

Press and Information Division

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Judgment of the Court of Justice in C-231/00 and others

*Cooperativa Lattepiù and Others v A.I.M.A. and Ministero delle Politiche Agricole e Forestali*

**A MEMBER STATE IS ENTITLED TO CORRECT INDIVIDUAL  
REFERENCE QUANTITIES AND TO RECALCULATE THE ADDITIONAL  
LEVIES PAYABLE, AFTER THE FINAL DATE FOR PAYMENT FOR THE  
MILK MARKETING YEAR**

*In order to ensure that milk production is developed rationally, producers who reap the rewards of the target price must bear the restrictions which make it possible to maintain the system*

The arrangements for the additional levy on milk, introduced by the Council in 1984, were implemented in Italy by a law of 1992, and subsequently by copious rules. As a result of two judgments of the Constitutional Court declaring some of the provisions of those rules to be invalid, and having regard to the fact that the system as a whole did not make it possible to produce reliable data, the Italian legislature set up a Government Commission of Inquiry entrusted with the task of ascertaining whether there were any irregularities in the management of reference quantities. On that basis, the State Agricultural Market Intervention Board, the A.I.M.A., had to determine the actual quantities of milk produced and marketed during the two marketing years 1995/96 and 1996/97, notify the producers of alterations in individual reference quantities and calculate the additional levy payable by every producer.

A number of Italian milk producers challenged the A.I.M.A.'s decisions, taken in 1999, concerning reference quantities and additional levies payable for the two marketing years 1995/1996 and 1996/1997.

The Tribunale Amministrativo Regionale del Lazio has therefore referred questions to the Court in order to ascertain to what extent a Member State is entitled, following

checks carried out, to correct the individual reference quantities allocated to every producer and to recalculate, in consequence, the additional levies payable, after the final date for payment of those levies.

The Court notes, first, that neither the regulation concerning the additional levy<sup>1</sup> nor the regulation laying down detailed rules on the application of that levy<sup>2</sup> provides for the correction, after the event, of individual reference quantities or for correction of the additional levies payable.

Nevertheless, in the absence of common implementing rules at Community level, **it is for every Member State to ensure that Community legislation is implemented within its territory**, through its own rules of domestic law, but in a manner consistent with the general principles of Community law, in particular, the principles of proportionality, legal certainty and of the protection of legitimate expectations.

Are the Italian measures making after-the-event corrections and alterations compatible with the Community legislation?

The Court notes first, on the basis of its analysis of the **wording** and **purpose** of the relevant **provisions**, that the latter do not militate against such measures. On this point the Court observes that:

- there is **nothing in the provisions of the Community legislation expressly precluding the adoption** by national authorities **of such measures**;
- it was not the purpose of the Community legislation to fix the reference quantities definitively for the whole duration of the **extension** of the arrangements for the additional levy on milk;
- the purpose of those corrections is to ensure that the Member State's production free from additional levies should not exceed the guaranteed global quantity allocated to that State and, generally, to ensure that the system operates efficiently;
- the **regulation laying down detailed rules on the application** of the additional levy provides that **the Member States must have suitable means of carrying out checks after the event** in order to verify whether the levy has been properly collected, which means that such checks may result in the correcting of the reference quantities allocated and in the recalculating of the levies payable.

In addition, the Court points out that this interpretation of the provisions of Community law is also in keeping with the **chief aims of the arrangements for the additional levy, that is to say, rational development of milk production, in order to stabilise income and maintain a fair standard of living for the agricultural community**. Those objectives would be jeopardised if, as a result of miscalculating reference quantities, a Member State's milk production were to exceed the guaranteed global quantity allocated to that State. In other words, there would be a breach of the joint responsibility on which the arrangements for the additional levy are based if

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<sup>1</sup> Council Regulation No 3950/92.

<sup>2</sup> Commission Regulation No 536/93.

producers could reap the rewards of the target price for milk without having to bear the restrictions that make it possible to maintain that target price.

Next, the Court states that the Italian measures providing for corrections and amendments after the event are **appropriate for the purpose of attaining the objective pursued, without being disproportionate.**

The additional levy is in fact **an instrument of market policy** or of **structural policy** and **does not represent a penalty.** Indeed, having regard to the many serious errors involved in the reference quantities originally allocated, the Court finds that **such measures do not go beyond what is necessary in order to attain their aim.**

Finally, the Court declares it impossible that producers should be able to claim any legitimate expectation that an inaccurate reference quantity will be continued: first, even if it was not until 1999 that the applicants learned of the reference quantities allocated to them, for every producer that quantity reflected the volume of milk the producer had marketed during the reference year; second, it is not possible to entertain any legitimate expectation that a situation which is plainly unlawful in the light of Community law will be maintained, and the milk producers of the Member States cannot legitimately expect, eleven years after the system was introduced, to be able to go on producing milk without limit.

*Unofficial document, for media use only, which does not bind the Court of Justice.*

*Available languages: English, French, Italian and German.*

*The full text of the judgment can be found on the internet ([www.curia.eu.int](http://www.curia.eu.int)).*

*In principle it will be available from midday CET on the day of delivery.*

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