

(b) If Question 2(a) is answered in the negative:

Can a proportion of foreign material in waste, in particular on account of its volume, also preclude classification under entry B 3020 or the fourth indent thereof, if the conditions of the so-called chapeau of Annex III to Regulation 1013/2006 have not been met, that is to say, the waste is contaminated by other materials to an extent which does not increase the risks associated with the waste sufficiently to render it appropriate for submission to the procedure of prior written notification and consent, when taking into account the hazardous characteristics listed in Annex III to Directive 2008/98/EC, ⁽³⁾ and does not prevent the recovery of the waste in an environmentally sound manner?

3. If Question 1(b) is answered in the negative:

(a) Is point 3(g) of Annex IIIA to Regulation No 1013/2006 to be interpreted as meaning that it requires absolute freedom from foreign material, in the sense that the classification of a mixture of waste under that entry is precluded if the mixture — regardless of its volume and potential danger — contains waste other than the waste referred to in the first three indents of entry B 3020 (foreign materials)?

(b) If Question 3(a) is answered in the negative:

Can foreign materials which, in any event, do not preclude classification under point 3(g) of Annex IIIA to Regulation No 1013/2006, also be waste which, viewed in isolation, would be classified under the fourth indent of entry B 3020?

⁽¹⁾ OJ 2006 L 190, p. 1.

⁽²⁾ Basel Convention on the control of transboundary movements of hazardous wastes and their disposal of 22 March 1989

⁽³⁾ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives; OJ 2008 L 312, p. 3.

**Request for a preliminary ruling from the Sofiyski rayonen sad (Bulgaria) lodged on 8 May 2019 — ‘BOS-
OLAR’ EOOD v ‘CHEZ ELEKTRO BULGARIA’ AD**

(Case C-366/19)

(2019/C 255/32)

Language of the case: Bulgarian

Referring court

Sofiyski rayonen sad

Parties to the main proceedings

Applicant: ‘BOSOLAR’ EOOD

Defendant: ‘CHEZ ELEKTRO BULGARIA’ AD

Questions referred

1. Is Article 16 of the Charter of Fundamental Rights of the European Union, which governs the right to have the freedom to conduct a business in the EU legal order, to be interpreted as meaning that it precludes a national provision such as Paragraph 18 of the Prehodni i zaklyuchitelni razporedbi na Zakona za izmenenie i dopalnenie na zakona za energetikata (Transitional and final provisions of the Law amending and supplementing the Law on energy, 'the PZR ZIDZE'), pursuant to which, despite the fact that an agreement has been entered into and a contractual relationship exists — aspects that are subject to special provisions of the applicable law — one of the fundamental elements of the agreement (the price) is changed in favour of one of the contracting parties by legislative act?
2. Is the principle of legal certainty to be interpreted as meaning that it precludes the redefinition of legal relationships that have already been established between private legal entities or between the State and private legal entities on the basis of special provisions if such redefinition has an adverse effect on the legitimate expectations of the legal entities governed by private law and rights already acquired by them?
3. Having regard to the judgment of the Court of Justice of 10 September 2009, *Plantanol* (C-201/08, EU:C:2009:539), is the principle of the protection of legitimate expectations, as a fundamental principle of EU law, to be interpreted as meaning that it precludes a Member State from changing the applicable legal regime for the generation of electricity from renewable sources without a sufficient guarantee of predictability by prematurely withdrawing measures provided for by law which are aimed at promoting the generation of electricity from renewable sources and are linked to long-term power purchase agreements, contrary to the conditions under which private actors have made investments in the generation of electricity from renewable sources and entered into long-term power purchase agreements with State-regulated electricity suppliers?
4. Having regard to recitals 8 and 14 in the preamble to the directive, are Articles 3 and 4 of Directive 2009/28/EC ⁽¹⁾ on the promotion of the use of energy from renewable sources to be interpreted as meaning that they oblige Member States to guarantee legal certainty for investors in the area of generation of electricity from renewable sources, including solar energy, by means of national measures for implementing the directive?

If that question is answered in the affirmative: Is a national provision such as Paragraph 18 PZR ZIDZE, which significantly changes the preferential conditions for the purchase of electricity from renewable sources, even for long-term agreements which have already been entered into for the purchase of electricity from such sources in accordance with the originally adopted national measures for implementing the directive, permissible pursuant to Articles 3 and 4 in conjunction with recitals 8 and 14 of Directive 2009/28?

5. How is the term 'Member State' to be interpreted for the purposes of applying EU law at a national level? Having regard to the judgment of the Court of Justice of 12 July 1990, *Foster and Others* (C-188/89, EU:C:1990:313) and the subsequent judgments of the Court of Justice in that area of case-law, does this term also cover the providers of a service of general economic interest (electricity supply), such as the defendant company in the pending court proceedings, which have been made responsible for providing that service under conditions governed by law pursuant to a measure adopted by a State authority and under the supervision of that authority?

⁽¹⁾ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Text with EEA relevance) (OJ 2009 L 140, p. 16).