ORDER OF THE COURT (Second Chamber)
28 June 2001 *

In Case C-351/99 P,

Eridania SpA, formerly Zuccherifici Nazionali SpA, established in Genoa (Italy),

Industria Saccarifera Italiana Agroindustriale SpA (ISI), established in Padua (Italy),

Sadam Zuccherifici divisione della SECI — Società Esercizi Commerciali Industriali SpA, established in Bologna (Italy),

Sadam Castiglionese SpA, established in Bologna,

Sadam Abruzzo SpA, established in Bologna,

Zuccherificio del Molise SpA, established in Termoli (Italy),

and

Società Fondiaria Industriale Romagnola SpA (SFIR), established in Cesena (Italy),

represented by B. O'Connor, Solicitor, and I. Vigliotti, avvocato, with an address for service in Luxembourg,

appellants,

* Language of the case: Italian.

APPEAL against the judgment of the Court of First Instance of the European Communities (First Chamber) of 8 July 1999 in Case T-158/95 *Eridania and Others* v *Council* [1999] ECR II-2219, seeking to have that judgment set aside,

the other parties to the proceedings being:

Council of the European Union, represented by I. Díez Parra and J.-P. Hix, acting as Agents, with an address for service in Luxembourg,

defendant at first instance,

Commission of the European Communities, represented by F.P. Ruggeri Laderchi, acting as Agent, with an address for service in Luxembourg,

intervener at first instance,

and

Ponteco Zuccheri SpA, established at Pontelagoscuro (Italy),

applicant at first instance,

THE COURT (Second Chamber),

composed of: V. Skouris, President of the Chamber, R. Schintgen and N. Colneric (Rapporteur), Judges,

Advocate General: J. Mischo,
Registrar: R. Grass,

after hearing the Advocate General,

makes the following

Order

1 By application lodged at the Registry of the Court of Justice on 22 September 1999, Eridania SpA, formerly Eridania Zuccherifici Nazionali SpA, Industria

Saccarifera Italiana Agroindustriale SpA (ISI), Sadam Zuccherifici, divisione della SECI — Società Esercizi Commerciali Industriali SpA, Sadam Castiglionese SpA, Sadam Abruzzo SpA, Zuccherificio del Molise SpA and Società Fondiaria Industriale Romagnola SpA (SFIR) brought an appeal under Article 49 of the EC Statute of the Court of Justice against the judgment of the Court of First Instance (First Chamber) of 8 July 1999 in Case T-158/95 *Eridania and Others* v *Council* [1999] ECR II-2219 ('the judgment under appeal'), in which the Court dismissed as inadmissible their application in substance for the partial annulment, first, of Council Regulation (EC) No 1101/95 of 24 April 1995 amending Regulation (EEC) No 1785/81 on the common organisation of the markets in the sugar sector and Regulation (EEC) No 1010/86 laying down general rules for the production refund on certain sugar products used in the chemical industry (OJ 1995 L 110, p. 1) and, second, of Council Regulation (EC) No 1534/95 of 29 June 1995 fixing, for the 1995/96 marketing year, the derived intervention prices for white sugar, the intervention price for raw sugar, the minimum prices for A and B beet, and the amount of compensation for storage costs (OJ 1995 L 148, p. 11).

Legal background

2 Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organisation of the markets in the sugar sector (OJ 1981 L 177, p. 4, 'the basic regulation') established a price system, a quota system and a compensation system for storage costs.

3 Article 8(1) of the basic regulation established a 'compensation system for storage costs, comprising flat-rate reimbursement to be financed by means of a levy'. The fourth subparagraph of Article 8(2) provides that '[t]he amount of the reimbursement shall be the same for the whole Community. This rule shall also apply in respect of the levy [imposed by the Member States on each sugar producer]'.

4 Article 4 of Regulation No 1534/95 fixed the amount of the flat-rate reimbursement for the 1995/96 marketing year at 'ECU 0.45 per month per 100 kilograms of white sugar'.

5 Article 46(4) of the basic regulation additionally authorised the Italian Republic 'during the 1981/82 to 1985/86 marketing year, ... when the interest rate granted in Italy to the most solvent applicant is higher, by 3% or more, than the interest rate used to calculate the reimbursement referred to in Article 8, to cover the effect of this difference on the storage costs by a national aid'. That authorisation was renewed, first by Article 1(10) of Council Regulation (EEC) No 934/86 of 24 March 1986 amending Regulation (EEC) No 1785/81 (OJ 1986 L 87, p. 1) for the 1986/87 and 1987/88 marketing years, when the relevant provision became Article 46(5) of the basic regulation, then for all the subsequent marketing years, and lastly by Article 1(26) of Council Regulation (EC) No 133/94 of 24 January 1994 amending Regulation (EEC) No 1785/81 (OJ 1994 L 22, p. 7) for the 1994/95 marketing year.

6 Under Article 46 of the basic regulation, as amended by Article 1(13) of Council Regulation (EC) No 1101/95, the Italian Republic is no longer authorised to grant that national aid.

Proceedings before the Court of First Instance

7 It was in those circumstances and on the ground that, since Regulation No 1101/95 entered into force, it was no longer possible for Italy to grant national aid to cover the effect of differences on storage costs, that the applicants, companies established in Italy and together holding 92% of the sugar production

quotas allocated to that Member State, brought an action pursuant to the fourth paragraph of Article 173 of the EC Treaty (now, after amendment, the fourth paragraph of Article 230 EC), seeking in substance the annulment of Article 1(13) of Regulation No 1101/95 and Article 4 of Regulation No 1534/95.

8 By a separate document, the Council raised an objection of inadmissibility against the action pursuant to Article 114(1) of the Rules of Procedure of the Court of First Instance.

9 By order of 19 March 1996, the President of the Second Chamber of the Court of First Instance granted the Commission leave to intervene in support of the form of order sought by the Council.

10 In support of the objection of inadmissibility which it had raised, the Council put forward four pleas in law. However, with regard to the appeal, only two of those pleas are relevant, since the other two have become devoid of purpose.

11 First, in so far as the applicants had sought the annulment of Regulation No 1101/95, the Council claimed that the application was not directed against 'an act adopted' within the meaning of Article 173 of the Treaty, since that regulation contains no provision concerning the compensation system for storage costs; it maintained that in reality the applicants were complaining that it had failed to add to Article 8 of the basic regulation a provision establishing a differentiation in the amount of compensation for such storage costs.

12 Secondly, the Council argued that the applicants were neither directly nor individually concerned by the contested measures, so that they had no standing to bring proceedings under the fourth paragraph of Article 173 of the Treaty.

13 With regard to the plea that there was no act open to challenge, the applicants pointed to developments in the Community legislation and requested that Regulation No 1101/95 be annulled inasmuch as it had abolished the provision in Article 46 of the basic regulation which authorised Italy to grant aid.

14 With regard to the second plea in law submitted by the Council in support of its objection of inadmissibility, the applicants maintained that they belonged to a limited class of economic operators capable of being individually identified, made up of Italian sugar producers holding production quotas. They also claimed, first, that the institutions were aware of their identity on the date on which the contested acts were adopted; secondly, that they had been allocated production rights which, because of the long-term application of the quota systems, had become genuine individual rights; thirdly, that they constituted a group which was sufficiently distinct from producers in other areas of the Community by reason of the fact that they were victims of discrimination caused by the particular impact of financial costs in the Italian market; and lastly that there was a clear correlation between their situation and the measures adopted by the Council.

The judgment under appeal

15 In the judgment under appeal, the Court of First Instance dismissed the application on the basis of the two pleas of inadmissibility raised by the Council and set out in paragraphs 11 and 12 of this order.

The plea alleging that there was no act open to challenge

16 With respect to the plea in law that there was no act open to challenge, the Court of First Instance held as follows:

'51 It is settled case-law that only measures the legal effects of which are binding on, and capable of affecting the interests of, the applicants by bringing about a distinct change in their legal position are acts which may be the subject of an action for annulment under Article 173 of the Treaty (order in Case T-596/97 *Dalmine* v *Commission* [1998] ECR II-2383, paragraph 29).

52 As the Commission and the Council correctly observed, Article 1(13) of Regulation No 1101/95 contains no provision relating to the compensation system for storage costs, in general, or the possibility for the Italian State to grant aid to Italian producers in relation to those costs, in particular. The possibility of granting such aid was last provided for in Regulation No 133/94, Article 1(26) of which extended the corresponding provision in Article 46(5) of the basic regulation but limited that possibility of aid to the 1994/95 marketing year. It follows that, as regards the marketing year in issue, namely 1995/96, the applicants' legal situation was not distinctly changed by Regulation No 1101/95.

53 It follows that, in so far as it seeks the annulment of Article 1(13) of Regulation No 1101/95, the application must be declared inadmissible.'

The plea alleging lack of standing

17 As regards the applicants' standing, and in particular the question whether the applicants were individually concerned by Article 4 of Regulation No 1534/95, the Court of First Instance stated as follows:

'54 Under the fourth paragraph of Article 173 of the Treaty, the admissibility of an application for the annulment of a regulation introduced by a natural or legal person is subject to the condition that the contested regulation is in reality a decision which concerns that person directly and individually. The criterion for distinguishing between a regulation and a decision must be sought in the general application or otherwise of the measure in question. An act has general application if it applies to objectively determined situations and entails legal effects for categories of persons regarded generally and in the abstract (order in Case C-87/95 P *Cassa Nazionale di Previdenza ed Assistenza a favore degli Avvocati e Procuratori (CNPAAP)* v *Council* [1996] ECR I-2003, paragraph 33; judgment in Case T-482/93 *Weber* v *Commission* [1996] ECR II-609, paragraph 55; and order in Case T-39/98 *Sadam Zuccherifici and Others* v *Council* [1998] ECR II-4207, paragraph 17).

55 In the present case Article 4 of Regulation No 1534/95 fixes at "ECU 0.45 per month per 100 kilograms of white sugar" the "amount of the reimbursement referred to in Article 8" of the basic regulation; Article 8 of the basic regulation provides for a "flat-rate reimbursement", the amount of which "shall be the same for the whole Community". It follows from the preamble to Regulation No 1534/95 that for the purpose of determining the amount of the reimbursement the Council took account of financing costs (in relation to which it also took account of a general 6.75% interest rate), insurance costs and specific storage costs. The provision in question thus introduces a flat-rate reimbursement and applies to an indefinite number of

storage operations in the Community carried out by all Community sugar manufacturers. It follows that when Article 4 of Regulation No 1534/95 is placed in the context of the basic regulation it applies to objectively determined situations and is addressed in general terms to categories of persons regarded in the abstract. Consequently, that provision may be seen to be a measure of general application.

56 However, it cannot be excluded that a provision which by its nature and application is general in character may individually concern natural or legal persons where it adversely affects them by reason of certain attributes which are peculiar to them or by reason of circumstances which differentiate them from all other persons and thereby distinguish them individually in the same way as the person to whom a measure is addressed (Case C-209/94 P *Buralux and Others* v *Council* [1996] ECR I-615, paragraph 25).

57 The applicants' argument that they are differentiated because, as holders of sugar production quotas, they form part of a "limited class" cannot be upheld. First, even supposing that the Council had actually been aware of the applicants' identity when it adopted the regulation at issue, it is settled law that the general application of a measure is not called in question by the fact that it is possible to define more or less precisely the number or even the identity of the persons to whom it applies at any given time, as long as it is established that such application takes effect by virtue of an objective situation of fact or of law defined by the measure in question (order in Case C-409/96 P *Sveriges Betodlares Centralförening and Henrikson* v *Commission* [1997] ECR I-7531, paragraph 37). The applicants have completely failed to adduce any factors of such a kind as to show that Italian sugar manufacturers were in a specific situation such that the fixing by the Council of the derived intervention price for white sugar for Italy did not have general application but was aimed at them individually.

58 Second, and in any event, as the Council observed at the hearing without being contradicted by the applicants, while it is the case that before the

various prices for sugar are fixed for each marketing year the Member States communicate to the Commission information on developments in sugar production and consumption in their territory and on the sugar production quotas already allocated ... , when the Council adopted the contested regulation it nevertheless did not have any particular information on each of the Italian undertakings holding sugar production quotas for the 1995/96 marketing year.

59 Nor is the case-law on which the applicants rely in support of the admissibility of their action relevant in the present case. That case-law refers to certain specific situations concerning individual applications for import licences which were submitted during a short period and related to specific quantities (see [Joined Cases 106/63 and 107/63] *Toepfer [and Getreide Import* v *Commission* [1965] ECR 405; Joined Cases 41/70 to 44/70], *International Fruit Company [and Others* v *Commission* [1971] ECR 411; and Case C-354/87] *Weddel* [v *Commission* [1990] ECR I-3847]) or involving the obligation imposed on the Community institutions to take account of the consequences which the measure they propose to adopt will have on the situation of certain individuals (see [Case C-152/88] *Sofrimport* [v *Commission* [1990] ECR I-2477] and [Case 11/82] *Piraiki-Patraiki [and Others* v *Commission* [1985] ECR 207]). There are no such circumstances in the present case. In particular, the applicants have neither alleged nor, *a fortiori*, established that the Council is under an obligation to afford the Italian producers, in the context of the compensation system for storage costs, special protection over and above that afforded to other Community producers who have also placed their products in storage (see also *Buralux*, paragraphs 32 to 34).

60 In so far as the applicants criticise the Council for having fixed the amount of the reimbursement at a standard rate in the contested provision and for having thus discriminated against Italian sugar producers, whose storage costs are particularly high, it is sufficient to point out that, according to a consistent line of decisions, the fact that a measure may have different

specific effects on the various persons to whom it applies is not inconsistent with its nature as a regulation when that situation is objectively defined (order in Case T-197/95 *Sveriges Betodlares Centralförening and Henrikson* v *Commission* [1996] ECR II-1283, paragraph 29). It follows from the foregoing that the contested provision has general application.

...

62 ... the allocation of production quotas to the applicants was not, prior to the adoption of the contested regulation, accompanied by an established right that reimbursement would be fixed at an amount which took account of the storage costs which in practice only the Italian sugar producers were required to bear. The applicants' legal situation was therefore no different from that of other holders of production quotas, all of whom had to adjust to the amount of the uniform flat-rate reimbursement fixed by the Council for each marketing year (Case 72/79 *Commission* v *Italy* [1980] ECR 1411, paragraph 16).

63 It follows that the applicants are not individually concerned by Article 4 of Regulation No 1534/95 and that the application, in so far as it seeks the annulment of that provision, is not admissible.'

The appeal

18 In their appeal the appellants seek, essentially, the annulment of the judgment under appeal in so far as it dismissed as inadmissible the application which they had lodged for the purpose of obtaining the annulment of Regulation No 1534/95, in particular Article 4 thereof, the annulment of Regulation

No 1101/95 — in so far as Article 1(13) thereof, which replaces Article 46 of the basic regulation, abolishes the possibility for the Italian Republic to grant Italian sugar manufacturers compensatory aid for storage costs caused by the high interest rates in Italy — and a declaration that the basic regulation, in particular Article 8, is unlawful.

19 In support of their appeal, they complain that the Court of First Instance committed a twofold error of law by upholding the pleas of inadmissibility raised by the Council and based, as regards the application for annulment, of Article 1(13) of Regulation No 1101/95, on the absence of an act open to challenge and, as regards the application for annulment of Article 4 of Regulation No 1534/95, on the fact that the appellants were not individually concerned by that provision.

20 In order to refute the plea that there is no act open to challenge, the appellants claim that they sought the annulment of Article 1(13) of Regulation No 1101/95 because it abolished the possibility of aid being granted to Italian sugar manufacturers which, until that provision applied, was provided for in Article 46 of Regulation No 1785/81. In order to show the interest of that provision, they retrace the history of the relevant legislation until the possibility of granting such aid was abolished.

21 The appellants put forward six pleas in law to challenge the second plea of inadmissibility alleging that they lacked standing, which was accepted by the Court of First Instance.

22 First, the appellants complain that the Court of First Instance accepted that Article 4 of Regulation No 1534/95 was normative in nature having simply examined the number of storage operations carried out in the Community which might be affected by that provision.

23 Secondly, the appellants complaint that, at paragraph 57 of the judgment under appeal, the Court of First Instance dismissed as irrelevant the argument that they belong to 'a limited class', although that Court had accepted, in substance, that, when Regulation No 1534/85 was adopted, the Council was in fact aware of their identity and status as Italian sugar producers holding a sugar quota.

24 Third, the appellants maintain that the contested provisions are not normative acts but specific acts, or a collection of individual decisions adopted in regard to defined persons of whose identity the Council was perfectly aware. They claim in particular that there is in this case a clear link between the provisions at issue and their specific situation as Italian sugar manufacturers holding a quota.

25 Fourth, the appellants complain that the Court of First Instance did not properly take account of the fact that they are in a specific position, distinct from that of other Community sugar manufacturers, on account of their situation which is marked by discrimination because of the particular effect of financial costs on the Italian market.

26 Fifth, the appellants maintain that it is wrong to consider, as the Court of First Instance does at paragraph 58 of the judgment under appeal, that the Council had only overall data but did not have any particular information on each of the Italian undertakings holding sugar production quotas for the 1995/1996 marketing year. That statement conflicts with the provisions of Commission Regulation (EEC) No 787/83 of 29 March 1983 on communications in the sugar sector (OJ 1987 L 88, p. 6), which expressly requires the Member States to notify to the Commission the data relating to each sugar producing undertaking in its territory.

27 Sixth, the appellants claim that the provisions which they ask to have annulled affect their legal situation and adversely affect their economic rights, in particular by their repercussions on investments made, the profitability of the undertakings and their economic survival. On the one hand the flat-rate reimbursement provided for in Article 8 of the basic regulation does not cover costs actually incurred and, on the other hand, they are put at a disadvantage from the competition point of view as against undertakings from other Member States.

28 In its defence, the Council maintains that, in disregard of the Court's case-law, the appellants' first plea merely repeats the arguments put forward at first instance. Although it considers that the same criticism could be made of the appellants' second plea, the Council proceeds to refute in detail each argument put forward under that heading.

29 Thus, in contesting in particular, the appellants' third argument, the Council cites in particular Case C-73/97 P *France* v *Comafrica and Others* [1999] ECR I-185, paragraphs 33 to 38. According to that judgment, the description of a regulation as 'a bundle of decisions' would require the appellants to have obtained certain rights before the adoption of the regulation in question. In the Council's view, the appellants had no right to a specific amount of reimbursement for storage costs.

30 In response to the appellants' fifth argument, the Council states that the fixing of the amount of reimbursement for storage costs is not based on the individual figures for each of the undertakings concerned, but that it is fixed on the basis in particular of the interest rates, hiring and insurance costs within the Community.

31 The Commission contends, first of all, that, contrary to the second indent of Article 113(1) of the Rules of Procedure, this appeal constitutes a new claim. In this case the appellants are contesting the non-reintroduction of national aid for storage costs, which is aid that the Italian Republic was able to grant only until marketing year 1994/1995, whilst in the application which they had lodged in the Registry of the Court of First Instance on 11 August 1995 they had asked for the fixing of Community reimbursement to be differentiated as between Member States.

32 The Commission points out several times in particular that the class of addressees of Article 4 of Regulation No 1534/95 is not limited to holders of production quotas. Under Article 2 of Council Regulation (EEC) No 1358/77 of 20 June 1977 laying down general rules for offsetting storage costs for sugar and repealing Regulation (EEC) No 750/68 (OJ 1977 L 156, p. 4), the beneficiaries of reimbursement are to be sugar manufacturers who have a quota, refiners and manufacturers of powdered, lump or candy sugar who have been approved by the Member State on whose territory they are established. That class, which is obviously open, of persons referred to in the provision, is therefore much wider than the Court of First Instance considered it to be.

Findings of the Court

33 Under Article 119 of its Rules of Procedure, where the appeal is clearly inadmissible or clearly unfounded, the Court may, at any time, dismiss it by reasoned order without opening the oral procedure.

The first ground of appeal relating to Article 1(13) of Regulation No 1101/95

34 In this ground of appeal the appellants challenge the interpretation given by the Court of First Instance, at paragraphs 51 to 53 of the judgment under appeal, to the effect that Article 1(13) of Regulation No 1101/95 did not distinctly change their legal situation and does not therefore constitute an act open to challenge.

35 In that connection it follows from Article 225 EC and the first paragraph of Article 51 of the EC Statute of the Court of Justice and from Article 112(1)(c) of its Rules of Procedure that an appeal must indicate precisely the contested elements of the judgment or order and also the legal arguments specifically supporting the claim for it to be set aside (see, *inter alia*, Case C-8/95 P *New Holland Ford* v *Commission* [1998] ECR I-3175, paragraph 23; orders in Case C-303/96 P *Bernardi* v *Parliament* [1997] ECR I-1239, paragraph 37, and Case C-317/97 P *Smanor and Others* v *Commission* [1998] ECR I-4269, paragraph 20).

36 According to settled case-law, that requirement is not satisfied by an appeal which, without even including an argument specifically identifying the error of law allegedly vitiating the contested judgment, confines itself to reproducing the pleas in law and arguments previously submitted to the Court of First Instance, including those based on facts expressly rejected by that Court. Such an appeal amounts in reality to no more than a request for re-examination of the application submitted to the Court of First Instance, which the Court of Justice does not have jurisdiction to undertake (see, in particular, Case C-8/95 P *New Holland Ford* v *Commission*, paragraph 24; Case C-352/98 P *Bergaderm and Goupil* v *Commission* [2000] ECR I-5291, paragraph 35; and the order in Case C-317/97 P *Smanor and Others* v *Commission*, paragraph 21).

37 In the light of that case-law, it must be held that, in their appeal, the appellants confine themselves to giving the history of the rules abolished which provided for the possibility of granting aid to Italian sugar manufacturers, without identifying

the error of law which is supposed to vitiate the reasoning of the judgment under appeal.

38 That ground of appeal must therefore be dismissed as clearly inadmissible.

The second ground of appeal concerning the appellants' standing

39 Under the fourth paragraph of Article 173 of the Treaty, any natural or legal person may institute proceedings against a decision which, although in the form of a regulation, is of direct and individual concern to that person.

Plea alleging that only the number of transactions was taken into account

40 In accordance with the Court's case-law, the criterion for distinguishing between a legislative act and a decision has to be sought in the general application or otherwise of the measure in question (see orders in Case C-10/95 P *Asocarne* v *Council* [1995] ECR I-4149, paragraph 28, and Case C-87/95 P *CNPAAP* v *Council* [1996] ECR I-2003, paragraph 33). An act is of general application if it applies to objectively defined situations and produces legal effects for categories of persons regarded generally and in the abstract (see order in Case C-447/98 P *Molkerei Großbraunshain and Bene Nahrungsmittel* v *Commission* [2000] ECR I-9097, paragraph 67, and judgment in Case C-229/88 *Cargill and Others* v *Commission* [1990] ECR I-1303, paragraph 18).

41 In so far as, with their first argument, the appellants complain that the Court of First Instance accepted that Article 1(4) of Regulation No 1534/95 was of a normative character on the basis only of the number of transactions likely to be affected by that provision, it must first of all be noted that, at paragraph 55 of the judgment under appeal, the Court of First Instance sought to determine the nature of the provision on the basis of the two conditions to which the case-law cited in the previous paragraph refers.

42 To that end the Court of First Instance examined the means for determining the amount of the reimbursement referred to in Article 8 of the basic regulation and, in particular, the criteria — such as financing costs, insurance costs and specific storage costs — which enable that amount to be fixed. Without committing any error of law, it reached the conclusion that Article 4 of Regulation No 1534/95 refers to objectively determined situations, in so far as that provision introduces a flat-rate reimbursement and applies to an indeterminate number of storage operations carried out in the Community by all Community sugar producers.

43 Such an examination shows clearly that, contrary to the appellants' argument, the Court of First Instance did not base itself solely on the indeterminate number of such operations, but undertook in a convincing way a detailed analysis of the means of calculating that reimbursement.

44 Consequently, the Court of First Instance did not commit any error of law when it found Article 4 of Regulation No 1534/95 to be normative in character. The appellants' complaint that only the number of storage operations was taken into account clearly cannot be upheld.

The arguments based on the existence of 'a limited class' and the communication to the institutions of particular information concerning Italian undertakings

45 As the Court of First Instance pointed out in paragraph 56 of the contested judgment, it cannot be excluded that a provision which, by its nature and application, is general in character, may individually concern natural or legal persons where it adversely affects them by reason of certain attributes which are peculiar to them or by reason of circumstances which differentiate them from all other persons and thereby distinguish them individually in the same way as the person to whom a measure is addressed (see, in particular, Case C-209/94 P *Buralux and Others* v *Council* [1996] ECR I-615, paragraph 25, and the order in Case C-447/98 P *Molkerei Großbraunshain and Bene Nahrungsmittel* v *Commission* [2000] ECR I-9097, paragraph 65).

46 At paragraphs 57 to 60 of the judgment under appeal, the Court of First Instance rightly based itself on the Court's case-law, according to which the fact that it is possible to define more or less precisely the number or even the identity of the persons to whom a measure such as Article 1(4) of Regulation No 1534/95 applies does not imply that the latter must be regarded as being individually concerned by that measure as long as it is established that such application takes effect by virtue of an objective situation of fact or of law defined by the measure in question (judgment in Case C-209/94 P *Buralux and Others* v *Council*, paragraph 24, and order in Case C-409/96 P *Sveriges Betodlares and Henrikson* v *Commission*, paragraph 37).

47 Applying that case-law, the Court of First Instance reached the conclusion, at paragraph 57 of the judgment under appeal, that the applicants had not been able to show that the fixing of the intervention price for sugar distinguished them individually. At paragraph 58 of its judgment, the Court of First Instance also pointed out that the applicants cannot be regarded as distinguished individually on the ground that the Council had particular information on each of the Italian undertakings holding sugar production quotas for the 1995/1996 marketing year.

48 In their appeal the appellants complain, first, that the Court of First Instance rejected the existence of a 'limited class' consisting solely of Italian sugar manufacturers holding quotas. Second they claim that the Court of First Instance disregarded the fact that, when it adopted Regulation No 1534/95, the Council had particular information on each of the Italian undertakings.

49 First of all, with regard to the argument that there is a 'limited class' made up of Italian sugar manufacturers holding quotas, it need merely be pointed out that Article 4 of Regulation No 1534/95 fixes the amount of the reimbursement referred to in Article 8 of the basic regulation for all sugar manufacturers in the same way and, in particular, regardless of the classification of the area in which they are established. Moreover, only those holding a production quota are sugar manufacturers within the meaning of the common organisation of the markets in the sugar sector.

50 Secondly, as the Court of First Instance held at paragraph 55 of the judgment under appeal, the amount of the reimbursement provided for in Article 4 of Regulation No 1534/95 is not fixed on the basis of the quotas allocated only to Italian sugar producer undertakings or of the figures from the appellants, but is established on the basis of financing costs, insurance costs and specific storage costs, in accordance with the sixth recital in the preamble to Regulation No 1534/95.

51 Consequently, it is clear that the communication of certain figures on the individual sugar production of each of the appellants cannot distinguish them individually in relation to the amount of reimbursement provided for in Article 4 of Regulation No 1534/95.

52 Those findings make it clear that the appellants' arguments concerning the existence of 'a limited class' made up of Italian sugar manufacturers holding production quotas and the communication of certain figures on that production clearly cannot be upheld and must be dismissed as unfounded.

The alleged nature of Article 4 of Regulation No 1534/95, regarded as a bundle of individual decisions

53 The appellants' allegation that that provision comprises a bundle of individual decisions is not expressly refuted in the contested judgment. Nevertheless, the judgments cited above in Joined Cases 106/63 and 107/63 *Toepfer and Getreide-Import* v *Commission*, Joined Cases 41/70, 42/70, 43/70 and 44/70 *International Fruit Company and Others* v *Commission* and Case C-354/87 *Weddel* v *Commission*, to which the Court of First Instance refers at paragraph 59 of the judgment under appeal, refer to that concept (see, for instance, *Weddel* v *Commission*, paragraphs 20 to 23).

54 However, the Court of First Instance rightly pointed out, at paragraph 59, that that case-law refers only to certain specific situations. Those situations are characterised, as regards the concept of a bundle of decisions, by the fact that an economic operator has been granted, by the competent authorities, on an individual basis and with limited temporal effect, a right such as that conferred by an import licence.

55 There is no such situation in this case. Although the appellants claim that there is a clear link between the legislation at issue and their particular situation, there is no document or evidence to enable the conclusion to be drawn that that link constitutes a right within the meaning of the case-law cited at paragraph 53 of this order.

56 It follows clearly from the foregoing that the Court of First Instance did not commit any error of law when it declared that that case-law was not relevant to the case.

The argument alleging discrimination on account of the particular effect of financial costs

57 With regard to the appellants' complaint that the Court of First Instance took insufficient account of the discrimination suffered by them on account of the

particular effect of financial costs which are higher on the Italian market than in other Member States, it need merely be stated that at paragraph 60 of the judgment under appeal the Court of First Instance rightly dismissed such a complaint, referring to its order in Case C-409/96 P *Sveriges Betodlares and Henrikson* v *Commission*, paragraph 29.

58 The Court of First Instance thus held that the fact that a provision of an act may have different specific effects on the various persons to whom it applies is not inconsistent with its nature as a regulation when that situation is objectively defined. That analysis is still less open to question for having been confirmed by the Court in its order in Case T-197/95 *Sveriges Betodlares and Henrikson*, at paragraph 37.

59 In their appeal the appellants have not put forward any evidence to substantiate their allegation that the Court of First Instance committed an error of law in applying, in particular, *Sveriges Betodlares and Henrikson* v *Commission.*

60 Since the Court has not been placed in a position in which it could examine, with full knowledge of the facts, whether this complaint is well founded, it is clear that it cannot be accepted.

The argument that the economic rights of the appellants have been adversely affected

61 At paragraphs 61 and 62 of the contested judgment, the Court of First Instance held that the appellants' argument alleging that Article 4 of Regulation No 1534/95 adversely affected the individual production rights which they possessed as holders of production quotas was not founded, on the ground that

the allocation of such quotas to them was not, before the adoption of that regulation, accompanied by an established right to the fixing of an amount for reimbursement which would have taken account of the financing charges for storage actually borne solely by Italian sugar manufacturers.

62 The Court of First Instance therefore concluded that the applicants did not have specific rights within the meaning of the judgment in Case C-309/89 *Codorniu* v *Council* [1994] ECR I-1853. The case which gave rise to that judgment involved a geographical mark used in Spain since at least 1924.

63 In so far as the appellants complain that the Court of First Instance did not sufficiently take into consideration the adverse effect on their legal situation and their economic rights, when they are put at a disadvantage from the competition point of view in relation to undertakings from other Member States, it need merely be held that they are pleading economic interests, moreover with very little detail, and that those interests obviously do not constitute specific rights within the meaning of Case C-309/89 *Codorniu* v *Council.*

64 Consequently it must be held that the plea that the appellants' economic interests were adversely affected cannot be accepted.

65 Accordingly, since none of the appellants' arguments has been accepted, their second ground of appeal that they have standing and are individually concerned by Article 4 of Regulation No 1534/95 must be dismissed.

66 It follows from all the foregoing considerations that the appeal must be dismissed as clearly inadmissible or as clearly unfounded.

Costs

67 Under Article 69(2) of the Rules of Procedure, which apply to the appeal procedure by virtue of Article 118, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Council applied for costs and the appellants have been unsuccessful, they must be ordered to pay the costs jointly and severally. Under Article 69(4) of the Rules of Procedure, the Commission must bear its own costs.

On those grounds,

THE COURT (Second Chamber)

hereby orders:

1. **The appeal is dismissed.**

2. **Eridania SpA, Industria Saccarifera Italiana Agroindustriale SpA (ISI), Sadam Zuccherifici, divisione della SECI — Società Esercizi Commerciali Industriali SpA, Sadam Castiglionese SpA, Sadam Abruzzo SpA, Zuccherificio del**

Molise SpA and Società Fondiaria Industriale Romagnola SpA (SFIR) are ordered to pay the costs jointly and severally.

3. The Commission is ordered to bear its own costs.

Luxembourg, 28 June 2001.

R. Grass

Registrar

V. Skouris

President of the Second Chamber