JUDGMENT OF THE COURT (Sixth Chamber)

5 October 1999 *

In Case C-10/98 P,

Azienda Agricola 'Le Canne' Srl, established in Porto Viro (Italy), represented by G. Schiller, G. Carraro and F. Mazzonetto, of the Padua Bar, with an address for service in Luxembourg at the Chambers of G. Arendt, 8-10 Rue Mathias Hardt,

appellant,

APPEAL against the judgment of the Court of First Instance of the European Communities (Third Chamber) of 7 November 1997 in Case T-218/95 *Le Canne* v *Commission* [1997] ECR II-2055, seeking to have that judgment set aside,

the other party to the proceedings being:

Commission of the European Communities, represented by E. de March, Legal Adviser, acting as Agent, assisted by A. Dal Ferro, of the Vicenza Bar, with an address for service in Luxembourg at the office of C. Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

defendant at first instance,

* Language of the case: Italian.

THE COURT (Sixth Chamber),

composed of: P.J.G. Kapteyn, President of the Chamber, G. Hirsch, J.L. Murray (Rapporteur), H. Ragnemalm and R. Schintgen, Judges,

Advocate General: G. Cosmas,
Registrar: H. von Holstein, Deputy Registrar,

having regard to the Report for the Hearing,

after hearing oral argument from the parties at the hearing on 14 January 1999,

after hearing the Opinion of the Advocate General at the sitting on 18 March 1999,

gives the following

Judgment

1 By application lodged at the Registry of the Court of Justice on 16 January 1998, Azienda Agricola 'Le Canne' Srl brought an appeal under Article 49 of the EC Statute of the Court of Justice against the judgment of the Court of First Instance of 7 November 1997 in Case T-218/95 *Le Canne* v *Commission* [1997] ECR II-2055 (hereinafter 'the contested judgment') dismissing its application, first, for annulment of the decision by the Commission, by telex No 12 497 of 27 October

1995, to reduce Community financial aid which had been granted to it and, secondly, for compensation for the damage suffered by the applicant as a result of that reduction.

2 The legal background and the facts giving rise to the appeal are set out in the contested judgment as follows:

'1. Article 1(1)(b) of Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector (OJ 1986 L 376, p. 7, hereinafter "Regulation No 4028/86") provides that the Commission may grant Community financial aid for the development of aquaculture and the establishment of protected marine areas with a view to improved management of inshore fishing grounds.

2. Under Article 12 of Regulation No 4028/86 and Annex III thereto, Community financial aid provided for aquaculture amounts for the region of Veneto to 40% of eligible expenditure, Italy's contribution representing a percentage of between 10 and 30%.

3. Article 44 of Regulation No 4028/86 provides:

"1. Throughout the period for which aid is granted by the Community, the authority or agency appointed for the purpose by the Member State shall send to the Commission on request all supporting documents and all

documents showing that the financial or other conditions imposed for each project are satisfied. The Commission may decide to suspend, reduce or discontinue aid, in accordance with the procedure laid down in Article 47:

— if the project is not carried out as specified, or

(...)

Decisions shall be notified to the Member State concerned and to the beneficiary.

The Commission shall take steps to recover any sums unduly paid.

2. Detailed rules for applying this article shall be adopted by the Commission in accordance with the procedure laid down in Article 47."

4. Article 47 provides:

"1. Where the procedure laid down in this article is to be followed, matters shall be referred to the Standing Committee for the Fishing Industry, by its chairman, either on his own initiative or at the request of the representative of the Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion within a time-limit to be set by the chairman according to the urgency of the matter. Opinions shall be adopted by a majority of 54 votes, the votes of the Member States being weighted as laid down in Article 148(2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt the measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, the Commission shall forthwith communicate them to the Council. In that event the Commission may defer their application for not more than one month from the date of such communication. The Council, acting by a qualified majority, may adopt different measures within one month."

5. By Commission Regulation (EEC) No 1116/88 of 20 April 1988 (OJ 1988 L 112, p. 1, hereinafter "Regulation No 1116/88"), the Commission adopted detailed rules for the application of decisions granting aid for projects concerning Community measures to improve and adapt structures in the fisheries and aquaculture sector and in structural works in coastal waters.

6. According to the sixth recital in the preamble to Regulation No 1116/88 "the procedure for suspending, reducing or terminating aid should not be initiated without the Member State concerned first having been asked for its views and the beneficiaries having been given the opportunity to submit their comments."

7. In that connection Article 7 of Regulation No 1116/88 provides:

"Before initiating a procedure for suspending, reducing or terminating aid in accordance with Article 44(1) of Regulation (EEC) No 4028/86, the Commission shall:

— inform the Member State on whose territory the project was to be carried out, so that it may express its views on the matter,

— consult the competent authority responsible for forwarding supporting documents,

— ask the beneficiary to provide, through the authority or agency, an explanation for the failure to comply with the conditions laid down."

Facts of the dispute

8. By Decision C (90) 1923/99 of 30 October 1990 the Commission granted the applicant financial aid of ITL 1 103 646 181, that is to say 40% of the eligible expenditure of ITL 2 759 115 453, in respect of modernisation works and the establishment of fish-farming installations (project I/16/90). Financial aid of 30% of the eligible expenditure, namely ITL 827 734 635, was to be borne by the Italian State.

9. That decision stated that "the amount of aid that the Commission will actually apply to a completed project depends on the nature of the works

carried out in relation to those provided for in the project". The decision also stipulated that "in conformity with the statement appearing in Part B of the application for assistance submitted by the recipient, the works provided for may not be altered or changed without the prior agreement of the national administration and of the Commission. Important changes made without the Commission's agreement may lead to a reduction or withdrawal of the assistance if they are deemed unacceptable by the national administration or the Commission. If appropriate, the national administration shall indicate to each beneficiary the procedure to be followed."

10. On 23 June 1993 the Commission paid to the applicant a first instalment of ITL 343 117 600.

11. Following an on-the-spot verification of the project as finally completed, the Public Works Department, in a letter dated 7 April 1994, advised the applicant that, subject to certain modifications to the project in the extent of masonry work and similar items, as well as excavation works, it was of the opinion that the works completed could be regarded as being in conformity with the approved project from a technical and financial point of view.

12. By Decision C (94) 1531/99 of 27 July 1994 the Commission acceded to a second request by the applicant for the grant of aid in connection with the completion of modernisation works and installations (project I/100/94).

13. By letter dated 12 December 1994 addressed to the Italian Ministry of Agriculture (hereinafter "the Ministry") and to the Commission, the applicant pointed out that, owing to circumstances beyond its control which had arisen since the project was sent to the Ministry, certain modifications to the works provided for in the context of project I/16/90 had become essential. The applicant stated that its belief that it had complied with the proposed objectives and chosen the correct options, together with its desire speedily to

achieve the results envisaged, had unfortunately led it to overlook the obligation to give prior notification to the Ministry of the modifications made, and this presented a major obstacle to finalising the matter. However, the applicant did not consider that project I/16/90 had, overall, undergone any substantial changes, apart from a difference in the location and configuration of the intensive rearing ponds.

14. Thus, whilst stating that it had become aware, but only since completion of the works, that it had not observed the formality of prior notification of the modifications, the applicant requested the Ministry and, if appropriate, the Commission itself, to conduct a technical examination of the changes made in order to establish that they were well founded, and that the choices made were necessary and opportune. In that connection the applicant pointed out that all the modifications referred to had been disclosed and approved in the course of approval of the supplementary structural works project (I/100/94) accepted for Community financial aid by Decision C (94) 1531/99.

15. After verification of the completed works the Ministry forwarded to the applicant on 3 June 1995 the certificate of verification of completion of works (hereinafter "the certificate") drawn up on 24 May 1995. In the Ministry's view, the applicant had made changes additional to those already noted by the Public Works Department:

(a) failure to build 16 ponds, a hydraulic installation and a heating station, all replaced by projected rearing ponds to be built in the context of the completion project approved by the Commission in Decision C (94) 1531/99;

(b) failure to acquire a series of machines;

(c) failure to build new store and rearing ponds external to the hangar.

The Ministry concluded that the applicant should have requested prior authorisation under the applicable Community provisions to carry out those modifications.

16. The Ministry reduced to ITL 1 049 556 101 the amount of eligible expenditure on the final stage of the project. The Ministry concluded that, regard being had to the expenditure already recognised as eligible at the stage of the first phase of the works in the amount of ITL 857 794 000, the total amount of expenditure deemed eligible was ITL 1 907 350 101, about 69.13% of the eligible expenditure of the project originally approved by the Commission.

17. By final payment order issued on 5 July 1995, the Commission paid the applicant a balance of ITL 419 822 440, thus reducing from ITL 1 103 646 181 to ITL 762 940 040 the total amount of Community aid payable in respect of the works deemed by the Commission, on the basis of the certificate, to be in conformity with the project originally approved.

18. On 28 July and 3 August respectively, the Ministry and the Commission received a series of written observations from the applicant claiming that there was no basis for the certificate and asking for it to be re-examined.

19. In reply to a request by the national authorities, the Commission sent them its observations by telex No 12 497 of 27 October 1995. The Commission

considered that on the information available it was not necessary to review the procedure followed by the Ministry in finalising project I/16/90 on the ground that:

(1) major changes had been made to the project without prior notification to the national administration;

the grant of assistance in connection with the second project I/100/94 did not imply acceptance by the Commission of the previous changes;

(2) works provided for under the following project I/100/94 had been carried out under project I/16/90 and were thus not eligible for assistance granted under project I/16/90.

(3) Article 7 of Regulation No 1116/88, to which counsel for the applicant referred, was not applicable to the situation adumbrated by him.

(4) From information provided by the Ministry the observations formulated at page 18 of the statement submitted by counsel for the applicant appeared to be erroneous, in so far as they referred to deductions of expenditure occurring on account of their being imputed to heads of expenditure not provided for.

20. By letter of 14 November 1995 the Ministry rejected the request for re-examination made by the applicant on the same grounds as those set out in telex No 12 497 from the Commission of 27 October 1995 (hereinafter "decision No 12 497").'

3 It is against that background that the applicant brought an action for annulment of decision No 12 497 before the Court of First Instance in support of which it relied on five pleas in law. The first alleged failure to notify the decision in that it was brought to the applicant's notice only accidentally, in the form of a copy which it obtained at its request. The second plea was based on infringement of the principle of collegiality in that decision No 12 497 emanates from the 'acting head of unit' and not from the Members of the Commission, who are subject to collective responsibility for it. By its third plea the applicant alleged infringement of the Rules of Procedure. First, it criticised the Commission for reducing the Community financial aid originally granted without first implementing the procedure for reduction laid down by Article 44(1) of Regulation No 4028/86 or observing the obligations imposed on the institution by Article 7 of Regulation No 1116/88, in particular the obligation to request the recipient to provide, through the authority or agency of the Member State on whose territory the project was to be carried out, an explanation for the failure to comply with the conditions laid down. Secondly, the applicant pointed out that, where it was decided to reduce aid, the first indent of Article 44(1) of Regulation No 4028/86 provided that the procedure laid down in Article 47 thereof was to apply. The fourth plea, which was divided into two parts, alleged infringement of the obligation to provide a statement of reasons. First, the applicant observed that, with the exception of an entirely general reference to Regulation No 4028/86, decision No 12 497 omitted to state the legal basis on which it was founded. Secondly, the applicant maintained that the statement of the reasons on which the measure was based did not enable it to know the reasons for the refusal to grant a part of the aid originally awarded, or the Court of First Instance to exercise its judicial review. By its fifth plea the applicant alleged misuse of powers in that the Commission, which has exclusive competence in the matter of the grant and reduction of aid, circumvented the procedure for reduction provided for in Article 44 of Regulation No 4028/86 and Article 7 of Regulation No 1116/88 by issuing a document which was formally presented as an opinion.

The contested judgment

4 By the contested judgment the Court of First Instance dismissed the application in its entirety and ordered the applicant to pay the costs.

5 In paragraphs 28 to 30 of the contested judgment, the Court of First Instance dismissed the plea of inadmissibility raised by the Commission, ruling that, inasmuch as it deprived the applicant of the full amount of the assistance originally granted to it, without the Member State concerned having any margin of discretion of its own in the matter, decision No 12 497 constituted, in regard to the applicant, an individual decision which produced binding legal effects such as to affect its interests by bringing about a distinct change in its legal position.

6 As regards the first plea, alleging failure to notify decision No 12 497, the Court of First Instance found, at paragraph 34 of the contested judgment, that the applicant was in fact able to apprise itself properly of the content of the contested decision and to bring its action within the period prescribed for the purpose. In those circumstances, the Court concluded that there was no need to rule on the question whether that measure had been formally notified to the applicant.

7 The Court of First Instance dismissed the second plea alleging infringement of the principle of collegiality, noting, at paragraphs 35 to 39 of the contested judgment, that, as was clear from the Commission's Rules of Procedure, the institution's officials might be empowered to take, in the name of the Commission and subject to its control, clearly defined measures of management or administration, such as the measure at issue, and that delegation of signature was the normal means whereby the Commission exercised its powers. It found that the applicant had not adduced any evidence to show that the Community administration failed to comply with the relevant rules in this case.

8 As regards the third plea alleging infringement of procedural rules, the Court of First Instance pointed out first of all, at paragraph 48 of the contested judgment, that observance of the right to be heard was, in all proceedings initiated against a person which were liable to culminate in a measure adversely affecting that person, a fundamental principle of Community law which had to be guaranteed even in the absence of any rules governing the proceedings in question. It went on to observe, at paragraphs 50 to 53, that, in the case of Community financial aid granted under Regulation No 4028/86, a Commission decision finding certain expenditure to be ineligible on the ground that significant modifications had been carried out to the project as initially approved without the requirement of prior notification to the Community and national authorities having been observed, did

not breach the principle of the right to be heard since the recipient of the aid was in a position to explain, prior to adoption of the contested measure, the reasons for the failure to comply with the conditions laid down, and that the requirements specified in that regard in Article 7 of Regulation No 1116/88 laying down rules for the application of decisions granting aid were essentially observed by the Commission. Finally, at paragraphs 55 and 56, the Court of First Instance found that, inasmuch as the Commission was entitled to find that the expenditure deemed ineligible could not be taken into consideration since it did not come within the terms of the project as approved, the contested measure did not constitute a decision to reduce, for the purposes of Article 44(1) of Regulation No 4028/86, the aid originally granted to the applicant, but in actual fact merely drew the logical conclusions from the fact that a part of the expenditure for which the applicant claimed payment did not relate to the project as originally accepted, so that the Commission was not bound to consult the Standing Committee for the Fishing Industry, as required by the above provision.

9 In paragraphs 63 to 72 of the contested judgment the Court of First Instance dismissed the fourth plea alleging infringement of the obligation to provide a statement of reasons, which was divided into two parts. To refute the first part of the plea according to which, with the exception of an entirely general reference to Regulation No 4028/86, decision No 12 497 omitted to state the legal basis on which it was founded, it pointed out that the decision expressly mentioned Regulations Nos 4028/86 and 1116/88, which were applicable in this case. It held that, in the light of the context of the case and, in particular, of the arguments put forward by it in support of its third plea in law, the applicant could not have mistaken the scope of those two references and could not therefore be regarded as having been left uncertain as to the legal basis of the contested decision. Moreover, as regards the second part of the plea, the Court of First Instance held that it was apparent from the background to the case, from the correspondence exchanged by the applicant with the national administration and the Commission, as well as from decision No 12 497, that the grounds relied on by the Commission in support of that decision appeared with sufficient clarity to enable the applicant to assert its rights before the Community judicature and for the latter to review the lawfulness of that decision.

10 In paragraphs 75 to 78 of the contested judgment, the Court of First Instance dismissed the fifth plea alleging misuse of powers, finding that the applicant had adduced no objective, relevant and coherent evidence to show that decision

No 12 497 was adopted with the exclusive or, at least, the main purpose of achieving an end other than that stated or evading a procedure specifically prescribed by the Treaty or by secondary legislation for dealing with the circumstances of the case.

11 The Court of First Instance dismissed the claim for damages in paragraphs 82 to 84 of the contested judgment. It pointed out that the Community incurs non-contractual liability only if a series of conditions are met as regards the unlawfulness of the acts alleged against the Community institution, the actual fact of damage and the existence of a causal link between the wrongful act and the damage complained of. The Court found that the applicant had adduced no evidence of any defect affecting the legality of decision No 12 497 and that, therefore, it had not been established that the Commission's conduct was unlawful; accordingly, the claim for compensation for the alleged damage had to be rejected.

The appeal

12 In its appeal the appellant claims that the Court should set aside the contested judgment and uphold the claims put forward by the applicant at first instance, declare decision No 12 497 of 27 October 1995 null and void, order the Commission to pay restitution for damage suffered in the amount set out in the application and order the Commission to pay the costs incurred at first instance and in the appeal.

13 The Commission contends that the appeal should be dismissed and the appellant ordered to pay the costs.

14 The appellant relies on four pleas in law in support of its appeal. The first plea alleges breach of the principle of collegiality. The appellant submits that, whilst delegation of signature is the normal means whereby the Commission exercises its powers, as the Court of First Instance found at paragraph 37 of the contested judgment, such delegation of power is a serious breach of the principle of

collegiality. It points out that if the Court of First Instance found that there was a simple delegation of signature it was mistaken in asserting that the applicant should have furnished evidence of the administration's failure to observe the applicable rules. It submits that it was for the Commission to furnish evidence that they had been observed.

15 The second plea alleges breach of the right to be heard. The appellant submits that, in drawing from its request, sent to the Ministry on 28 July 1995 and to the Commission on 3 August 1995, the inference that the requirements specified in Article 7 of Regulation No 1116/88 'were essentially observed by the Commission', the Court of First Instance misdirected itself since, in decision No 12 497, the Commission expressly rejected that request, stating that Article 7 was not applicable to the situation adumbrated by counsel for the applicant.

16 The third plea alleges failure to state reasons in accordance with Article 190 of the EC Treaty (now Article 253 EC). The appellant argues that the Court of First Instance erred in holding that this plea was not founded on the basis that no further details than those provided by the Commission could be required in this case as decision No 12 497 already contained — particularly with reference to the detailed explanations given in the certificate — a sufficient indication of the principal points of fact and law on which the reduction of the aid was based.

17 The fourth plea alleges that the Court of First Instance infringed and misapplied Articles 44(1) and 47 of Regulation No 4028/86 and Article 7 of Regulation No 1116/88. The appellant disputes the Court's finding that Articles 44 and 47 are not applicable in this case.

Findings of the Court

18 It is appropriate to consider first the fourth plea raised in support of the appeal.

The fourth plea

19 The appellant submits that the Court of First Instance misapplied Articles 44 and 47 of Regulation No 4028/86 in ruling that they only applied in the event of the reassessment of the whole of the project concerned and not where an individual has in fact simply failed wholly or partly to carry out the project as initially approved. It points out that Article 44(1) lists, as one of the cases to which it applies, the case where 'the project is not carried out as specified'.

20 The Commission contends that the procedure referred to in Article 44(1) of the Regulation applies where there is a genuine reassessment of the expenditure eligible for the grant of Community financial aid, but not in the event of the mere adjustment thereof on account of works not carried out, where the percentage of Community aid remains constant.

21 The Commission adds that the variation in eligible expenditure is the result of a purely technical assessment and that if it had been necessary to have recourse to the procedure under Article 47 of Regulation No 4028/86 each time eligible expenditure did not tally with the initial estimates, even if there was no change in percentage, this would have led to the immediate blockage of all the programmes governed by that regulation.

22 It is necessary first of all to clarify the definition of 'aid' within the meaning of Article 44(1) of Regulation No 4028/86 in order to ascertain what are the Commission's powers and obligations under the relevant articles. Aid is a sum of money allocated by the Commission to a project for the improvement and adaptation of structures in the aquaculture sector. According to Article 12 of that regulation, 'the aid provided for in Article 11 ... must be granted at the rates shown in Annex III'. Accordingly the reference to rates merely concerns the method for the calculation of the amount of aid. In other words, aid is a sum of money calculated as a percentage of the overall cost of the project in respect of which a financial subsidy has been sought. That interpretation is confirmed by Commission Decision C(90) 1923/99 of 30 October 1990 fixing Community financial aid in the present case, Article 1(2) of which provides that 'the contribution is fixed at a maximum amount of 1 103 646 181 (national currency)'.

23 It must be observed, next, that in the annex to that decision the Commission estimated that Community aid amounted to ITL 1 103 646 181 and that this amount represented 40% of eligible expenditure.

24 It must be added that the Court of First Instance endorsed this interpretation of the definition of aid in finding, at paragraph 8 of the contested judgment, that 'by Decision C(90) 1923/99 of 30 October 1990 the Commission granted the applicant financial aid of ITL 1 103 646 181, that is to say 40% of the eligible expenditure of ITL 2 759 115 453'.

25 Finally, it must be observed that Article 44(1) of Regulation No 4028/86 confers on the Commission the power 'to suspend, reduce or discontinue aid', in the event of one of the four conditions laid down in that article being met, in particular 'if the project is not carried out as specified'. In conferring such a power on the Commission the regulation clearly aims to cover all decisions by the Commission which reduce, entirely or in part, the amount of the aid initially granted when one of the above conditions is met. Whilst the Commission is not bound to exercise that power, Article 44(1) explicitly requires that, should it do so, it must do so in

accordance with the procedure laid down in Article 47 of the regulation. It is equally clear from Article 7 of Regulation No 1116/88 that the procedures it mentions must also be followed before aid under Article 44 can be suspended, reduced or discontinued.

26 It follows that, since it reduces the amount of aid from ITL 1 103 646 181 to ITL 762 940 040 for one of the reasons listed in Article 44(1) of Regulation No 4028/86, namely because the project was not carried out as specified, decision No 12 497 must be interpreted as a reduction of aid within the meaning of that article.

27 It must be observed that, once an initial application is approved, a decision to reduce the amount of aid initially granted might have serious consequences for the applicant. Such consequences highlight the importance of applying a procedure such as that laid down in Articles 44 and 47 of Regulation No 4028/86 and Article 7 of Regulation No 1116/88.

28 As regards the Commission's concern over the administrative difficulties arising from the obligation to comply with the procedures laid down in Articles 44 and 47 of Regulation No 4028/86 and Article 7 of Regulation No 1116/88, it is sufficient to observe that, where a regulation imposes obligations on the Commission, administrative difficulties cannot constitute a valid basis for altering the legal effects of the regulation, including the specific procedural guarantees established by the Community legislature.

29 It follows from all the foregoing considerations that, in adopting decision No 12 497 without using the procedures laid down in Articles 44 and 47 of Regulation No 4028/86 and Article 7 of Regulation No 1116/88 the Commission must be held to have failed to comply with the obligations imposed on it by those articles.

30 Accordingly, the Court of First Instance erred in law in holding that decision No 12 497 was not a decision reducing aid initially granted within the meaning of Article 44(1) of Regulation No 4028/86, and that, therefore, the procedure laid down in that article was not applicable. The contested judgment must, therefore, be set aside.

31 Under the second sentence of the first paragraph of Article 54 of the EC Statute of the Court of Justice, if the decision of the Court of First Instance is set aside, the Court of Justice may give final judgment in the matter where the state of the proceedings so permits.

32 In those circumstances, decision No 12 497 must be annulled for failure to comply with the procedure laid down in Articles 44(1) and 47 of Regulation No 4028/86 and Article 7 of Regulation No 1116/88. It follows that the Commission is required to initiate that procedure.

33 It follows from all the foregoing considerations that there is no need to consider the other pleas put forward or the applicant's claim for damages.

Costs

34 Under Article 69(2) of the Rules of Procedure, which is applicable to the appeal procedure by virtue of Article 118 of those rules, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the appellant has applied for costs to be awarded against the Commission and since that institution has been unsuccessful, it must be ordered to pay the costs of both sets of proceedings.

On those grounds,

THE COURT (Sixth Chamber)

hereby:

1. Sets aside the judgment of the Court of First Instance of 7 November 1997 in Case T-218/95 *Le Canne* v *Commission*;

2. Declares Telex No 12 497 of 27 October 1995 null and void on account of failure to comply with the procedure provided for by Articles 44(1) and 47 of Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector and Article 7 of Commission Regulation (EEC) No 1116/88 of 20 April 1988 laying down detailed rules for the application of decisions granting aid for projects concerning Community measures to improve and adapt structures in the fisheries and aquaculture sector and in structural works in coastal waters;

3. Orders the Commission of the European Communities to pay the costs of both sets of proceedings.

Kapteyn Hirsch Murray

Ragnemalm Schintgen

Delivered in open court in Luxembourg on 5 October 1999.

R. Grass

Registrar

P.J.G. Kapteyn

President of the Sixth Chamber