Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

14 March 2013*

(Common agricultural policy — Regulation (EC) No 73/2009 — Article 7(1) and (2) — Modulation of direct payments granted to farmers — Further reduction in the amount of direct payments — Validity — Principle of the protection of legitimate expectations — Principle of non-discrimination)

In Case C-545/11,

REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgericht Frankfurt (Oder) (Germany), made by decision of 28 September 2011, received at the Court on 24 October 2011, in the proceedings

Agrargenossenschaft Neuzelle eG

v

Landrat des Landkreises Oder-Spree,

THE COURT (Fourth Chamber),

composed of L. Bay Larsen, President of the Chamber, J. Malenovský, U. Lõhmus, M. Safjan (Rapporteur) and A. Prechal, Judges,

Advocate General: M. Wathelet,

Registrar: L. Hewlett, Principal Administrator,

having regard to the written procedure and further to the hearing on 28 November 2012,

after considering the observations submitted on behalf of:

— Agrargenossenschaft Neuzelle eG, by U. Karpenstein and C. Johann, Rechtsanwälte,

— the Greek Government, by E. Leftheriotou and A. Vasilopoulou, acting as Agents,

— the Council of the European Union, by E. Sitbon and Z. Kupčová, acting as Agents,

— the European Commission, by P. Rossi and B. Schima, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

* Language of the case: German.

Judgment

1 This request for a preliminary ruling concerns the validity of Article 7(1) and (2) of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009 L 30, p. 16).

2 The request has been made in proceedings between Agrargenossenschaft Neuzelle eG ('Agrargenossenschaft Neuzelle') and the Landrat (head of administrative services) of the Landkreis Oder-Spree (the rural district authority of Oder-Spree) ('the Landrat') concerning the reduction, under modulation, in the direct payments which were granted to it for the year 2009.

Legal context

Regulation (EC) No 1782/2003

3 Recitals 5, 21 and 22 in the preamble to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ 2003 L 270, p. 1), as amended by Council Regulation (EC) No 1009/2008 of 9 October 2008 (OJ 2008 L 276, p. 1) ('Regulation No 1782/2003'), were worded as follows:

'(5) In order to achieve a better balance between policy tools designed to promote sustainable agriculture and those designed to promote rural development, a system of progressive reduction of direct payments should be introduced on a compulsory Community-wide basis for the years 2005 to 2012. All direct payments, beyond certain amounts, should be reduced by a certain percentage each year. The savings made should be used to finance measures under the rural development and allocated between Member States according to objective criteria to be defined. However, it is appropriate to establish that a certain percentage of the amounts should remain in the Member States where they have been generated. Until 2005, Member States may continue to apply the current modulation on an optional basis under Council Regulation (EC) No 1259/1999 of 17 May 1999 establishing common rules for direct support schemes under the common agricultural policy …

...

(21) The support schemes under the common agricultural policy provide for direct income support in particular with a view to ensuring a fair standard of living for the agricultural community. This objective is closely related to the maintenance of rural areas. In order to avoid misallocations of Community funds, no support payments should be made to farmers who have artificially created the conditions required to obtain such payments.

(22) Common support schemes have to be adapted to developments, if necessary within short time limits. Beneficiaries cannot, therefore, rely on support conditions remaining unchanged and should be prepared for a possible review of schemes in the light of market developments.'

4 Article 10 of Regulation No 1782/2003, entitled ‘Modulation’, provided in subparagraphs one and two thereof:

‘1. All the amounts of direct payments to be granted in a given calendar year to a farmer in a given Member State shall be reduced for each year until 2012 by the following percentages:

…

— 5% in 2009,

— 5% in 2010,

— 5% in 2011,

— 5% in 2012.

2. The amounts resulting from application of the reductions provided for in paragraph 1, after deducting the total amounts referred to in Annex II, shall be available as additional Community support for measures under rural development programming financed under the EAGGF [European Agricultural Guidance and Guarantee Fund] “Guarantee” Section according to Regulation (EC) No 1257/1999.’

5 Article 30 of that regulation, entitled ‘Review’, provided:

‘Support schemes listed in Annex I shall be applied without prejudice to possible review at any moment in the light of market developments and the budgetary situation.’

6 In that regard, Annex I to that regulation contained the ‘[l]ist of support schemes fulfilling the criteria set out in Article 1’.

Regulation No 73/2009

7 Regulation No 73/2009, applicable from 1 January 2009 pursuant to its Article 149, repealed Regulation No 1782/2003 under the conditions provided for in its Article 146 and established a new system of compulsory modulation.

8 In that respect, Recitals 8 to 11 in the preamble to Regulation No 73/2009 state:

‘(8) In order to achieve a better balance between policy tools designed to promote sustainable agriculture and those designed to promote rural development, a system of compulsory progressive reduction of direct payments (“modulation”) was introduced by Regulation (EC) No 1782/2003. That system should be maintained and should include the exemption of direct payments of up to … 5 000 [euros].

(9) The savings made through modulation are used to finance measures under the rural development policy. Since Regulation (EC) No 1782/2003 was adopted, the agricultural sector has been faced with a number of new and demanding challenges such as climate change and the increasing importance of bio-energy, as well as the need for better water management and more effective protection of biodiversity. The Community, as party to the Kyoto Protocol … , has been called upon to adapt its policies in the light of climate change considerations. Furthermore, following serious problems relating to water scarcity and droughts, the Council, in its Conclusions “Water Scarcity and Drought” of 30 October 2007, considered that water management issues in agriculture should be further addressed. Furthermore, the Council emphasised, in its Conclusions

"Halting the Loss of Biodiversity" of 18 December 2006, that protecting biodiversity remains a major challenge and while important progress has been made, the attainment of the Community's biodiversity target for 2010 will require additional efforts. Moreover, since innovation can, in particular, contribute to the development of new technologies, products and processes, it will underpin the efforts to tackle these new challenges. The expiry of the milk quota regime in 2015 in accordance with Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products … will require specific efforts on the part of dairy farmers to adapt to changing conditions, particularly in disadvantaged regions. It is therefore appropriate that this particular situation should also be defined as a new challenge which Member States should be able to address with a view to ensuring a "soft-landing" of their dairy sectors.

(10) The Community acknowledges the need to tackle these new challenges in the framework of its policies. In the area of agriculture, rural development programmes adopted under Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) … are an appropriate tool for dealing with them. To enable Member States to revise their rural development programmes accordingly without being required to reduce their current rural development activities in other areas, additional funding needs to be made available. However, the financial perspective for the period 2007 to 2013 does not provide for the financial means to reinforce the Community's rural development policy as necessary. Under these circumstances, a large part of the financial resources needed should be mobilised by providing for a gradual increase in the reduction of direct payments through modulation.

(11) The distribution of direct income support among farmers is characterised by the allocation of a large quantity of payments to a rather small number of large beneficiaries. It is clear that larger beneficiaries do not require the same level of unitary support for the objective of income support to be efficiently attained. Moreover, the potential to adapt makes it easier for larger beneficiaries to operate with lower levels of unitary support. It is therefore fair to expect farmers with large amounts of support to make a special contribution to the financing of rural development measures addressing new challenges. Therefore, it is appropriate to establish a mechanism providing for an increased reduction in the larger payments, the proceeds of which are to be used to address the new challenges in the framework of rural development.'

9 Article 1 of Regulation No 73/2009 establishes, inter alia, 'common rules on direct payments'.

10 Article 2 of that regulation states:

'For the purposes of this Regulation, the following definitions shall apply:

(a) "farmer" means a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within Community territory, as defined in Article [299 EC], and who exercises an agricultural activity;

…

(d) "direct payment" means a payment granted directly to farmers under a support scheme listed in Annex I;

…

(h) "agricultural area" means any area taken up by arable land, permanent pasture or permanent crops.'

11 Article 7 of that regulation, entitled ‘Modulation’, provides in paragraphs 1 and 2:

‘1. Any amount of direct payments to be granted in a given calendar year to a farmer in excess of … 5 000 [euros] shall be reduced for each year until 2012 by the following percentages:

(a) in 2009 by 7%;

(b) in 2010 by 8%;

(c) in 2011 by 9%;

(d) in 2012 by 10%.

2. The reductions provided for in paragraph 1 shall be increased by 4 percentage points for amounts exceeding … 300 000 [euros].’

12 Article 9 of Regulation No 73/2009, entitled ‘Amounts resulting from modulation’, is worded as follows at paragraph 1:

‘The amounts resulting from application of the reductions provided for in Article 7 of this Regulation in any Member State other than the new Member States shall be available as additional Community support for measures under rural development programming financed under the EAFRD, as specified in Regulation (EC) No 1698/2005, in accordance with the conditions set out in this Article.’

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

13 It is apparent from the order for reference that Agrargenossenschaft Neuzelle, according to its statements, is an agricultural cooperative under German law, active in the agriculture and livestock sectors. It has 119 members and employs 123 workers.

14 Following an application made by that cooperative on 12 May 2009, the Landrat, by decision of 26 November 2009, granted to it the sum of EUR 1 461 037.51 in respect of the single payment for 2009, in its capacity as farmer within the meaning of Article 2(a) of Regulation No 73/2009. According to the order for reference, the Landrat, having regard to the relevant area of land and the average value of payment entitlements as laid down in Article 7(1) and (2) of that regulation, reduced by EUR 166 701.26 the sum which had been provisionally fixed at EUR 1 627 738.77.

15 By decision of 25 February 2010, the Landrat rejected Agrargenossenschaft Neuzelle’s administrative appeal against that decision to reduce its entitlements, that appeal being directed only against the application of Article 7(1) and (2) of Regulation No 73/2009.

16 On 22 March 2010, Agrargenossenschaft Neuzelle brought an action before the Verwaltungsgericht Frankfurt (Administrative Court) (Oder), seeking payment of an additional amount of EUR 85 564.33 in respect of the single payment for 2009.

17 According to the referring court, the resolution of the case in the main proceedings depends, first, on the response to the question whether Article 7(1) of Regulation No 73/2009 is valid in the light of the principle of protection of legitimate expectations, to the extent that for the years 2009 to 2012 it provides for greater percentage reductions of direct payments than those which were provided for in Article 10(1) of Regulation No 1782/2003.

18 That resolution depends, second, on the validity of Article 7(2) of Regulation No 73/2009 in the light of the principle of non-discrimination set out in the second subparagraph of Article 40(2) TFEU, according to which the common organisation of agricultural markets is to exclude any discrimination between producers or consumers within the European Union.

19 First, Article 7(2) of Regulation No 73/2009 could establish an unjustified difference in treatment between farmers who farm large agricultural areas of land as against those who farm smaller areas of land. Second, that provision penalises farmers who farm in cooperation which other farmers, as is the case with regard to the agricultural cooperatives under German law, which constitute ‘groups’ within the meaning of Article 2(a) of that regulation, in contrast to farmers who organise their cooperation without using structures governed by the law on associations, on the basis of less specific agreements, while benefiting from comparable levels of commercial synergy. Those cooperatives more easily reach the amount of direct payments provided for in Article 7(2) above which the percentage reductions are increased.

20 Furthermore, the European Union legislature excluded ‘groupements agricoles d’exploitation en commun’ (Collective farming groupings) under French law (‘GAEC’) from the scope of Article 7(2) of Regulation No 73/2009. In this respect, as the Agrargenossenschaft Neuzelle notes in its written observations, during the adoption of that regulation, a ‘Commission statement on the application of modulation and financial discipline to [GAEC] (Article 12 ‘Additional amount of aid’ of Regulation … No 1782/2003)’ was recorded in the minutes of the Council (Council document 5263/09 ADD 1, of 15 January 2009), worded as follows:

‘The Commission further recalls the principles underlying the statement it made upon adoption of Regulation (EC) No 1782/2003 whereby the Commission considers that all the holdings which are part of a G.A.E.C. … as established by the French “Code Rural” are considered each as a single farmer for the purpose of applying the additional amount of aid provided for in the case of modulation and the franchise in the context of the financial discipline mechanism.’

21 In those circumstances the Verwaltungsgericht Frankfurt (Oder) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Is Article 7(1) of … Regulation … No 73/2009 … to be regarded as valid to the extent that for the years 2009 to 2012 it provides for a reduction in direct payments in excess of 5%?

(2) Is Article 7(2) of … Regulation … No 73/2009 … to be regarded as valid?’

Consideration of the questions referred

The first question

22 By its first question the referring court asks, in essence, whether Article 7(1) of Regulation No 73/2009 is to be regarded as valid in the light of the principle of protection of legitimate expectations to the extent that, for the years 2009 to 2012, it provides for an additional reduction in direct payments as against the amounts laid down in Article 10(1) of Regulation No 1782/2003.

23 As a preliminary point, it should be noted that, according to settled case-law, the principle of the protection of legitimate expectations is among the fundamental principles of the European Union (see Case 112/80 *Dürbeck* [1981] ECR 1095, paragraph 48; Case C-369/09 P *ISD Polska and Others* v *Commission* [2011] ECR I-2011, paragraph 122, and Case C-335/09 P *Poland* v *Commission* [2012] ECR, paragraph 180).

24 The right to rely on that principle extends to any person with regard to whom an institution of the European Union has given rise to justified hopes (see, to that effect, Case 265/85 *Van den Bergh en Jurgens and Van Dijk Food Products (Lopik)* v *EEC* [1987] ECR I-1155, paragraph 44; *ISD Polska and Others* v *Commission*, paragraph 123, and Case C-426/10 P *Bell & Ross* v *OHIM* [2011] ECR I-8849, paragraph 56).

25 In whatever form it is given, information which is precise, unconditional and consistent and comes from authorised and reliable sources constitutes assurances capable of giving rise to such hopes. However, a person may not plead breach of that principle unless he has been given precise assurances by the administration (Case C-221/09 *AJD Tuna* [2011] ECR I-1655, paragraph 72 and the case-law cited).

26 Similarly, if a prudent and alert economic operator can foresee the adoption of a European Union measure likely to affect his interests, he cannot plead the principle of protection of legitimate expectations if the measure is adopted (see, to that effect, *Van den Bergh en Jurgens and Van Dijk Food Products (Lopik)* v *EEC*, paragraph 44, and *AJD Tuna*, paragraph 73).

27 In the present case, it should be stated that Article 10(1) of Regulation No 1782/2003 provided that, in respect of modulation, the amounts of direct payments to be granted in a given calendar year to a farmer in a given Member State were to be reduced each year by 5% for the years 2009 to 2012.

28 As Article 10(2) indicated, the amounts resulting from application of those reductions were to be available as additional Community support for measures under rural development programming.

29 However, under Regulation No 73/2009, which repealed and replaced Regulation No 1782/2003, the amount of direct payments in excess of EUR 5 000 to be granted in a given calendar year to a farmer is subject to an additional reduction in relation to the percentages provided for in Article 10(1) of Regulation No 1782/2003. Pursuant to Article 7(1) of Regulation No 73/2009, the amounts should thereafter be reduced by 7% for 2009, by 8% for 2010, by 9% for 2011 and by 10% for 2012.

30 Although Article 10(1) of Regulation No 1782/2003 contained percentage reductions of direct payments for the years 2009 to 2012 which were less than those provided for in Article 7(1) of Regulation No 73/2009, farmers in the European Union cannot, nevertheless, allege infringement of the principle of protection of legitimate expectations.

31 Article 30 of Regulation No 1782/2003 provided that the support schemes listed in Annex I to that regulation were to be ‘applied without prejudice to possible review at any moment in the light of market developments and the budgetary situation’.

32 Similarly, Recital 22 of that regulation stated that ‘[c]ommon support schemes have to be adapted to developments, if necessary within short time limits’, and that ‘[b]eneficiaries cannot, therefore, rely on support conditions remaining unchanged and should be prepared for a possible review of schemes in the light of market developments’.

33 Therefore, a prudent and alert economic operator was in a position to foresee that the direct payments under the revenue support schemes could be reduced following a review, in the light of market developments and the budgetary situation.

34 In this respect, Regulation No 73/2009 laid down a further reduction of direct payments on the grounds set out in Recitals 9 and 10 of that regulation, in particular due to the fact that, in the words of Recital 10, ‘the financial perspective for the period 2007 to 2013 does not provide for the financial means to reinforce the Community’s rural development policy as necessary’ and that, ‘[u]nder these circumstances, a large part of the financial resources needed should be mobilised by providing for a gradual increase in the reduction of direct payments through modulation’.

35 Furthermore, the referring court refers to the *travaux préparatoires* of Regulation No 1782/2003. It notes that the proposal for a Council Regulation establishing common rules for direct support schemes under the common agricultural policy and support schemes for producers of certain crops, put forward by the Commission on 21 January 2003 (COM(2003) 23 final, 'the proposal for a regulation'), contained an Article 10(2) under which the percentages referred to in paragraph 1 of that article could 'be modified in accordance with the procedure referred to in Article 82(2)'.

36 However, it is apparent from Article 82(2) of the proposal for a regulation that the exercise of implementing powers to modify the percentage reductions in the amounts of direct payments would have been conferred on the Commission.

37 However, as the Commission noted in its written observations, the failure to repeat Article 10(2) of the proposal for a regulation in Regulation No 1782/2003 can be interpreted as meaning that the Council reserved the right, under Article 30 of that regulation, to modify those percentages itself, without granting a delegation of competence to the Commission to make such a modification.

38 Consequently, as the Greek Government, the Council and the Commission correctly note in their written observations, farmers in the European Union could not rely on a legitimate expectation as regards the retention, for the years 2009 to 2012, of percentage reductions of direct payments as laid down in Article 10(1) of Regulation No 1782/2003.

39 Consequently, the answer to the first question is that consideration thereof has not disclosed any factor of such a kind as to affect the validity of Article 7(1) of Regulation No 73/2009 in the light of the principle of protection of legitimate expectations.

The second question

40 By its second question the national court asks, in essence, whether Article 7(2) of Regulation No 73/2009, which states that the reductions provided for in paragraph one of that article are to be increased by 4 percentage points for amounts exceeding EUR 300 000, is to be regarded as valid in the light of the principle of non-discrimination, the existence of discrimination having to be assessed according, first, to the size of the holdings covered and, second, to the legal form under which the agricultural activity is exercised.

41 In that regard, it should be noted from the outset that the principle of non-discrimination is a general principle of European Union law and, in the field of agriculture, is embodied in the second subparagraph of Article 40(2) TFEU (see, to that effect, Case C-535/03 *Unitymark and North Sea Fishermen's Organisation* [2006] ECR I-2689, paragraph 53, and Case C-453/08 *Karanikolas and Others* [2010] ECR I-7895, paragraph 49).

42 That principle requires comparable situations not to be treated differently and different situations not to be treated alike unless such treatment is objectively justified (Case C-313/04 *Franz Egenberger* [2006] ECR I-6331, paragraph 33 and the case-law cited).

43 As regards the extent of the monitoring of observance of that principle, it should be noted that the European Union legislature enjoys a wide discretionary power in matters concerning agriculture corresponding to the political responsibilities given to it by Articles 40 to 43 TFEU. Consequently, judicial review must be limited to verifying that the measure in question is not vitiated by any manifest error or misuse of powers and that the authority concerned has not manifestly exceeded the limits of its discretionary power (see, inter alia, *AJD Tuna*, paragraph 80).

44 Therefore, it is for the Court to verify, first, whether the difference in treatment between farmers depending on the size of the agricultural area of land farmed, such as provided for in Article 7(2) of Regulation No 73/2009, can be justified by objective reasons which are not manifestly inappropriate (see, to that effect, *Poland* v *Commission*, paragraph 128).

45 In this respect, it should be noted that, in Recital 11 of Regulation No 73/2009, the Council justified the additional reductions provided for in Article 7(2) by pointing out that larger beneficiaries do not require the same level of unitary support for the objective of income support to be efficiently attained and that the potential to adapt makes it easier for larger beneficiaries to operate with lower levels of unitary support. According to that institution, it is therefore fair to expect farmers with large amounts of support to make a special contribution to the financing of rural development measures addressing new challenges.

46 In the context of the review carried out by the Court under the conditions referred to at paragraphs 43 and 44 of this judgment, such considerations do not appear to be manifestly inappropriate. The Council could consider that, because of the specific characteristics of the large beneficiaries, they are in a different situation to that of the other farmers, which permits them to be treated differently as regards the modulation of direct payments.

47 In addition, it is not for the Court, in the context of such a review, to examine in detail the arguments contained in the order for reference and relating, inter alia, (i) to the greater number per hectare of workers subject to compulsory social security contributions that are generally employed by the large beneficiaries; (ii) to the fact that the latter generally have recourse to staff that are permanently employed; (iii) and to limits of the economies of scale for large holdings; or (iv) even to the specifics of the structures of agricultural holdings in the Länder of the former East Germany. Even if those factors were precise, they would be no more than certain factors among others in the overall assessment which the Council is responsible for in its capacity as the European Union legislature, it being understood that the Court cannot substitute its own assessment of those factors for that of the Council.

48 Second, as regards the legal form under which the agricultural activity is exercised, the referring court states that the agricultural cooperatives under German law constitute ‘groups’ within the meaning of Article 2(a) of Regulation No 73/2009, in contrast to farmers who organise their cooperation on the basis of agreements which are less restrictive legally. Furthermore, the European Union legislature excluded GAECs from the application of Article 7(2) of Regulation No 73/2009.

49 In this respect, it should be noted that Article 7(2) of Regulation No 73/2009 does not differentiate depending on the legal form under which the agricultural activity is exercised.

50 As regards Article 2(a) of Regulation No 73/2009, it relates to every ‘group of natural or legal persons, whatever legal status is granted to the group and its members by national law’. Consequently, since the farmers exercise their activity in the context of such a ‘group’, they must be regarded as being a single ‘farmer’ within the meaning of Regulation No 73/2009.

51 As regards more particularly the GAECs, suffice it to state that neither Article 7(2) of Regulation No 73/2009 nor any other provision of that regulation refers to such groupings under French law. Their situation is mentioned only in the Commission statement recorded in the minutes of the Council during the adoption of Regulation No 73/2009, quoted at paragraph 20 of this judgment. In that statement the Commission noted that, according to it, all the holdings which are part of a GAEC must be considered each as a single farmer in particular for the purpose of applying the additional amount of aid provided for in the case of modulation in the context of the financial discipline mechanism.

52 However, according to settled-case law, such a declaration cannot be used for the purpose of interpreting a provision of secondary legislation where, as in the present case, no reference is made to the content of the declaration in the wording of the provision in question and it does not, therefore, have any legal significance (see, inter alia, Case C-292/89 *Antonissen* [1991] ECR I-745, paragraph 18, and Case C-149/11 *Leno Merken* [2012] ECR, paragraph 46).

53 In the light of all the foregoing, the answer to the second question is that consideration thereof has not disclosed any factor of such a kind as to affect the validity of Article 7(2) of Regulation No 73/2009 in the light of the principle of non-discrimination.

Costs

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

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

1. **Consideration of the first question has not disclosed any factor of such a kind as to affect the validity of Article 7(1) of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 in the light of the principle of protection of legitimate expectations.**

2. **Consideration of the second question has not disclosed any factor of such a kind as to affect the validity of Article 7(2) of Regulation No 73/2009 in the light of the principle of non-discrimination.**

[Signatures]