation of the name to a group of producers who enjoy that monopoly precisely by virtue of the place where they are established.

8. These conditions are not fulfilled in the present case. The applicant governments have correctly pointed out that, in the present case, the relationship between the product and a well-defined area is lacking, given that the geographical area covered by the name 'feta' extends to substantially the whole of the Greek national territory. I am in agreement with this observation. As the Commission observed, it is true that the term 'region', as it appears in the regulation, should not be construed in the administrative sense. There may therefore be 'regions' within the meaning of the regulation which cover one or more administrative regions. Nevertheless, the geographical area in question must be characterised throughout by climatic and morphological conditions which guarantee the uniform quality of the product. In other words, the particular conditions which affect the characteristics of the product must be present throughout the whole of the geographical area concerned. Clearly, the likelihood of this being the case diminishes in proportion to the size of the area to which the name relates, and all the more so when the area in question covers almost all of the national territory. It is not by accident that the regulation in issue limits to 'exceptional cases' [13] (and to cases, moreover, other than those of non-geographical names such as the one in issue here) the protection of names of products originating in the whole of a country.

Quite apart from this last point, there is, in any event, a preliminary and quite comprehensive reason for which, in my opinion, feta cannot be regarded as originating in Greece for the purposes of the regulation on PDOs. It is true that feta is a traditional Greek product. However, I do not believe that it can be defined as *originating* in any particular region of Greece in the sense that the product was developed and established exclusively in that region, with particular characteristics specifically attributable to its place of origin. It is not disputed that feta originates in the Balkan region and that it therefore has its origins in a territorial area much larger than that of any specific region or even of an entire country. It is, therefore, a product which derives its origin from a regional area comprised of several countries and which is therefore larger than that envisaged by the regulation. The special, close relationship between product and region which, under the system provided for in the regulation, justifies the grant of a PDO, is therefore absent.

By saying this I do not wish to deny that feta is closely linked with traditional Greek gastronomy. But the function of the PDO, within the system established by the regulation, is not to protect culinary and gastronomic

13 — See Article 2(2)(a).

traditions *per se*. Tradition is protected, by way of the grant of an exclusive right to use a particular name, where it has been established and developed in a *specific geographical area* and, above all, where the particular quality of a product is attributable specifically to the fact that it originates in that area, in which there is an unique combination of 'natural and human factors' which characterise the product as unique and thus deserving of protection.

9. In my opinion, the observations set out above provide justification for the annulment of the contested regulation in so far as it provides for registration of the word feta as a PDO. The product designated by the name does not originate in any particular geographical region of Greece to which it owes its qualities or characteristics. Nor can it be said, on the other hand, that the product originates in Greece as a whole, to the exclusion of other countries, given that, since time immemorial, it has been a part of traditional cheese-making throughout the whole of the Balkan region. It therefore fails to satisfy the requirement which Article 2(2) of Regulation No 2081/92 lays down as an essential condition for the registration of a PDO, namely that the product should have a special relationship with a specific geographical region, both in the sense that it originates exclusively in that region and that its particular qualities and characteristics are 'essentially or exclusively due to [the] particular geographical environment' in question.

As to the generic nature of the name 'feta'

10. The above considerations enable me also to assess the other argument put forward by the applicant governments, relating to the *generic* nature of the word feta. The relevant provision here is Article 3 of Regulation No 2081/92, according to which 'names that have become generic may not be registered'. [14] That provision states that 'for the purposes of this Regulation, a "name that has become generic" means the name of an agricultural product or a foodstuff which, although it relates to the place or the region where this product or foodstuff was originally produced or marketed, has become the common name of an agricultural product or a foodstuff'.

A point to be noted, to begin with, is the fact that, in the provision just mentioned, the problem of generic nature is viewed in a dynamic perspective. The Community legislature actually refers to 'names which *have become* generic' with the passage of time, even

14 — In the *Canadene Cheese Trading* case cited above, Advocate General Ruiz-Jarabo Colomer reviewed the case-law on generic names, which are defined as being those 'names which form part of the general cultural and gastronomic stock and may, in principle, be used by any producer' (section 28). The Advocate General added that 'the Court's case-law does not define what is meant by "generic name"'. For present purposes, it is helpful to point out that this approach in the case-law was, for the greater part, established prior to Regulation No 2081/92 and that the examination in the present case should be conducted by reference to the criteria set out in Article 3 of that regulation, which, in any event, are substantially the same as those developed in the earlier case-law.

though they were '*originally*' connected to the specific geographical areas where the product to which they relate originate. However, as the French Government rightly observed, the name in issue in the present case does not designate a product which specifically originates in a particular region in Greece and which later became the common name for an agricultural product or a foodstuff. Feta, cannot, I would repeat, be said to 'originate' in Greece, and still less in any particular region in Greece. Logically, therefore, feta did not 'become generic'. Rather, it was never specific, in the sense that it never referred to *any* particular product originating in *any* specific geographical area and having *any* special characteristics due specifically to the origin of the product in the area in question. In other words, according to the point of view advanced here, the word 'feta' did not *become* generic, but *always was* generic. And if, under Article 3, names which have become generic cannot be registered, then, *a fortiori*, the same is true of those which were generic from the beginning.

11. But let us assume — to leave no stone unturned — that the name was originally connected with a specific place or region. Then in any event, in my opinion, the criteria for holding that it later became generic within the meaning of Article 3 are satisfied. According to that provision, account must be taken of all the factors set out therein, and 'in particular:

— the existing situation in the Member State in which the name originates and in areas of consumption,

— the existing situation in other Member States,

— the relevant national or Community laws'

How are the criteria set out above applied? Looking at the situation within Greece, it may be that consumers in that country do not consider the word feta as a generic name. Advocate General Ruiz-Jarabo Colomer considered this point in the *Canadene Cheese Trading* case, but solely with reference to the question whether the possible generic nature of the word feta was reflected in the internal Greek market. The Advocate General said on that occasion that 'the production, in other Member States of the EC, of a variety of feta different from that which predominates in Greece may have converted the name "feta" into a generic term in those States'. [15] It is precisely this kind of global assessment, which

15 — Section 77 of the Opinion in the *Canadene Cheese Trading* case, cited above.

takes into account the whole of the Community territory, that is dictated by Article 3. It is clear from that provision that an investigation aimed at establishing whether a name has undergone an irreversible process of generalisation must be carried out taking into account-as Article 3 provides - '*all* factors', [16] and not only, therefore, the situation existing within Greece, but also that which distinguishes the other Member States. [17]

Thus, from this perspective, the fact that the production and marketing of feta in Denmark, Germany and the Netherlands is governed by national rules which predate those established in Greece, takes on decisive importance. Moreover, it cannot be said that the feta which is regulated in those countries is substantially different from that traditionally produced in Greece. There are indeed differences in production which, as mentioned earlier, relate to the type of milk used (cow's milk rather than goat's and/or sheep's milk) and, secondarily, to the method of production (ultrafiltration in place of natural straining). But, as Advocate General Ruiz-Jarabo Colomer pointed out in the *Canadene Cheese Trading* case, [18] despite these differences, 'there is no substantial difference between sheep's and/or goat's milk feta and feta made from cow's milk. The situation in international law, the references in Community legislation and the domestic legislation of all the Member States, except Greece, and the expectations of consumers in all the Member States show that feta may be made from sheep's, goat's, or cow's milk without giving rise to differences in the individual varieties of feta'.

12. Furthermore, the Community legislation — to which Article 3 refers — has never considered feta as a designation of origin of a product which is specifically Greek or as a cheese which must necessarily be manufactured using sheep's and/or goat's milk. [19] The

16 — Which puts into context the conclusive weight which the Commission attaches to a survey carried out among consumers in 1994, which is said to show that the majority of those interviewed associate the word feta with a cheese, and a substantial proportion of them associate it with a Greek cheese.

17 — Moreover, this criterion seems to me to be the only one which is compatible with the case-law of the Court according to which consumer habits are likely to vary from one country to another, and may even vary within a single country. Indeed these variations are one of the consequences of the establishment of the internal market. This is why the Court has held that the legislation of one Member State must not 'crystallize given consumer habits so as to consolidate an advantage acquired by national industries concerned to comply with them': see Case 170/78 *Commission* v *United Kingdom* [1980] ECR 417 and Case 178/84 *Commission* v *Germany* [1987] ECR 1227, at paragraph 32.

18 — Cited above, paragraph 67.

19 — The relevant regulations are Commission Regulation (EEC) No 3266/75 of 15 December 1975 (OJ 1975 L 324, p. 12) and Commission Regulation (EEC) No 3322/75 of 19 December 1975 (OJ 1975 L 328, p. 40), which fix repayments in the milk and milk-based products sector and which grant refunds on the export of feta without distinguishing between the types of milk used in the preparation of the cheese. What is more, whilst Commission Regulation (EEC) No 3167 of 16 October 1986 (OJ 1986 L 294, p. 28) does distinguish between feta produced solely from sheep's milk and goat's milk and that prepared using other ingredients, it granted the benefit of refunds to both types of product. To this effect, see also Commission Regulation (EEC) No 3846 of 17 December 1987, which establishes the nomenclature of agricultural products for the purposes of export refunds (OJ 1987 L 366, p.1).

Commission objects that the legislation in issue was adopted in the field of customs and therefore has no bearing upon the generic nature of the name. The defendant institution, however, overlooks the fact that Article 3 of Regulation No 2081/92 requires that Community legislation must be taken into account when investigating whether or not a name is generic. [20] That legislation, even if it does expressly relate to the aspect of the generic nature of a name, clearly suggests that feta has never been regarded as a product which necessarily comes from Greece, or from a particular region in Greece, or as a product made exclusively in accordance with the methods used in that country. This confirms that feta cannot but be considered as a generic name. It is not a name which designates a product which is exclusive in the sense that it typically originates in a specific region and is manufactured according to traditional production processes in that region. Rather, it is a word which identifies, in the ordinary language of the Community legislature and of consumers, a type of cheese which is widely available and is produced in various Member States of the Community and also in several non-member countries.

Accordingly, I consider that the claim of the applicant governments must be allowed also on the issue of generic nature.

13. The applicant governments go on to put forward further arguments in support of the view that the contested regulation is invalid. In particular, the German Government submits that registration of the word 'feta' as a PDO is contrary to Article 30 of the Treaty, which is binding not only on the Member States but also on the Commission. In this connection, it mentions the earlier case, *Exportur*, in which the Court held that 'a Member State cannot, without infringing the provisions of Article 30, use a legislative measure to reserve to domestic products names which have been used to indicate products of any provenance whatever by requiring the undertakings of other Member States to use names unknown to or less highly prized by the public. By reason of its discriminatory nature, such legislation is not covered by the derogation provided for in Article 36'. [21]

The Danish Government, for its part, complains of a breach of the principle of proportionality. [22] In its submission, protection of Greek feta could (and should) have been assured by the use of compound names, that is, by adding to the generic name 'feta' the

20 — In a communication dated 1991 (Interpretative communication on the names under which foodstuffs are sold, OJ 1991 C 270, p.2), the Commission suggested that, among the criteria for identifying the 'characteristics of a product' which might render it unsuitable for sale under a generic name in the Member State of destination, account might be taken of 'references in any Community acts, including *the tariff nomenclature used in implementing the Common Customs Tariff*'. (My italics.)

21 — Case C-3/91 [1992] ECR I-5529, at paragraph 29.

22 — Apart from the breach of the principle of proportionality, the Danish Government complains of a failure to comply with the principle of non-discrimination. 'Feta', it argues, is a generic name and should therefore have been treated in the same way as other generic names, such as 'brie' for example, for which registration was refused.

area of traditional manufacture, giving, for example 'Macedonian feta', 'Thracian feta' and so on.

Furthermore, it alleges that the Commission has infringed Article 5 of the Treaty, which imposes upon Member States and Community institutions reciprocal duties of sincere co-operation, in that it disregarded the objections expressed by numerous Member States at the time when feta was registered as a PDO.

However, in light of the observations set out above, which lead me to suggest that the Court should annul the contested regulation, there is no need for me to dwell upon these arguments, analysis of which serves no purpose since the applicants have succeeded in their other pleas.

Conclusion

14. On the basis of the foregoing, I propose that the Court should:

— annul the registration of 'feta' as a PDO under part A of the Annex to Commission Regulation (EC) No 1107/96 of 12 June 1996 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92;

— order the Commission to pay the costs.