COMMISSION REGULATION (EEC) No 1419/78

of 20 June 1978

amending Regulation No 136/66/EEC on the establishment of a common organization of the market in oils and fats

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas Article 10 (1) of Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats (2), as last amended by Regulation (EEC) No 2560/77 (3), provides that where the production target price is higher than the market target price ruling at the beginning of the marketing year, a subsidy equal to the difference between these two prices shall be granted to producers of olive oil extracted within the Community from olives harvested within the Community ;

Whereas in its judgment in Case 36/77 the Court of Justice of the European Communities held that the expression 'producers of olive oil' within the meaning of Article 10 of Regulation No 136/66/EEC is to be interpreted as referring to the producers of the processed product constituted by the olive oil and that, consequently, it is to these latter that the subsidy must be granted ;

Whereas Council Regulation (EEC) No 3209/73 of 27 November 1973 on the subsidy for olive oil (4), as last amended by Regulation (EEC) No 2363/77 (5), provides that, with effect from 1 November 1973, the application for the subsidy may be presented by producers of olives who have submitted a declaration of cultivation ;

Whereas it is pursuant to that Regulation that the subsidy has been granted to olive producers since 1 November 1973 ; whereas in view of the interpretation given by the Court in the abovementioned judgment, it is however to be expected that the subsidy will be claimed by oil producers who are not themselves the producers of the olives ; whereas such applications would not be justified economically, since the oil producers already benefit indirectly from the subsidy through having purchased the olives at a price which takes account of the subsidy received by the olive producers ;

Whereas it is therefore necessary to amend Article 10 of Regulation No 136/66/EEC with effect from 1 November 1973 so as to avoid a situation whereby oil producers receive directly, in addition to the advantage referred to above, the subsidy in respect of the same production ;

Whereas, however, in France, in particular when the olives are purchased by the miller and the olive residue by industry, it is to the oil producer that the subsidy has been paid or promised ; whereas the price provided for in contracts assumes that the subsidy is paid to the oil producer ; whereas provision should consequently be made for appropriate transitional measures,

HAS ADOPTED THIS REGULATION :

Article 1

Article 10 (1) of Regulation No 136/66/EEC shall be replaced by the following with effect from 1 November 1973 :

'1. Where the production target price is higher than the market target price ruling at the beginning of the marketing year, a subsidy equal to the difference between these two prices shall be granted to the producers of olives harvested in the Community in respect of the quantity of oil extracted therefrom.'

Article 2

By way of derogation from Article 1, the subsidy provided for in Article 10 of Regulation No 136/66/EEC shall be granted to producers of oil in respect of oil extracted from olives harvested before 1 November 1978, where this is provided for by the legislation of the Member State concerned.

Article 3

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

(1) Opinion delivered on 14 June 1978 (not yet published in the Official Journal).
(2) OJ No 172, 30. 9. 1966, p. 3025/66.
(3) OJ No L 303, 28. 11. 1977, p. 1.
(4) OJ No L 327, 28. 11. 1973, p. 15.
(5) OJ No L 277, 29. 10. 1977, p. 4.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 20 June 1978.

For the Council

The President

P. DALSAGER