European Ombudsman

# Decision of the European Ombudsman on complaint 1509/2004/TN against the European Commission

Decision
**Case** 1509/2004/TN - **Opened on** 14/06/2004 - **Decision on** 14/04/2005

Strasbourg, 14 April 2005
Dear Mr H.,

On 17 May 2004, you made a complaint to the European Ombudsman concerning the European Commission's alleged failure to act under Article 226 of the EC Treaty.

On 14 June 2004, I forwarded the complaint to the President of the Commission. The Commission sent its opinion on 29 September 2004. I forwarded it to you with an invitation to make observations, which you sent on 20 November 2004, with additional information submitted on 19 February 2005.

I am writing now to let you know the results of the inquiries that have been made.

To avoid misunderstanding, it is important to recall that the EC Treaty empowers the European Ombudsman to inquire into possible instances of maladministration only in the activities of Community institutions and bodies. The Statute of the European Ombudsman specifically provides that no action by any other authority or person may be the subject of a complaint to the Ombudsman.

The Ombudsman's inquiries into your complaint have therefore been directed towards examining whether there has been maladministration in the activities of the European Commission.

## THE COMPLAINT

The complainant is a UK farmer who has not received the milk quota which he considers he is entitled to.

According to the complainant, the relevant facts are, in summary, the following:

The UK Government is not operating the milk quota system in accordance with Community

Regulations 1546/88 (1) and 857/84 (2) and particularly the preliminary ruling by the Court of Justice in the Thomsen Case (3) .

The complainant's late father was the tenant of a farm, which in 1984 was allocated a milk quota. The quota was allocated to the partnership of Mr & Mrs V H. & Son as the milk producer operating the tenanted farm. On 27 February 1999, the complainant, as the son of the partnership, purchased a separate farm. Milk production was moved from the old to the new farm on 1 March 1990 in accordance with national law. On the same day, Mr & Mrs V H. ceased to be producers, but the complainant continued to produce milk at the new farm in a new partnership known as WE & RA H..

The British Courts, the landlord, the UK Government and the H. family considered that none of the above actions regarding milk quota were illegal. All the above mentioned parties also considered that a transfer of part of a holding took place in accordance with European Regulations. The quota was allocated to WE & RA H. for a number of years by the UK Government's agent, in full knowledge that the milk quota had left the tenanted property.

However, an Arbitrator's award of 15 July 1991 found WE & RA H. and their new farm only eligible for less than 0.1% of the quota, despite the transfer made between Mr & Mrs V H. & Son and WE & RA H. on 1 March 1990. According to the complainant, the Arbitrator's award should have allocated the milk quota to WE & RA H. as the producers, since the tenant of the old farm, Mr & Mrs V H. & Son, did not intend to produce milk. Instead, the milk quota was allocated to the owner of the old farm, Staffordshire County Council, despite the fact that the County Council did not operate the holding, were not producers and did not even intend to become producers. In the complainant's view, this is contrary to the ruling of the Court of Justice in the Thomsen Case. Furthermore, by allocating the quota to Staffordshire County Council, the Arbitrator went beyond his Terms of Reference, which were to decide the apportionment of milk quota between Mr & Mrs V H. & Son and WE & RA H.. The responsible UK Minister failed to rectify the matter. The Commission, for its part, failed to take action regarding the matter after the complainant had requested, by letter of 1 February 2003, that the case should be reconsidered in the light of the Thomsen Case.

The complainant argues that milk quotas are regularly moved around in the UK by owner/occupier producers. However, tenants are not allowed to move milk quotas and this is clearly a form of discrimination between producers, contrary to Community law. Article 7.2 of Regulation 1546/88 says that *"[w]here one or several parts of a holding are sold, leased or transferred by inheritance, the corresponding reference quantity shall be distributed among the producers operating the holding in proportion to the areas used for milk production."* In the complainant's case, following the transfer of the quota on 1 March 1990, WE & RA H. were the only producers of milk and the only area used for milk production was the new farm. To allocate the milk quota to Staffordshire County Council was therefore contrary to Community law.

The complainant alleges that the European Commission has failed to enforce proper application of Community law by not acting against the United Kingdom's failure to comply with Community legal acts and case law regarding milk quotas.

The complainant claims compensation for substantial loss.

# THE INQUIRY

**The Commission's opinion** The admissibility of the complaint
Referring to Article 195 of the EC Treaty and Articles 1.3 and 2.7 of the Statute of the European Ombudsman, the Commission argues that the Ombudsman should declare the present complaint inadmissible since the facts put forward by the complainant have already been the object of legal proceedings or court rulings in the UK and have been dealt with by the European Parliament's Committee on Petitions.

In any case, the Commission argues that the complaint should be declared unfounded, since the complainant's case has been treated according to best practice whenever the Commission or any other European institution has examined it. On the basis of Article 195 of the EC Treaty, there are therefore no grounds for the European Ombudsman to conduct an inquiry.
The background of the complaint
The complainant turned to the Commission regarding UK milk quotas already many years ago. The complainant's latest communication regarding the matter was his letter of 1 February 2003, in which he requested the Commission to enforce the Thomsen Case, which he considered to be identical to his own case. The issue at stake was whether, in the event of a transfer, the producer or the landowner were to be allocated milk quota. According to the Commission, there was no mention in the complainant's letter instituting infringement proceedings against the UK. The complainant simply requested the Commission to reconsider its findings made in relation to a petition that the complainant submitted to the European Parliament in 1995 (4) . The Commission replied to the complainant by letter of 7 March 2003, setting out, in a detailed and reasoned manner, why the Commission did not agree with the complainant's position as regards the Thomsen Case. In the Commission's view, the complainant's letter of 1 February 2003 was thereby appropriately dealt with.
The substance of the case
The Commission notes the complainant's assumption that he could freely transfer the milk quota exploited on the farm previously rented ("the old farm") to the farm subsequently purchased ("the new farm"). The complainant argues that the assignment of almost the whole quota to the County Council, the owner of the old farm, was illegal and discriminated against him as the tenant.

The Commission does not agree with the complainant's position, which has no legal basis and is not supported by the facts of the specific case. At the time, the applicable provisions were those of Commission Regulation 1546/88, Article 7, adopted pursuant to Article 7 of Council Regulation 857/84 establishing, for the purpose of transfers of holdings, a link between the holding and the milk quota. Paragraphs 1 and 2 of Article 7 of Regulation 1546/88, applicable to transfers of an entire holding and to transfers of parts of a holding, stipulated the following:

1. "Where an entire holding is sold, leased or transferred by inheritance, the corresponding reference quantity shall be transferred in full to the producer who takes over the holding."

2. "Where one or several parts of a holding are sold, leased or transferred by inheritance, the corresponding quantities shall be distributed among the producers operating the holding in proportion to the areas used for milk production or according to other objective criteria laid down by Member States".

In view of the above provisions, it has been concluded that "a farmer who wishes to set up as a milk producer must acquire a holding to which a milk quota attaches (5) ". The farmer does not have an absolute right to the milk quota. In fact, the Court of Justice has concluded that "the right to property safeguarded by the Community legal order does not include the right to dispose, for profit, of an advantage, such as the reference quantities allocated in the context of the common organisation of a market, which does not derive from the assets or occupational activity of the persons concerned (6) ". Therefore, in case of a transfer of a holding or a part of a holding, the distribution of the quota among the interested parties is not made in consideration of the physical persons involved, but "in proportion to the areas used for milk production or according to other objective criteria".

The Commission recalls that the complainant's case has been reviewed during the years by several authorities. An Arbitrator was the first to examine it in 1990. At that time, the complainant's stance was different from the present one in that he did not invoke the freedom to move his quota from one farm to another, but that "the change of identity of the partnership and change of the production and the transfer of the production from [the old farm] to [the new farm] did not constitute change of occupation of part of a holding in accordance with [UK law]". This submission shows that the complainant was not unaware of the fact that his case was to be treated in the framework of the rules concerning the transfer of a holding.

The Arbitrator concluded that as far as the old farm was concerned, there had been three changes of occupation during the period 12 February 1990 to 25 March 1990. As regards the allocation of milk quotas between the two holdings, i.e. the old farm and the new farm, the Arbitrator applied the criteria set out in UK legislation referring to "the areas used for milk production in the five years preceding the change of occupation". The Arbitrator thereby concluded that the allocation of the milk quota to the new farm would be minimal. The Arbitrator's calculation, based on the areas of the farms concerned and on the time of their occupation, resulted in the preponderant part of the milk quota being allocated to the old farm. Accordingly, the allocation of the milk quota was made in accordance with the criteria set out in Article 7.2 of Regulation 1546/88, i.e. "in proportion to areas used for milk production or according to other objective criteria laid down by Member States".

The Arbitrator's award was reviewed by the County Court and the Court of Appeal. The latter's decision became final as a further appeal to the House of Lords was not granted. The Court of Appeal rejected the complainant's arguments concerning the effects of the changes in the occupation of the two farms by stating that *"[i]f A and B and C occupy a production unit for milk quota purposes, and A and B drop out, bringing the partnership to an end, there is /.../ clearly a change of occupation when C and D form a new and distinct partnership and take occupation. /.../ It is plain from this /.../ that when the Regulations talk about "transfer" they are talking in*

*terms of occupation and not of legal title. Accordingly, I conclude that the change of occupation at the beginning of March did have comparable legal effect to a sale, lease or transfer by inheritance. For this reason also /.../ I would dismiss the appeal."*

The Commission considers it clear from the above that even if the complainant now considers that he was the sole proprietor of the milk production activity and of the related quota existing at the old farm and that he could transfer it to the new farm, this view, unfortunately, does not match the notion of a milk quota according to Community Regulations. The complainant did not take into consideration the link existing between the quota and the holding and underestimated the consequences of the modifications undergone through the successive partnerships which exploited the two farms. The complainant's argument that he was discriminated against as tenant is therefore unfounded. The allocation of the milk quota between the two farms was made in consideration of their respective areas and of the length of their exploitation, the personal quality of owner or tenant being of no importance.

According to the Commission, the Thomsen Case only confirms the Court's earlier case law and does not justify a re-examination of the complainant's case.

**The complainant's observations**

In his observations, the complainant maintains his complaint and makes, in summary the following additional remarks:

Staffordshire County Council was allocated the milk quota despite the fact that it never intended to re-let the land for milk production. Instead, the County Council filled in a Milk Marketing Board form asking for the milk quota to be registered at its office address, from where the County Council leased out the milk quota for a considerable profit. These actions are contrary to the Thomsen Case, which states that milk quotas must be allocated to producers, not to land which is not going to be used for milk production.

MAFF's (7) guidelines to their agent, the Milk Marketing Board, were that milk quotas could be moved by individual producers. The Milk Marketing Board allocated the milk quota to the complainant and his wife, i.e. the partnership WE & RA H., at the new farm. By letter of 5 July 1990, MAFF identified WE & RA H. as transferee and Mr & Mrs V H. & Son as transferor. However, the H. family was informed by MAFF's agent that a transfer of part of a holding had not taken place and the complainant fought the case on the basis of this advice. Regulation 1546/88 allows for Member States to lay down their own rules, which in the UK means that the transferor and the transferee can agree between themselves on a transfer of a milk quota (Statutory Instruments 1989, Schedule 4, Regulation 1 (3)). The case law of the European Court of Justice (8) allows for milk quotas to be moved within Member States, i.e. a milk quota can be used elsewhere by a producer. In the present case, therefore, the partnership of Mr and Mrs V H. & Son could move the milk quota from one farm to another within the holding.

The Arbitrator allocated the milk quota to "land", not to "producers", as required by the Thomsen Case. Any allocation of the milk quota to the old farm was illegal since that holding was not going to be used for milk production. However, the UK Court only addressed the question whether there had been a transfer of a holding and it refused to rule on the question whether

the milk quota should be allocated to land or to a producer.

The complainant questions how Staffordshire County Council could be a party to any arbitration since it never intended to use the old farm for milk production. He also questions why the H.s were not allowed to agree between themselves on the transfer of the milk quota when the Milk Marketing Board originally accepted this course of action. But most of all he questions why the Commission has not taken action against the UK authorities for continuously ignoring EU and UK laws.

# THE DECISION

**1 The admissibility of the complaint**

1.1 In its opinion, the Commission argues that the complaint should be declared inadmissible in accordance with Article 195 of the EC Treaty and Articles 1.3 and 2.7 of the Statute of the European Ombudsman since the facts put forward by the complainant have already been the object of legal proceedings or court rulings in the UK and have been dealt with by the European Parliament's Committee on Petitions. The Commission further argues that, in any case, the complaint should be declared unfounded since the Commission has treated the complainant's case according to best practice and therefore, on the basis of Article 195 of the EC Treaty, there are no grounds for the European Ombudsman to conduct an inquiry.

1.2 The Ombudsman recalls that the case before him concerns alleged failure by the Commission to enforce proper application of Community law. The Ombudsman does not find that the question of the Commission's alleged failure in this regard has been the object of any legal proceedings. As regards the question whether the Commission has acted in accordance with best practice when dealing with the complainant's case, this is the issue to be decided upon by the Ombudsman *following his inquiry* . The Commission's argument that it has acted in accordance with best practice concerns the merits of the case and does not allow the Ombudsman to declare the complaint unfounded without making an analysis of the case.

1.3 As regards the Commission's argument that the European Parliament's Committee on Petitions has already dealt with the case, the Ombudsman recalls that his consistent practice is to consider that there are no grounds for an inquiry by the Ombudsman if another competent body has already dealt with the matter. However, in the present case, the Committee on Petitions does not appear to have dealt with the matter complained about, i.e. the Commission's alleged failure to enforce proper application of Community law.

1.4 The Ombudsman does not therefore accept the Commission's arguments concerning the admissibility of the complaint and will therefore deal with the merits of the case in part 2 below.

**2 The alleged failure to enforce proper application of Community law**

2.1 The complaint concerns the Commission's handling of the complainant's concern that the UK Government is not operating the milk quota system in accordance with Community Regulations 1546/88 and 857/84 and the preliminary ruling by the Court of Justice in the Thomsen Case (9) . The complainant's late father was the tenant of a farm to which a milk quota was allocated under the partnership of Mr & Mrs V H. & Son as the milk producer

operating the farm ("the old farm"). On 27 February 1999, the complainant, as the son of the partnership, purchased a separate farm ("the new farm"). Milk production was moved from the old to the new farm on 1 March 1990 in accordance with national law. At the same day, Mr & Mrs V H. ceased to be producers, but the complainant continued to produce milk at the new farm in a new partnership known as WE & RA H.. In 1991, an Arbitrator's award, which was later upheld by the UK Courts, found WE & RA H. and the new farm only eligible for less than 0.1% of the quota, despite the transfer made between Mr & Mrs V H. & Son and WE & RA H. on 1 March 1990. According to the complainant, the Arbitrator's award should have allocated the milk quota to WE & RA H. as the producers, since the tenant of the old farm, Mr & Mrs V H. & Son, did not intend to produce milk. Instead, the milk quota was allocated to the owner of the old farm, Staffordshire County Council, despite the fact that the County Council did not operate the holding, were not producers and did not even intend to become producers. In the complainant's view, this is contrary to the Court's ruling in the Thomsen Case. However, the Commission failed to take action regarding the matter after the complainant had requested, by letter of 1 February 2003, that his case should be reconsidered in the light of the Thomsen Case.

The complainant alleges that the European Commission has failed to enforce proper application of Community law by not acting against the United Kingdom's failure to comply with Community legal acts and case law regarding milk quotas.

2.2 The Commission recalls the complainant's letter of 1 February 2003, in which he asked the Commission to enforce the Thomsen Case, which he considered to be identical to his own case. The Commission states that it replied to the complainant by letter of 7 March 2003, setting out, in a detailed and reasoned manner, why the Commission did not agree with the complainant's position as regards the Thomsen Case. In the Commission's view, the complainant's letter of 1 February 2003 was thereby appropriately dealt with.

As regards the substance of the concerns that the complainant brought to its attention, the Commission refers to the then applicable Regulation 1546/88, Article 7.2, which stipulates that in case of a transfer of a holding or a part of a holding, the distribution of the quota among the interested parties is not made in consideration of the physical persons involved, but "in proportion to the areas used for milk production or according to other objective criteria". The Commission recalls that the Arbitrator's allocation of the milk quota, which was upheld by the UK Courts, was based on the criteria set out in UK legislation referring to "the areas used for milk production in the five years preceding the change of occupation". The Arbitrator's calculation, based on the areas of the farms concerned and on the time of their occupation, resulted in the preponderant part of the milk quota being allocated to the old farm. Accordingly, the allocation of the milk quota was made in accordance with the criteria set out in Article 7.2 of Regulation 1546/88, i.e. "in proportion to areas used for milk production or according to other objective criteria laid down by Member States".

The Commission argues that the complainant did not take into consideration the link existing between the quota and the holding and underestimated the consequences of the modifications undergone through the successive partnerships which exploited the two farms. According to the

Commission, the allocation of the milk quota between the two farms was made in consideration of their respective areas and of the length of their exploitation, the personal quality of owner or tenant being of no importance. The complainant was therefore not discriminated against on the basis of being a tenant.

2.3 Before entering into an analysis of the reasoning put forward by the parties, the Ombudsman would like to recall that his inquiry is limited to investigating whether the Commission, in dealing with the complainant's letter of 1 February 2003 and not taking action against the UK, acted in accordance with the rules and principles binding upon it and within the limits of its legal authority.

2.4 The Ombudsman notes that the complaint revolves around the complainant's letter of 1 February 2003 and the Commission's reaction to that letter. The Ombudsman further notes that in the letter of 1 February 2003, the complainant refers to his petition to the European Parliament, stating that the Commission "decided that in [his] case the landowner should be allocated the milk quota" and that the Commission "dismissed [his] petition stating that even though [he] was the producer [he] was not entitled to the milk quota". The complainant asks the Commission to reconsider its decision on the basis of 1) the Thomsen Case; 2) the fact that the UK Arbitrator went beyond his terms of reference when allocating the quota; and 3) the fact that in the UK tenants are not allowed to move milk quotas in the same way as producers owning their farm land. The complainant argues that the Thomsen Case is identical to his own situation and that, in the Thomsen Case, the Court of Justice ruled that the milk quota should remain with the tenant/producer if, at the end of a tenancy, the landowner does not intend to produce milk.

The Ombudsman notes that in its reply of 7 March 2003, the Commission recalls the Court's findings in the Thomsen Case, i.e. that upon expiry of a lease, the lessor may only acquire milk quota if he is a milk producer or if he transfers the quota available on the holding to a third party who is a milk producer. The Commission states, however, that it does not agree with the complainant's interpretation of the Thomsen Case, i.e. that should the lessor not be a milk producer when the lease expires, the quota remains with the lessee/producer. The Commission points out that a milk quota attaches to the land and that, when a lease of the land expires, the tenant/producer has no claim to retain the quota by reason of the lessor not being a milk producer. According to the Commission, the significance of the Thomsen Case relates to the events *following* a re-allocation of the quota to the lessor. Should the lessor fail, within the appropriate time frame, either to resume milk production or to effect a fresh transfer of holding and quota, the quota reverts to the national reserve. As regards the complainant's argument that the Arbitrator went beyond his terms of reference, the Commission states that it can only comment from the point of view of Community law, on the basis of which it considers that there were no grounds to award the milk quota to Mr and Mrs H. & Son. Mr and Mrs H. & Son had ceased milk production prior to the expiry of the lease and had moreover purportedly transferred the quota attached to the leased holding to a distinct holding. The Commission therefore concludes that it cannot be of any assistance to the complainant regarding the matter.

2.5 The Ombudsman understands the complainant's allegation against the Commission to be based on the view that, in order to comply with Community law as interpreted and clarified in the

Thomsen Case, the UK authorities should have allocated the milk quota to the complainant and his new farm and should not have allocated it to the County Council. In order to determine whether the Commission has acted in accordance with the rules and principles binding upon it and within the limits of its legal authority when dealing with the matter, the Ombudsman has to make his own assessment of the facts and circumstances relating to the case. The Ombudsman has therefore carefully examined the available material and has reached the following conclusions.

2.6 In the Ombudsman's view, the notion of a "holding" appears to mean all production units operated by a producer. A holding can thus consist of several farms. A "producer" is a natural or legal person or group of such persons farming a holding (10) . It appears that the complainant bought the new farm in February 1990 and that, for a short period of time, the old and the new farm were operated together as one holding under a single partnership. The lease of the old farm appears to have expired in March 1990, thus implying a transfer of part of the holding (i.e. the old farm going back into the hands of the County Council). In accordance with the then applicable legal provision referred to by the parties - Article 7.2 of Regulation 1546/88 - the milk quota should be "distributed among the producers operating the holding in proportion to the areas used for milk production or according to other objective criteria laid down by Member States". It appears that the UK had stipulated as objective criteria "the areas used for milk production in the *five years preceding* the change of occupation". In view of the fact that during the five years preceding the transfer of part of the holding, the milk production under the quota concerned had been carried out predominantly at the old farm, the Arbitrator appears to have attributed the preponderant part of the milk quota to the old farm and the County Council.

As regards the Thomsen Case, the Ombudsman notes the Court's conclusion that, in accordance with Article 7.2 of Regulation 3950/92 (11) , on expiry of a lease of a milk production holding, the milk quota attached thereto, in principle, reverts to the lessor only where he has the status of milk producer. The Court continues by stating, however, that Article 7.2 cannot be interpreted in such a way as to preclude the lessor from transferring the holding to a third party milk producer, with the milk quota attached to that holding, where he himself does not intend to continue the production of milk on expiry of the lease. In this regard, a temporary acquisition of milk quota by a non-producing lessor is permissible under Community law, but for as short a time as possible (12) .

2.7 On the basis of the above, the Ombudsman considers reasonable the Commission's analysis of the complainant's situation under UK law and practice at the time concerned. The Ombudsman notes that the Thomson Case - which is the crucial point of the complaint - concerns the interpretation of Article 7.2 of Regulation 3950/92, not the interpretation of Article 7.2 of Regulation 1546/88. However, the Ombudsman considers reasonable the Commission's finding that, on the basis of the Thomsen Case, Article 7.2 of Regulation 3950/92 cannot be interpreted as stipulating that a milk quota should remain with a milk-producing tenant when, at the end of a tenancy, the owner of the land to which the quota attaches does not intend to produce milk. It should be noted, however, that the Court of Justice is the highest authority on the interpretation of Community law.

2.8 In view of the above, the Commission appears to have acted in accordance with the rules and principles binding upon it and within the limits of its legal authority when concluding that, despite the Thomsen Case, it cannot be of any assistance to the complainant regarding the matter of his concern. The Ombudsman therefore finds no maladministration by the Commission.

**3 The complainant's claim**

3.1 The complainant claims that the Commission should compensate him for substantial loss.

3.2 In view of the finding in point 2.8 above, the Ombudsman considers that the complainant's claim cannot be sustained.

**4 The complainant's further arguments**

4.1 The Ombudsman notes that, in his observations on the Commission's opinion, the complainant contends that Staffordshire County Council had the milk quota registered at its office address, from where it leased it out for a considerable profit. The complainant also questions how the County Council could be a party to the arbitration and why the H.s were not allowed to agree between themselves on the transfer of milk quota.

4.2 As regards the question of leasing out the milk quota, the complainant does not appear to have brought this matter to the Commission's attention. The Ombudsman is therefore not entitled to inquire into the Commission's possible actions regarding the matter. If the complainant possesses evidence of current practices in relation to leasing out of milk quotas, the Ombudsman would suggest the complainant turn directly to the Commission regarding the matter.

4.3 As regards the arbitration and the agreement on the transfer of the milk quota between the parties, the complainant does not appear to argue that the UK authorities handled these matters in a manner contrary to Community law applicable at the time. The Ombudsman would therefore suggest the complainant seek further answers or a remedy at national level regarding these matters.

**5 Conclusion**

On the basis of the Ombudsman's inquiries into this complaint, there appears to have been no maladministration by the Commission. The Ombudsman therefore closes the case.

The President of the Commission will also be informed of this decision.

Yours sincerely,

P. Nikiforos DIAMANDOUROS

(1) Commission Regulation (EEC) No 1546/88 of 3 June 1988 laying down detailed rules for the application of the additional levy referred to in Article 5c of Regulation (EEC) No 804/68.

(2) Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the

application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector.

(3) Case C-401/99, *Peter Heinrich Thomsen v Amt für ländliche Räume Husum (Reference for a preliminary ruling)* , [2002] ECR I-5775.

(4) Petition number 320/95.

(5) Case C-2/92, *Opinion of Mr Advocate General Gulmann delivered on 20 April 1993* , [1994] ECR I-955, paragraph 2.

(6) Case C-2/92, *The Queen v Ministry of Agriculture, Fisheries and Food, ex parte Dennis Clifford Bostock (Reference for a preliminary ruling)* , [1994] ECR I-955, paragraph 19.

(7) The former UK Ministry of Agriculture, Fisheries and Food.

(8) Case C-5/88, *Hubert Wachauf v Bundesamt für Ernährung und Forstwirtschaft (Reference for a preliminary ruling)* , [1989] ECR 2609, paragraph 13.

(9) Case C-401/99, *Peter Heinrich Thomsen v Amt für ländliche Räume Husum (Reference for a preliminary ruling)* , [2002] ECR I-5775.

(10) Article 12 of Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector.

(11) Council Regulation (EEC) No 3950/92, of 28 December 1992, establishing an additional levy in the milk and milk products sector.

(12) Case C-401/99, *Peter Heinrich Thomsen v Amt für ländliche Räume Husum (Reference for a preliminary ruling)* , [2002] ECR I-5775, paragraphs 41-43.