

3. In the alternative, with regard to Articles 3 and 4 of Council Regulation (EC) No 320/2006 of 20 February 2006 and with regard to the higher rules and principles of EU primary law, is Article 4 of Commission Regulation (EC) No 968/2006 of 27 June 2006 invalid if interpreted as also including among the facilities referred to in Article 4(1)(a) and (b) of Regulation No 968/2006 those facilities used by sugar companies for storing, packing or packaging sugar for the purposes of marketing it, given that it is clear that the objective of Regulation No 320/2006 is to reduce the production capacity of the sugar company and not to prevent the company from being able to operate in the sector of the mere marketing of the product, using sugar obtained relying on production quotas belonging to other facilities or businesses?
4. In the further alternative, in any event, are Articles 3 and 4 of Council Regulation (EC) No 320/2006 of 20 February 2006 and Article 4 of Commission Regulation (EC) [No 968/2006] of 27 June 2006 valid, by the yardstick of the higher rules and principles of EU primary law, if interpreted as including in the concept of 'production facilities' or facilities 'directly related to ... production' those facilities used by sugar companies for storing, packing or packaging sugar for the purposes of marketing it?

⁽¹⁾ OJ 2006 L 58, p. 42

⁽²⁾ OJ 2006 L 176, p. 32

Reference for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 23 April 2012 — Eridania Sadam S.p.A. v AGEA and Ministero delle Politiche Agricole Alimentari e Forestali

(Case C-189/12)

(2012/C 194/22)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Eridania Sadam S.p.A.

Respondents: Agenzia per le Erogazioni in Agricoltura (AGEA), Ministero delle Politiche Agricole Alimentari e Forestali

Questions referred

1. Are Articles 3 and 4 of Council Regulation (EC) No 320/2006 of 20 February 2006 ⁽¹⁾ and Article 4 of Commission Regulation (EC) No 968/2006 of 27 June 2006 ⁽²⁾ to be interpreted as meaning that the phrase 'production facilities' does not include facilities used by sugar companies for *packaging* sugar for the purposes of marketing it and that, therefore, in the case of facilities such as silos, it is necessary to complete a case-by-case analysis in order to

establish whether those facilities are connected with the 'production line' or whether they are connected with other activities, different from production, such as *packaging*?

2. In the alternative, with regard to Articles 3 and 4 of Council Regulation (EC) No 320/2006 of 20 February 2006 and with regard to the higher rules and principles of EU primary law, is Article 4 of Commission Regulation (EC) No 968/2006 of 27 June 2006 invalid if interpreted as also including among the facilities referred to in Article 4(1)(a) and (b) of Regulation No 968/2006 those facilities used by sugar companies for *packaging* sugar for the purposes of marketing it, given that it is clear that the objective of Regulation No 320/2006 is to reduce the production capacity of the sugar company and not to prevent the company from being able to operate in the sector of the mere marketing of the product, using sugar obtained relying on production quotas belonging to other facilities or businesses?
3. In the further alternative, in any event, are Articles 3 and 4 of Council Regulation (EC) No 320/2006 of 20 February 2006 and Article 4 of Commission Regulation (EC) [No 968/2006] of 27 June 2006 valid, by the yardstick of the higher rules and principles of EU primary law, if interpreted as including in the concept of 'production facilities' or facilities 'directly related to ... production' those facilities used by sugar companies for *packaging* sugar for the purposes of marketing it?

⁽¹⁾ OJ 2006 L 58, p. 42

⁽²⁾ OJ 2006 L 176, p. 32

Action brought on 26 April 2012 — European Commission v Republic of Bulgaria

(Case C-198/12)

(2012/C 194/23)

Language of the case: Bulgarian

Parties

Applicant: European Commission (represented by: T. Scharf, O. Beynet, and S. Petrova, acting as Agents)

Defendant: Republic of Bulgaria

Form of order sought

The applicant claims that the Court should:

- declare that, the Republic of Bulgaria has infringed its obligations, resulting from Article 14(1) of Regulation (EC) No 715/2009 ⁽¹⁾ in conjunction with Article 16(1) and (2)(b) thereof, to provide maximum capacity to all market participants and, in particular, services for virtual reverse flow gas transport;
- order the Republic of Bulgaria to pay the costs.