

## Case C-368/89

**Antonio Crispoltoni**

**v**

**Fattoria autonoma tabacchi di Città di Castello**

(Reference for a preliminary ruling from  
the Pretore Circondariale, Perugia)

(Common organization of the market in raw tobacco — Validity of  
Regulations (EEC) No 1114/88 and No 2268/88)

Report for the Hearing .....	I - 3696
Opinion of Mr Advocate General Mischo delivered on 19 March 1991 .....	I - 3705
Judgment of the Court (Fifth Chamber), 11 July 1991 .....	I - 3715

### Summary of the Judgment

1. *Preliminary rulings — Jurisdiction of the Court — Limits — Question obviously not relevant*  
(EEC Treaty, Art. 177)
  2. *Agriculture — Common organization of the markets — Raw tobacco — Fixing, for a given variety and harvest, of a maximum guaranteed quantity after commencement of cultivation — Retroactive effect — Breach of principles of legal certainty and protection of legitimate expectations — Unlawful*  
(Council Regulations No 1114/88 and No 2268/88)
- 
1. A request for a preliminary ruling from a national court may be rejected only if it is quite obvious that the interpretation of Community law or the examination of the validity of a rule of Community law sought by that court bears no relation to the actual nature of the case or the subject-matter of the main action.
  2. Regulation No 1114/88 amending Regulation No 727/70 on the common organization of the market in raw tobacco and

Regulation No 2268/88 fixing, for the 1988 harvest, the norm and intervention prices and the premiums granted to purchasers of leaf tobacco, the derived intervention prices for baled tobacco, the reference qualities, the production areas and the guaranteed maximum quantities and amending Regulation No 1975/87 are invalid in so far as they lay down a maximum guaranteed quantity for tobacco of the 'Bright' variety harvested in 1988.

The retroactivity of those two regulations, which, although not expressly laid down, follows, in the case of Regulation No 1114/88, from the fact that it was published after the operators had

made their decisions regarding production for the current year and, in the case of Regulation No 2268/88, from the fact that it was published when those decisions had been put into effect, is at variance with the principle of legal certainty and can be permitted only in exceptional cases, since the purpose of those two regulations, namely to curb tobacco production and to discourage the production of varieties which are difficult to dispose of, could no longer be achieved for the year in question when they were published. Furthermore, the legitimate expectations of the operators concerned were not respected, in so far as the measures adopted, although foreseeable, were introduced at a time when they could no longer be taken into account in formulating investment decisions.

## REPORT FOR THE HEARING in Case C-368/89\*

### I — Facts and written procedure

#### 1. *The relevant provisions*

Tobacco is subject to a common organization of the market which lays down a system of prices and intervention and provisions regarding trade with non-member countries (Council Regulation (EEC) No 727/70 of the Council of 21 April 1970 on the common organization of the market in raw tobacco (Official Journal, English Special Edition 1970 (I), p. 206)).

'Norm prices' and 'intervention prices' are to be fixed by the Council before 1 August

of each year. Subject to certain conditions, producers who choose not to sell their production into intervention and who subject their own leaf tobacco to first processing and market preparation, and purchasers who carry out those operations, can obtain a premium in accordance with Article 3. That premium is fixed by the Council before 1 November of each year (Article 4(4)).

Council Regulation (EEC) No 1114/88 of 25 April 1988 amending Regulation (EEC)

\* Language of the case: Italian.