



Reports of Cases

JUDGMENT OF THE COURT (Ninth Chamber)

14 December 2023*

(Reference for a preliminary ruling – Agriculture – Common organisation of the markets – Sugar sector – Production levies – Regulation (EU) No 1360/2013 – Right to reimbursement of the unduly paid levies – Time-bars and limitation periods – Finality of decisions to reimburse – Principles of equivalence and effectiveness – Principle of legal certainty)

In Case C-655/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesfinanzhof (Federal Finance Court, Germany), made by decision of 1 June 2022, received at the Court on 19 October 2022, in the proceedings

I GmbH & Co. KG

v

Hauptzollamt HZA,

THE COURT (Ninth Chamber),

composed of O. Spineanu-Matei, President of the Chamber, J.-C. Bonichot and L.S. Rossi (Rapporteurs), Judges,

Advocate General: N. Emiliou,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- I GmbH & Co. KG, by D. Ehle, Rechtsanwalt,
- the European Commission, by A.C. Becker and B. Hofstötter, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

* Language of the case: German.

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Council Regulation (EU) No 1360/2013 of 2 December 2013 fixing the production levies in the sugar sector for the 2001/2002, 2002/2003, 2003/2004, 2004/2005 and 2005/2006 marketing years, the coefficient required for calculating the additional levy for the 2001/2002 and 2004/2005 marketing years and the amount to be paid by sugar manufacturers to beet sellers in respect of the difference between the maximum levy and the levy to be charged for the 2002/2003, 2003/2004 and 2005/2006 marketing years (OJ 2013 L 343, p. 2).
- 2 The request has been made in proceedings between I GmbH & Co. KG and Hauptzollamt HZA (Principal Customs Office, Germany) ('the Customs Office') regarding the reimbursement of production levies in the sugar sector unduly paid in respect of the 2001/2002 marketing year.

Legal context

European Union law

Regulation No 1150/2000

- 3 Article 2 of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources (OJ 2000 L 130, p. 1), as amended by Council Regulation (EC, Euratom) No 105/2009 of 26 January 2009 (OJ 2009 L 36, p. 1) ('Regulation No 1150/2000'), provided:

'1. For the purpose of applying this Regulation, the Community's entitlement to the own resources referred to in Article 2(1)(a) of [Council] Decision 2007/436/EC, Euratom [of 7 June 2007 on the system of the European Communities' own resources (OJ 2007 L 163, p. 17)] shall be established as soon as the conditions provided for by the customs regulations have been met concerning the entry of the entitlement in the accounts and the notification of the debtor.

2. The date of the establishment referred to in paragraph 1 shall be the date of entry in the accounting ledgers provided for by the customs regulations.

As regards the levies and other charges connected with the common organisation of the sugar market, the date of the establishment referred to in paragraph 1 shall be the date of notification under the sugar regulations.

Should that notification not be explicitly provided for, the date shall be the date of establishment by the Member States of the amounts due by the debtors, where necessary by way of advance payment or payment of balance.

...

4. Paragraph 1 shall apply when a notification must be corrected.'

Regulation No 1360/2013

4 Recitals 10 to 12 and 23 of Regulation No 1360/2013 state:

‘(10) [By its judgment of 27 September 2012, *Zuckerfabrik Jülich and Others* (C-113/10, C-147/10 and C-234/10, EU:C:2012:591)], the Court declared [Commission] Regulation (EC) No 1193/2009 [of 3 November 2009 correcting Regulations (EC) No 1762/2003, (EC) No 1775/2004, (EC) No 1686/2005, (EC) No 164/2007 and fixing the production levies in the sugar sector for marketing years 2002/2003, 2003/2004, 2004/2005, 2005/2006 (OJ 2009 L 321, p. 1)] invalid, stating that, for the purpose of calculating the estimated average loss per tonne of product, Article 15(1)(d) of [Council] Regulation (EC) No 1260/2001 [of 19 June 2001 on the common organisation of the markets in the sugar sector (OJ 2001 L 178, p. 1)] was to be interpreted as meaning that the total refund amount includes the total amount of export refunds effectively paid.

(11) Consequently, levies in the sugar sector should be fixed at the appropriate level. ...

(12) Considering that the method used to calculate the levies for the 2001/2002 marketing year was the same as that invalidated by the Court, the production levies and the coefficient for the additional levy for the 2001/2002 marketing year should also be corrected accordingly.

...

(23) For reasons of legal certainty and to ensure uniform treatment of the operators concerned in different Member States, it is necessary to set a common date upon which the levies fixed by this Regulation should be established ... However, this deadline should not apply where Member States are required, under national law, to reimburse the operators concerned after that date’.

5 Article 1(1) of that regulation provides:

‘The production levies in the sugar sector for the 2001/2002, 2002/2003, 2003/2004, 2004/2005 and 2005/2006 marketing years shall be those set out in point 1 of the Annex.’

6 Under Article 2 of that regulation:

‘The date of establishment, as referred to in the second subparagraph of Article 2(2) of [Regulation No 1150/2000], of the levies fixed by this Regulation shall be no later than 30 September 2014, except where Member States are prevented from respecting that deadline due to the application of national law on the recovery by economic operators of sums paid but not due.’

7 The second to fourth paragraphs of Article 3 of Regulation No 1360/2013 lay down the dates from which the production levies, set out in point 1 of the annex thereto, apply in respect of the 2001/2002 to 2005/2006 marketing years. Under the first paragraph of Article 3 of that regulation, it is to enter into force on the day following that of its publication in the *Official Journal of the European Union*, namely 20 December 2013.

Regulation (EU) 2018/264

- 8 Article 2(2) of Council Regulation (EU) 2018/264 of 19 February 2018 fixing the production levies and the coefficient for calculating the additional levy in the sugar sector for the 1999/2000 marketing year and fixing the production levies in the sugar sector for the 2000/2001 marketing year (OJ 2018 L 51, p. 1) states:

‘The difference between the levies fixed by [Commission] Regulations (EC) No 2267/2000 [of 12 October 2000 fixing the production levies and the coefficient for calculating the additional levy in the sugar sector for the 1999/2000 marketing year (OJ 2000 L 259, p. 29)] and (EC) No 1993/2001 [of 11 October 2001 fixing the production levies in the sugar sector for the 2000/01 marketing year (OJ 2001 L 271, p. 15)] and the levies provided for in Article 1 of this Regulation shall be reimbursed to those economic operators that paid levies in respect of the 1999/2000 and 2000/2001 marketing years, on duly justified application of the latter.’

German law

- 9 The first sentence of Paragraph 12(1) of the Marktorganisationsgesetz (Law on the organisation of markets), in the version applicable to the dispute in the main proceedings, stated:

‘The provisions [of the Abgabeordnung (Tax Code)] ... shall apply *mutatis mutandis* in the case of levies for the purpose of market organisation which, pursuant to the provisions referred to in Article 1(2), are charged on products which are the subject of market organisation, provided that derogation from these provisions is not made by this Law or by a regulation adopted on the basis of this Law.’

- 10 Paragraph 169(1) and (2) of the Tax Code, in the version applicable to the dispute in the main proceedings, provided:

‘(1) A tax assessment and its annulment or amendment shall no longer be admissible when the period for assessment has expired. ...

(2) The period for assessment shall be:

1. one year for excise duties and excise duty rebates,
2. four years for taxes and tax rebates that are not taxes or tax rebates within the meaning of point 1 or import and export duty in accordance with Article 4(10) and (11) of the Customs Code.’

- 11 Paragraph 170(1) of that code was worded as follows:

‘The period prescribed for assessment shall begin on the expiry of the calendar year during which the tax liability arose or a conditional tax became unconditional.’

- 12 Under Paragraph 171(3) of that code:

‘If an application for a tax assessment or for the annulment or amendment of a tax assessment or correction thereof is submitted pursuant to Paragraph 129 before the expiry of the period for assessment outside of an objection or appeal procedure, the period for assessment shall not expire until a final decision on the application has been taken.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

- 13 I, as a company producing sugar, was subject to the system of sugar production levies provided for by Regulation No 1260/2001 for the 2001/2002 to 2005/2006 marketing years.
- 14 The amount of the production levies was determined pursuant to regulations adopted each year by the European Commission. For the 2001/2002 marketing year, that amount was thus determined pursuant to Commission Regulation (EC) No 1837/2002 of 15 October 2002 fixing the production levies and the coefficient for the additional levy in the sugar sector for the marketing year 2001/02 (OJ 2002 L 278, p. 13).
- 15 By decision of 25 November 2002, adopted pursuant to that regulation, the Customs Office fixed the amount of the production levies to be paid by I for the 2001/2002 marketing year ('the decision of 25 November 2002').
- 16 By judgment of 8 May 2008, *Zuckerfabrik Jülich and Others* (C-5/06 and C-23/06 to C-36/06, EU:C:2008:260), and by orders of 6 October 2008, *Raffinerie Tirlemontoise* (C-200/06, EU:C:2008:541), and of 6 October 2008, *SAFBA* (C-175/07 to C-184/07, EU:C:2008:543), the Commission regulations relating to the 2002/2003 to 2004/2005 marketing years were declared invalid by the Court of Justice.
- 17 By decision of 27 January 2010, the Customs Office rejected an application for amendment of the decision of 25 November 2002 submitted by I.
- 18 By judgment of 27 September 2012, *Zuckerfabrik Jülich and Others* (C-113/10, C-147/10 and C-234/10, EU:C:2012:591), Regulation No 1193/2009, which had amended the Commission regulations relating to the 2002/2003 to 2004/2005 marketing years, was also declared invalid by the Court. Following the delivery of that judgment, the Council of the European Union once again fixed the production levies in the sugar sector for the 2001/2002 to 2005/2006 marketing years through the adoption of Regulation No 1360/2013, by which it reduced the production levies for those marketing years.
- 19 On 18 December 2014, I submitted a new application to the Customs Office for the amendment of the assessments and the reimbursement of the overpaid amounts, plus interest, on the basis of Regulation No 1360/2013.
- 20 By decision of 28 January 2016, upheld following a complaint procedure, the Customs Office rejected that new application on the grounds that the decision of 25 November 2002 had become final.
- 21 The Finanzgericht (Finance Court, Germany) dismissed the appeal lodged by I against the decision of 28 January 2016 on the grounds that the retroactive reduction of levies effected by Regulation No 1360/2013 had had no effect on the final decision of 25 November 2002 as the amendment of that decision was governed exclusively by national law.
- 22 I lodged an appeal on a point of law against that judgment before the Bundesfinanzhof (Federal Finance Court, Germany), which is the referring court. In support of its appeal, it claims that, in its judgment of 19 December 2019, *Cargill Deutschland* (C-360/18, EU:C:2019:1124), the Court confirmed the existence of a right, derived from EU law, to the reimbursement of unduly paid levies. I submits that it is only from the date of entry into force of Regulation No 1360/2013 that

those levies could be determined correctly and that it was therefore able to exercise that right to reimbursement. There was therefore no need to make the right to reimbursement dependent on the annulment or amendment of the decision of 25 November 2002. I concludes that the principle of effectiveness precludes the Customs Office from relying on national limitation periods and the finality of that decision.

- 23 The referring court has doubts as to the interpretation of Article 2 of Regulation No 1360/2013 and as to the relationship between the principle of legal certainty under EU law and the judgment of 19 December 2019, *Cargill Deutschland* (C-360/18, EU:C:2019:1124).
- 24 In that regard, it considers, first, that EU law does not lay down the procedural conditions for amending decisions fixing levies adopted under Regulation No 1837/2002 and for submitting a claim for repayment. Those conditions are therefore governed by national law, in accordance with the procedural arrangements laid down in that law.
- 25 However, under applicable national law, I does not have the right to the reimbursement of unduly paid levies. The decision of 25 November 2002 has become final and it is no longer possible to amend it retroactively since the period for fixing production levies in the sugar sector for the 2001/2002 marketing year expired in February 2010, but before the adoption of Regulation No 1360/2013. In the view of the national court, in so far as German law does not provide for the reimbursement of production levies in the absence of an amendment to the final administrative decision by which those levies were fixed, reimbursement of those unduly paid levies is possible only if a right to reimbursement derives directly from EU law.
- 26 Second, that court considers that such a right does not follow automatically from Regulation No 1360/2013 since it is not clear to it in which cases, and under what procedural conditions, the retroactive rectification provided for in that regulation should be carried out. The fact that a retroactive rectification does not automatically entail a right to reimbursement could also be inferred *a contrario* from Article 2(2) of Regulation 2018/264, applicable to the 1999/2000 and 2000/2001 marketing years, in which, by contrast, the legislature of the European Union expressly laid down such a right, which would have been unnecessary if that right arose from the amendment of the levies from the outset.
- 27 However, that court is of the view that a right to reimbursement of unduly paid levies arises from the requirement to ensure the effectiveness of Regulation No 1360/2013, as interpreted by the Court in its judgment of 19 December 2019, *Cargill Deutschland* (C-360/18, EU:C:2019:1124), by ensuring that only the correct amount of the levies is borne by sugar producers. It adds that, while the procedure and arrangements for reimbursement, which include limitation periods or time-bars, are governed by national law, the Member States must nevertheless comply with the principles of equivalence and effectiveness, so that it must not be practically impossible for sugar producers to submit a claim for repayment. In the present case, the expiry of the time limit for fixing levies and the resulting finality of the tax assessments should not therefore prevent the applicant in the main proceedings from exercising its right to reimbursement.
- 28 Nonetheless, the referring court has doubts as to the compatibility of such a conclusion with the general principle of legal certainty under EU law, as interpreted by the Court in its judgments of 13 January 2004, *Kühne & Heitz* (C-453/00, EU:C:2004:17), and of 20 December 2017, *Incyte* (C-492/16, EU:C:2017:995). According to that case-law, in principle, EU law does not require an administrative decision which has become final to be withdrawn, in so far as its finality, acquired upon expiry of the reasonable time limits for legal remedies or by exhaustion of those remedies,

contributes to legal certainty. It also follows from that case-law that an administrative body is required to re-examine a decision fixing levies in order to take account of a decision of the Court only where, in particular, that amendment is still possible under national law.

- 29 In the view of the referring court, the judgment of 19 December 2019, *Cargill Deutschland* (C-360/18, EU:C:2019:1124), contradicts such case-law since it recognises the existence of a right to reimbursement even though the national administrative decision has become final and the limitation period for recovery of the taxes unduly paid has already expired. That is all the more true since, in the present case, the amendment of the levies by Regulation No 1360/2013 was made approximately 11 years after the marketing year concerned.
- 30 Finally, in the view of the referring court, the question also arises as to whether the applicant in the main proceedings applied to the Customs Office in good time for repayment of the levies unduly paid and whether the time limit laid down in Article 2 of Regulation No 1360/2013, namely 30 September 2014, applied to sugar producers. That court considers that, under the second subparagraph of Article 2(2) of Regulation No 1150/2000, that time limit is directed at the Member States and is intended to ensure that the own resources of the European Union are made available to the Commission before that date. However, if that time limit is not the deadline for submitting a claim for repayment of unduly paid levies, there is doubt as to the time limit by which such a claim must be submitted.
- 31 In those circumstances, the Bundesfinanzhof (Federal Finance Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- ‘(1) Is Article 2 of Regulation No 1360/2013 to be interpreted as meaning that a sugar manufacturer should have submitted its claim for repayment of levies unduly paid before 30 September 2014?
- (2) If the first question is answered in the negative: In a case such as this (definitively fixed levies applied in breach of EU law, the reimbursement of which was requested only one year after Regulation No 1360/2013 retroactively established a lower coefficient), is the competent authority entitled to refuse to reimburse production levies unduly paid on the basis of national provisions on the force of *res judicata*, of the time limit for levy assessments under national law and of the principle of legal certainty under EU law?’

The questions referred for a preliminary ruling

The first question

- 32 By its first question, the referring court essentially asks whether Article 2 of Regulation No 1360/2013 must be interpreted as meaning that the time limit for submitting a claim, based on that regulation, for reimbursement of sums unduly paid in respect of production levies in the sugar sector, expires before the date on which those levies were established, namely 30 September 2014.
- 33 In order to answer that question, it must be observed at the outset that, as is apparent from recitals 10 and 11, Regulation No 1360/2013 was adopted by the Council in order to comply with the judgment of 27 September 2012, *Zuckerfabrik Jülich and Others* (C-113/10, C-147/10 and C-234/10, EU:C:2012:591). In that judgment, the Court held, inter alia, that the method used

by the Commission to determine the production levies in the sugar sector for the 2002/2003 to 2005/2006 marketing years was incorrect and, consequently, that the sugar producers concerned were entitled to reimbursement of the sums paid unduly in respect of those levies, together with interest. According to recital 12 of that regulation, since the method used to calculate the levies for the 2001/2002 marketing year was the same as that invalidated by the Court, the production levies and the coefficient for the additional levy relating thereto also had to be corrected. The purpose of that regulation is thus to correct, retroactively, the levies for the 2001/2002 to 2005/2006 marketing years, in accordance with the method validated by the Court in that judgment (see, to that effect, judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraphs 35 and 36).

- 34 It follows, first, that Regulation No 1360/2013 gives effect to the right to reimbursement of sums unduly paid in respect of production levies in the sugar sector for the 2001/2002 to 2005/2006 marketing years which sugar producers derive from EU law, as interpreted by the Court. In order to guarantee the effectiveness of that regulation, those sugar producers must therefore be able actually to obtain such a reimbursement (see, to that effect, judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraphs 37 and 38).
- 35 Second, that right to reimbursement can only be exercised from the date of entry into force of that regulation, that is, from 20 December 2013. It is only from that date that the competent national authorities were in a position, following the retroactive fixing of new production levies in the sugar sector, to determine the exact amount of levies unduly paid by each of the producers concerned. Likewise, it was not until that date that those producers were in a position to become aware of that amount and, therefore, to bring valid requests for repayment of the levies unduly paid (see, to that effect, judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraphs 40 and 41).
- 36 As regards the conditions and time limit for exercising that right to reimbursement, it should be noted, first, that, under Article 1(1) of Regulation No 1360/2013, point 1 of the annex thereto fixes the new production levies in the sugar sector, expressed in the form of an amount in euros per tonne of product, for each marketing year, from the 2001/2002 marketing year to the 2005/2006 marketing year. Next, Article 2 of that regulation sets, in principle, the date by which the Member States must enter the amount of those new levies in the EU own resources account. Lastly, Article 3 of that regulation sets the dates from which the new levies apply retroactively (see, to that effect, judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraphs 42 to 44).
- 37 In particular, it follows from Article 2 of Regulation No 1360/2013, read together with the second subparagraph of Article 2(2) of Regulation No 1150/2000, that the date fixed by the first of those provisions, namely 30 September 2014, is the date by which the Member States should, in principle, establish the amounts owed by the persons liable for payment in respect of the new production levies in the sugar sector and enter those amounts in the EU own resources account, and not the date by which the sugar producers should submit their claim for reimbursement of the sums which they have unduly paid. As is clear from recital 23 of Regulation No 1360/2013, the time limit laid down by Article 2 of that regulation is without prejudice to the time limits laid down by national law for reimbursement of the economic operators concerned.
- 38 It follows from the abovementioned provisions that Regulation No 1360/2013 replaced the provisions of the Commission regulations fixing the amount of the production levies in the sugar sector for the 2001/2002 to 2005/2006 marketing years, including those of Regulation

No 1837/2002, with retroactive effect from the date of application of those provisions, without, however, laying down the procedures and the arrangements to be applied by the Member States in order to give effect to the right of sugar producers to reimbursement of levies unduly paid as a result of such an amendment (see, to that effect, judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraphs 45 and 53).

- 39 It follows that, first, under Regulation No 1360/2013, the competent national authorities are called upon not to refund national taxes paid in breach of rules of EU law, where appropriate by reviewing final administrative or judicial decisions requiring payment of those taxes, as was the case in particular in the cases giving rise to the judgments of 6 October 2015, *Târșia* (C-69/14, EU:C:2015:662, paragraphs 24 to 30), and of 11 September 2019, *Călin* (C-676/17, EU:C:2019:700, paragraphs 24 to 29), but to carry out a retroactive revaluation of an EU own resource, which those authorities have levied on its behalf, as laid down by the EU legislature.
- 40 To that end, it is therefore for those authorities not to re-examine, rectify or even annul the national decisions fixing the levy and the corresponding tax notices adopted on the basis of the Commission regulations referred to in paragraph 38 of the present judgment, but to quantify, for each of the sugar producers concerned, the amount of the difference between the sums unduly paid in respect of the levies fixed by those regulations and the sums due in respect of the levies fixed by Regulation No 1360/2013, in order to enable those producers to bring valid requests for repayment of such an amount and thus to ensure the effectiveness of the latter regulation.
- 41 Second, in the absence, in Regulation No 1360/2013, of provisions relating to the procedures and arrangements to be applied by the Member States to give effect to the right of sugar producers to reimbursement of levies unduly paid, the Member States retain the option of applying procedural rules provided for under their national legal system, in particular concerning limitation periods or time-bars, subject to observance of the principles of equivalence and effectiveness (see, to that effect, judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraphs 45 and 46 and the case-law cited).
- 42 In order to ensure compliance with those principles, those procedural rules are not less favourable than those concerning similar claims based on provisions of national law (principle of equivalence) or arranged in such a way as to make the exercise of rights conferred by the EU legal order practically impossible or excessively difficult (principle of effectiveness) (see, to that effect, judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraph 47 and the case-law cited).
- 43 As regards, first, compliance with the principle of equivalence, it is for the referring court, which has direct knowledge of the procedural rules intended to ensure that the rights derived by individuals from EU law are safeguarded under domestic law, to verify that the procedural rules laid down for implementation of the obligation to repay unduly paid levies, introduced by Regulation No 1360/2013, are no less favourable than those applicable to similar claims based on domestic law (see, by analogy, judgment of 14 October 2020, *Valoris*, C-677/19, EU:C:2020:825, paragraph 29 and the case-law cited).
- 44 As regards, second, compliance with the principle of effectiveness, it is apparent from the settled case-law of the Court that the fixing of reasonable limitation periods or time-bars in principle satisfies the requirement of effectiveness since it constitutes an application of the fundamental principle of legal certainty which protects both the person and the administration concerned,

even though the passing of such time limits is, by its nature, liable to prevent the persons concerned from asserting their rights in whole or in part (judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraph 52 and the case-law cited).

- 45 In that respect, the Court has ruled that, since the right of sugar producers to reimbursement of levies unduly paid can be exercised only from the date of entry into force of Regulation No 1360/2013, national rules which provide that the limitation periods and time-bars applicable to claiming such reimbursement expire before that regulation entered into force make it practically impossible to exercise such a right to reimbursement. The Court has inferred from this that Regulation No 1360/2013, read in the light of the principle of effectiveness, precludes such national rules (see, to that effect, judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraphs 55, 56 and 58).
- 46 It follows that the national procedural arrangements applicable to the reimbursement, on the basis of Regulation No 1360/2013, of unduly paid production levies in the sugar sector, which lay down reasonable time-bars and limitation periods, must be regarded as complying with the principle of effectiveness, provided that they run from the date of the entry into force of Regulation No 1360/2013.
- 47 In the present case, in its reference for a preliminary ruling the referring court refers to the provisions of German law, namely Paragraph 169(1) and (2) and Paragraph 170 of the Tax Code, which laid down time limits for annulling or amending taxes and certain levies. Those time limits are one year and four years, respectively, depending on the case. However, the referring court does not state whether and, if so, which of those time limits is likely to apply to the submission of claims for repayment based on Regulation No 1360/2013.
- 48 In that regard, it must nevertheless be recalled that the Court has held, by way of example, that a national time-bar of three years could be considered reasonable, within the meaning of that case-law (see, to that effect, judgment of 19 December 2019, *Cargill Deutschland*, C-360/18, EU:C:2019:1124, paragraph 52 and the case-law cited) and that a time limit of one year for lodging applications or bringing actions based on an infringement of EU law does not in itself appear unreasonable, provided, however, that it begins to run at the earliest from the entry into force of the legislation which aims to remedy that infringement (see, to that effect, judgment of 14 October 2020, *Valoris*, C-677/19, EU:C:2020:825, paragraphs 27 and 28).
- 49 In the light of all the foregoing considerations, the answer to the first question is that Article 2 of Regulation No 1360/2013 must be interpreted as meaning that it does not require that the time limit for submitting a claim, based on that regulation, for reimbursement of sums unduly paid in respect of production levies in the sugar sector, expire before the date on which those levies were established, namely 30 September 2014. It is for the Member States to determine, in their national law, the applicable time limit, subject to compliance with the principles of equivalence and effectiveness, it being understood that a time limit of one year does not in itself appear unreasonable, provided, however, that it begins to run at the earliest from the entry into force of Regulation No 1360/2013.

The second question

- 50 By its second question, the referring court essentially asks whether Regulation No 1360/2013 must be interpreted as precluding national rules which allow the competent national authorities to reject a claim, based on that regulation, for repayment of sums unduly paid in respect of

production levies in the sugar sector, by relying on the finality of national decisions which, prior to the adoption of that regulation, fixed the amount of those levies, pursuant to several Commission regulations which were replaced, with retroactive effect, by that regulation.

- 51 At the outset, it must be observed that it is clear from the reference for a preliminary ruling that the claim for repayment submitted by I within one year from the date of entry into force of Regulation No 1360/2013, that is to say, 18 December 2014, was rejected by the competent national authorities on the ground that the decision of 25 November 2002, fixing the amount of the levies payable by I in respect of the 2001/2002 marketing year, adopted by the Customs Office pursuant to Regulation No 1837/2002, had become final on the application, in February 2010, of the time-bars and expiry of the limitation periods laid down for applying for amendment of that decision.
- 52 In that regard, suffice it to recall that, as is apparent in particular from paragraph 45 of the present judgment, Regulation No 1360/2013, read together with the principle of effectiveness, precludes national legislation under which a claim for repayment of production levies in the sugar sector, based on that regulation, may be rejected on the ground that the decisions which fixed those levies prior to the adoption of that regulation have become final.
- 53 That conclusion is in no way called into question by the principle of legal certainty, referred to by the referring court.
- 54 It is true that, according to settled case-law, since the finality of an administrative decision, which is acquired upon expiry of the reasonable time limits for legal remedies or by exhaustion of those remedies, contributes to legal certainty, EU law does not require that an administrative body be, in principle, under an obligation to reopen an administrative decision which has become final (judgment of 20 December 2017, *Incyte*, C-492/16, EU:C:2017:995, paragraph 46 and the case-law cited).
- 55 However, as was stated in paragraph 40 of the present judgment, the application of Regulation No 1360/2013 by the competent national authorities does not require national decisions fixing the levy, such as the decision of 25 November 2002, adopted on the basis of Commission regulations which have been replaced with retroactive effect by that regulation, to be re-examined, rectified or even annulled. The finality of such decisions and such tax notices cannot therefore preclude the exercise by sugar producers of the right to reimbursement of levies unduly paid which they derive from EU law, as given effect by that regulation.
- 56 In the light of the foregoing considerations, the answer to the second question is that Regulation No 1360/2013 must be interpreted as meaning that it precludes national rules which allow the competent national authorities to reject a claim, based on that regulation, for repayment of sums unduly paid in respect of production levies in the sugar sector, by relying on the finality of national decisions which, prior to the adoption of that regulation, fixed the amount of those levies, pursuant to several Commission regulations which were replaced, with retroactive effect, by that regulation.

Costs

- 57 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Ninth Chamber) hereby rules:

1. **Article 2 of Council Regulation (EU) No 1360/2013 of 2 December 2013 fixing the production levies in the sugar sector for the 2001/2002, 2002/2003, 2003/2004, 2004/2005 and 2005/2006 marketing years, the coefficient required for calculating the additional levy for the 2001/2002 and 2004/2005 marketing years and the amount to be paid by sugar manufacturers to beet sellers in respect of the difference between the maximum levy and the levy to be charged for the 2002/2003, 2003/2004 and 2005/2006 marketing years**

must be interpreted as meaning that it does not require that the time limit for submitting a claim, based on that regulation, for reimbursement of sums unduly paid in respect of production levies in the sugar sector, expire before the date on which those levies were established, namely 30 September 2014. It is for the Member States to determine, in their national law, the applicable time limit, subject to compliance with the principles of equivalence and effectiveness, it being understood that a time limit of one year does not in itself appear unreasonable, provided, however, that it begins to run at the earliest from the entry into force of Regulation No 1360/2013.

2. **Regulation No 1360/2013**

must be interpreted as meaning that it precludes national rules which allow the competent national authorities to reject a claim, based on that regulation, for repayment of sums unduly paid in respect of production levies in the sugar sector, by relying on the finality of national decisions which, prior to the adoption of that regulation, fixed the amount of those levies, pursuant to several European Commission regulations which were replaced, with retroactive effect, by that regulation.

[Signatures]