between the complaints of consumers and those of other end-users, although the vast majority of the users of those services (in the present case, express and courier services) are professional users?

(1) Directive of the European Parliament and of the Council on common rules for the development of the internal market of Community postal services and the improvement of quality of service (OJ 1998 L 15, p. 14).
(2) Directive of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (OJ 2002 L 176, p. 21).
(3) Directive of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services (OJ 2008 L 52, p. 3).

Reference for a preliminary ruling from the Tribunal de première instance de Bruxelles (Belgium) lodged on 29 March 2010 — Bureau d'Intervention et de Restitution Belge (BIRB) v Beneo Orafti SA

(Case C-150/10)

(2010/C 161/30)

Language of the case: French

Referring court

Tribunal de première instance de Bruxelles

Parties to the main proceedings

Applicant: Bureau d'Intervention et de Restitution Belge (BIRB)

Defendant: Beneo Orafti SA

Questions referred

1. Are the transitional quotas allocated to an undertaking producing sugar on the basis of Article 9 of Commission Regulation No 493/2006 (1) exempt from the temporary restructuring scheme established by Council Regulation No 320/2006 (2) and by Commission Regulation No 968/2006 (3) laying down detailed rules for implementation, given that:

   (a) those quotas are not subject to payment of the temporary amount for restructuring;

   (b) they do not give rise to restructuring aid; and

   (c) they are not quotas within the meaning of Council Regulation No 320/2006, as defined by Article 2(6) of that Regulation?

2. Even if the reply to Question 1 is in the negative, are transitional quotas quotas in their own right, independent of the normal basic quotas, given that:

   (a) transitional quotas are allocated on the basis of Article 9 of Commission Regulation No 493/2006 and not on the basis of Article 7 of Council Regulation No 318/2006 (4);

   (b) the criteria for the allocation of transitional quotas differ from the criteria for the allocation of normal basic quotas; and

   (c) the transitional quotas are transitional measures intended to facilitate the transition from the former scheme for the sugar market to the new scheme for the Community sugar market and, as a consequence, apply in principle only during the 2006/2007 marketing year?

3. If the reply to either or both of Questions 1 and 2 is in the affirmative, does an undertaking producing sugar which has applied for restructuring aid for the marketing year 2006/2007 in accordance with Article 3 of Council Regulation No 320/2006 have a right to a transitional quota allocated for the marketing year 2006/2007 in accordance with Article 9 of Regulation No 493/2006?

4. If the reply to Question 3 is in the negative, can the penalty applied consist in recovery of part of the restructuring aid granted, together with recovery of the transitional quota?

   How must the amount of aid to be recovered under Article 26(1) of Commission Regulation No 968/2006 and the penalty provided for under Article 27 thereof be calculated where an undertaking producing sugar has received restructuring aid (for the 2006/2007 marketing year) and has used its transitional quota (for which no restructuring aid was granted)?

   Must all or some of the following factors be taken into account in the calculation of that amount and of that penalty:

   (a) the costs born by the undertaking producing sugar in question for the dismantling of its production facilities?

   (b) the losses incurred by the undertaking producing sugar in question as a result of giving up its normal basic quota?

(c) the fact that the transitional quota is a one-off, transitional measure which permits production for the 2006/2007 marketing year only and does not apply to other marketing years (save in the case of the transitional sugar quota)?

(d) is a calculation of the amount to be recovered which does not take into account the factors referred to in points (a) to (c) inconsistent with the principle of proportionality?

5. Notwithstanding the preceding questions, when do the commitments entered into on the basis of a restructuring plan take effect, that is to say, when do they become binding on the claimant?

(a) at the beginning of the marketing year for which the claimant submits its application for restructuring aid?

(b) on the submission of the application to the competent national authority?

(c) on notification by the competent national authority that the application is regarded as complete?

(d) on notification by the competent national authority that the application is regarded as admissible in respect of restructuring aid?

(e) on notification by the competent national authority of its decision to grant restructuring aid?

6. If the reply to either or both of Questions 1 and 2 is in the affirmative, is an undertaking producing sugar which has been allocated a transitional quota for the marketing year 2006/2007 authorised to use that quota during the marketing year even though the undertaking has been granted restructuring aid by reference to its normal basic quota, beginning with the marketing year 2006/2007?

7. If the reply to Questions 1, 2 and 6 is in the negative, is a competent national authority of a Member State authorised, in the event of failure to fulfil the commitments entered into on the basis of the restructuring plan, to combine recovery of the restructuring aid and the penalty under Articles 26 and 27 of Commission Regulation No 968/2006 with the imposition of a levy on surpluses in accordance with Article 4 of Commission Regulation No 967/2006 ([5]) or is the combination of penalties in that way inconsistent with the principle *non bis in idem* and the principles of proportionality and non-discrimination?

([1]) Commission Regulation (EC) No 493/2006 of 27 March 2006 laying down transitional measures within the framework of the reform of the common organisation of the markets in the sugar sector, and amending Regulations (EC) No 1265/2001 and (EC) No 314/2002 (OJ 2006, L 89, p. 11).

([2]) Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community and amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy (OJ 2006 L 58, p. 42).

([3]) Commission Regulation (EC) No 968/2006 of 27 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community (OJ 2006 L 176, p. 32).

([4]) Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector (OJ 2006 L 58, p. 1).

([5]) Commission Regulation (EC) No 967/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards sugar production in excess of the quota (OJ 2006, L 176, p. 22).

Reference for a preliminary ruling from the Arbeidshof te Antwerpen — Afdeling Hasselt (Belgium), lodged on 31 March 2010 — Dai Cugini NV v Rijksdienst voor Sociale Zekerheid

(Case C-151/10)

(2010/C 161/31)

Language of the case: Dutch

Referring court

Arbeidshof te Antwerpen — Afdeling Hasselt

Parties to the main proceedings

Appellant: Dai Cugini NV

Respondent: Rijksdienst voor Sociale Zekerheid

Questions referred

1. Are national provisions, specifically the presumption in Article 22b of the Law of 27 June 1969 amending the Decree-Law of 28 December 1944 on social security for workers (the RSZ Law) and Article 171 of the Programme Law of 22 December 1989, as successively amended, compatible with the provisions of Community law and