Summary of the Judgment

1. Agriculture — Common organisation of the markets — Milk and milk products — Additional levy on milk — Producer — Definition — Obligation to produce the
reference quantity in the units operated at the time of allocation thereof — None —
Producers established in the territory of the former German Democratic Republic —
Freedom to produce the reference quantity in the place of production of their choice —
Conditions
(Council Regulation No 3950/92, Arts 3(2), 9(c) and (d))

2. Agriculture — Common organisation of the markets — Milk and milk products —
Additional levy on milk — Award of reference quantities exempt from the levy —
Holding situated, at the time of the award, in an area forming part of the territory of
the former German Democratic Republic — Incorporation of a part of that territory
within a pre-existing land of the Federal Republic of Germany — Possibility afforded
to the producer to transfer his production to that part of territory — Conditions
(Council Regulation No 3950/92, Arts 3(2), 4(4), 5, 9(c) and (d))

1. It is apparent from the definitions of producer and holding mentioned, respectively, in Article 9(c) and (d) of Regulation No 3950/92 establishing an additional levy in the milk and milk products sector, as amended by Regulation No 751/1999, read together
that, first of all, the status of producer is accorded to any person who manages a set of production units located within the geographical territory of a Member State and sells or delivers milk or milk products, and that it is not necessary for the farmer to own the production facilities used by him. Next, the status of producer is not subject to the condition that the holder of a reference quantity should produce it, in whole or in part, in the production units which he was operating when that quantity was allocated to him. Finally, assessment of the status of producer must be conducted in regard to the whole of the geographical territory of a Member State. It follows from the foregoing considerations that Article 9(c) and (d) of Regulation No 3950/92 preclude a milk producer who has obtained a reference quantity from being required, at the risk of losing his status as a producer, to produce that quantity in its totality, or even merely in part, in
the production units which he was operating at the time when that quantity was allocated. On the contrary, a producer is free to produce the reference quantity allocated to him by a Member State in the place of production of his choice where that is situated within the territory of that state, whether he is the owner or lessee of the production facilities.

In regard to the specific case of the Federal Republic of Germany, it should be noted that Article 9(c) and (d) of Regulation No 3950/92, read with the table in Article 3(2) thereof, must be interpreted as meaning that a milk producer established within the territory of the former German Democratic
Republic is free to produce the reference quantity allocated to him in the place of production of his choice, provided that it is situated within that territory.

(see paras 30-33, 38, operative part 1)

2. The specific regime provisionally provided for in the case of the former German Democratic Republic in regard to the additional milk levy is applicable to the whole of its territory, as delineated on the date of reunification of Germany. Accordingly, the subsequent incorporation of a part of that territory within a pre-existing land of the Federal Republic of Germany cannot prejudice the possibility afforded to a producer established in the former German Democratic Republic to transfer his milk production to that area provided that the quantities of milk thus produced are included in the total guaranteed quantity for the former German Democratic Republic.

(see paras 54-55, operative part 2)