2001/02/14 - PL. ÚS 45/2000: SUGAR QUOTAS I

Pl.ÚS 45/2000 of 14 February 2001
Sugar Quotas I

HEADNOTES

1. The fundamental right of everyone to conduct business and other economic activity guaranteed by Art. 26 of the Charter of Fundamental Rights and Freedoms does not apply directly, and can be exercised only within the bounds of statutes; on the other hand, however, any limits for such conduct of business or activities are subject to statutory reservation.

2. If the legislature cannot delegate to the executive branch an area of regulation of relationships designated for statutory regulation, and thereby give up its own legislative obligation (Constitutional Court judgment promulgated as no. 206/1996 Coll.), all the more so the executive branch cannot itself assume the right to such regulation, with reference to a statute that obviously has a different purpose and meaning.

CZECH REPUBLIC

CONSTITUTINAL COURT
JUDGMENT

IN THE NAME OF THE REPUBLIC

The Plenum of the Constitutional Court ruled on a petition from Cukrovar V., s.r.o., seeking the annulment of Government Order no. 51/2000 Coll., which provides measures and state participation in the creation of conditions to ensure and maintain production of sugar beets and sugar and stabilization of the sugar market, with the participation of the Government of the Czech Republic, represented by its deputy chairman, JUDr. Pavel Rychetský, as follows:

Government Order no. 51/2000 Coll., which provides measures and state participation in the creation of conditions to ensure and maintain production of sugar beets and sugar and stabilization of the sugar market, is annulled as of the day this judgment is promulgated in the Collection of Laws.

REASONING

On 4 August 2000 the Constitutional Court received a constitutional complaint from Cukrovar V., s.r.o., against a measure from the Ministry of Agriculture of the CR of 2 June 2000, file no. 1914/2000-1000, on setting special individual sugar quotas for the business year 2000/2001. In this measure, the ministry set an individual sugar quota for the complainant, divided into 7,470 tons for the domestic quota and 2,490 tons for the export quota; the complainant had originally applied for a domestic quota of 27,000 tons and 5,000 tons for export. Together with the constitutional complaint, the complainant filed a petition seeking the annulment of Government Order no. 51/2000 Coll., which provides measures and state participation in the creation of conditions to ensure and maintain production of sugar beets and sugar and stabilization of the sugar market.

The fourth panel of the Constitutional Court, by a resolution of 20 September 2000, file no. IV. ÚS 468/2000, under to § 78 of Act no. 182/1993 Coll., on the Constitutional Court, as amended by later regulations, interrupted the proceeding on the constitutional complaint and passed the petition for the annulment of the cited government order to the plenum of the Constitutional Court.

The company Cukrovar V., s.r.o., (the "petitioner") stated that it leased the sugar refinery for a planned production of 32,000 tons of sugar annually from Mr. O. M., who had bought the sugar refinery from the assets of a bankrupt company, Union cukr, a.s., on the basis of a purchase agreement of 4 November 1999. The contracts were concluded at a time when no one could predict that the contested government order would markedly restrict, or make impossible, the conduct of business in sugar manufacturing. The company invested not inconsiderable funds into acquiring the sugar refinery and purchasing new technology, with the aim of achieving its planned annual capacity; however, after the issuance of the government order, it is in a situation where it is required to ask the Ministry of Agriculture to issue a measure pursuant to that order, although it believes that such regulation of production is unconstitutional and illegal.

In the petitioner's opinion, the conduct of certain activity, which can be considered to include the production and sale of sugar, can be restricted only by statute, not by a government order. Moreover, the government order created a special, essentially preferred category of so-called "strategic" sugar producers (listed in appendix 1 to the cited order), through an administrative route, and without giving other sugar-producing companies the opportunity to even influence the selection of sugar refineries included in it. This gave an advantage to one group of producers to the detriment of another group, as regards the opportunity and access to conducting business under Art. 26 par. 1 of the Charter of Fundamental Rights and Freedoms (the "Charter") in conjunction with Art. 1 and Art. 3 par. 1 of the Charter, on equal rights. The petitioner also stated that under the first sentence in the government order, the authorizing provision for setting quotas is evidently considered to be § 2 par. 1 of Act no . 252/1997 Coll., on Agriculture. However, that provision definitely does not establish the right of any particular state body, and thus not even the government, to issue sub-statutory regulations in the area of setting quotas and regulating production and through them to assign rights and obligations. Thus,

although the government may issue orders without express authorization, it must do so within the bounds provided by law, which was not done in this case.

The petitioner also expressed disagreement with the fact that conditions for price stabilization of the agricultural commodities market could be interpreted to the effect that the government is authorized, in order to achieve this aim, to remove from certain subjects the opportunity to freely conduct business in a particular field, without having such authorization in the law. The fact that issues of quotas and regulation of production of agricultural commodities cannot be regulated by a mere government order is also attested to by the fact that, after issuing the contested order, the Ministry of Agriculture submitted a draft of a statute that permits such a procedure to the government, which in turn submitted it to Parliament. At the hearing, the petitioner stated that it had in mind the statute that was adopted in the interim, Act no. 256/2000 Coll., on the State Agriculture Intervention Fund and on the Amendment of Certain Other Acts (the Agricultural Intervention Fund Act). This actually confirmed the fact that regulation performed by the contested order, as a matter of form, cannot stand. In the petitioner's opinion, the contested government order violates the right to do that which is not forbidden by law and the right not to be compelled to do that which is not imposed by law (Art. 2 par. 4 of the Constitution of the CR and Art. 2 par. 3 of the Charter). If the petitioner accepted the measure of the Ministry of Agriculture, the production facilities of the sugar refinery would be used at approximately 30%, and this would lead to the economic necessity to liquidate production with a great loss. This would also violate Art. 11 of the Charter, which guarantees protection of property and states that property rights shall have the same content and enjoy the same protection. The petitioner is de facto forbidden to bring the sugar it produces to the market in the Czech Republic, by state decision, and without compensation. The petitioner also stated that similar procedures could exclude and discriminate against producers of other food commodities.

In the brief that it submitted at the request of the Constitutional Court, the government stated that Government Order no. 51/2000 Coll. was issued to implement § 2 par. 1 of Act no. 252/1997 Coll., on Agriculture. This provision does not contain an express authorization to issue government orders, but under Art. 78 of the Constitution of the CR the government is authorized to implement statutes and issue orders within their bounds – thus, it may use orders to implement a statute even without express authorization. The list of measures in the cited provision of the Act on Agriculture, which are to be used to achieve the aims of the Act, is only to provide examples. Therefore, the government considers it possible for the executive branch, in implementing this provision, to use other measures if they lead to achieving the statutory aim – creating conditions for maintaining the production potential of agriculture, in this particular case in the area of sugar beet cultivation and sugar production and stabilization of the market in sugar, as a basic agricultural commodity. Such state measures, unlike subsidy programs and indirect subsidies, are not subject to parliamentary approval. Therefore, the government believes that the contested orders does not exceed and does not violate Art. 78 of the Constitution, because it does not exceed the bounds of the state that it is intended to implement.

The government also pointed out that the contested provision did not affect the petitioner's right to freely conduct business. Through this order, the government decide to motivate sugar producers – both so-called "strategic" and other producers – in a certain

manner to reduce production by setting domestic and export sugar quotas, while at the same time offering them various compensatory forms of state assistance (providing expert consultation, sugar market research, ensuring export opportunities, assistance in securing sales of sugar). The provision of § 10 of the cited government order must be interpreted in the context of the entire legal regulation. In particular, § 11 clearly indicates that the observance of quotas is based on voluntary compliance and advantageousness for the producer, who, based on the desired conduct, is entitled to these forms of compensatory state assistance. No penalties are imposed on producers who exceed the quotas, but they are not entitled to the exercise of measures pursuant to §§ 6-8. Thus, the government order does not impose any obligations other than those that are set forth in the statute, and thus the right to conduct business under Art. 26 par. 1 of the Charter is not limited. On the contrary, the government itself commits to take certain positive measures to the benefit of producers that behave in the desired manner, which clearly arises from § 1 of the government order, under which the order regulates state participation in the creation of conditions for ensuring and maintaining the production of sugar beets and sugar and stabilization of the sugar market in the CR. Thus, access to the market is not closed or limited.

The government also stated that claims of violation of the guarantee of equal rights and discrimination of non-"strategic" sugar producers will not stand, because, on the contrary, issuing the government order took into account actually existing differences in production capacity between individual subjects. The institution of strategic producers was created in view of the expected production during the business year, and certainly was not implemented randomly or based on administrative discretion, but on the basis of clearly established criteria – the objective characteristics of individual producers, arising from the production volume of individual sugar refineries in the last five years, i.e. taking into account their long-term activities. Not taking these objective differences into account would have been discrimination, because it would disadvantage large producers who invested considerable amounts into their long-term development. In view of the sugar market's limited capacity the government attempted and is attempting to stabilize the situation, and therefore it is forced to limit, in a certain manner, the scope of its assistance to sugar beet growers or sugar producers. However, no limitations are set on the opportunity to produce sugar and sell it on the market.

On the basis of the foregoing facts, the government stated its belief that the content of the government order is balanced so as not to have a discriminatory effect on any of the sugar beet growers or sugar producers and it is certainly not aimed at limiting their number; therefore, it proposed that the petition be denied.

In its brief, which was requested before the proceeding on the constitutional complaint was suspended, the Ministry of Agriculture stated that the contested government order is not intended to approximate European Community law, although it adopts certain principles that are applied in EU member states. In particular, it is based on the following principles:

- transposition of the commitments in Art. 69 and 70 of the European Association Agreement through Act no. 252/1997 Coll., on Agriculture,

- fulfilling commitments vis-à-vis the EU and the WTO – introducing sugar "order,"

- the temporary validity of the government order (the limitation is only for the business year 2000/2001, i.e. from 1 August 2000 to 30 September 2001),

- setting individual quotas for the strategic sugar producers (11 sugar refineries associated in 8 entities, which have produced and brought to market on average at least 10,000 tons of sugar per year during the last five years),

- setting a minimum price for sugar beets, a minimum price for sugar, and a maximum price for sugar beets based on § 1 par. 6 of Act no. 526/1990 Coll., on Prices, in order to address an extraordinary market situation,

- the openness of the entire system for other sugar producers, based on an application for allocation of a special individual quota,

- self-financing of export support with the assistance of individual producer's own financial reserves in the amount of CZK 1,950 per ton of sugar produced,

- compensatory forms of state assistance (providing expert consultancy, sugar market research, ensuring export opportunities, assistance in securing sales of sugar).

The ministry also stated that in this order the government only expresses support with maintaining an achieved stability in the sugar and sugar beet sector, primarily for sugar beet growers and sugar producers. The draft government order was submitted after several months of expert discussion, by a deadline that corresponded to the beginning of agro-technical deadlines for planting sugar beets. Failure to address the situation with the sugar and sugar beet commodities could lead to overproduction and the collapse of the whole sugar market and failure to fulfill commitments that the CR government made to the EU. The government order is another systematic step to addressing the critical situation in the sugar market in the CR, and it follows on from the protective measures adopted in August 1999 for sugar imports into the CR (Government Order no. 212/1999 Coll., which sets protective measures for the import of sugar).

In the ministry's opinion, organizing the sugar market by introducing production quotas has been a standard rule in the EU for over 30 years. The order pursued the society-wide interest in stabilizing sugar beet cultivation and sugar production in the CR, without giving preferences to individuals or legal entities, because the imposition of quotas affected all existing producers without exception. However, the order does not forbid anyone from producing sugar.

In its response to the government's brief, the petition stated that it maintains its opinion that, in the decree, the government in many respects exceeded the bounds of § 2 par. 1 of Act no. 252/1997 Coll. In its opinion, the government could independently adopt orders only in the area of "creating conditions for price stabilization of the agricultural commodities market," but designating so-called "strategic" and "non-strategic" sugar producers definitely cannot be considered to be such creation of conditions. Accepting such a loose interpretation of what "creating conditions for price stabilization" means would mean that everything in § 2 of the Act on Agriculture would be completely unnecessary. In the petitioner's opinion sugar production is not agriculture, given that the

Act itself distinguishes the term “agriculture” and the term “food,” and § 2 makes it quite clear that it is aimed only at support of agriculture.

The petitioner also stated that the government’s brief does not at all indicate how the government motivates other producers (i.e. “non-strategic” producers) to decrease sugar production. Unlike the government, the petitioner is convinced that § 10 of the order does have a penalty, in conjunction with § 11, because if someone produces even one single kilogram of sugar over the assigned quota, then, as a penalty, state assistance provided under § 6-8 of the government order is withdrawn. The petitioner likewise does not share the opinion, contained in the government’s brief, that the order does not impose obligations other than those that are imposed in the statute. In this regard it pointed to the obligation to provide extensive information each month to the Ministry of Agriculture (§ 9) and the obligation to establish a financial reserve and use it (§ 4). It also stated that the government actually acknowledges that, through the selection it conducted, it advantaged large producers who invested considerable funds into their development. However, the petitioner added that the information which the government took as its starting point was completely inadequate, because, for example, in the petitioner’s case, no research regarding intentions and investments was conducted However, as soon as the petitioner applied for a special individual quota, it had to endure an inspection of the sugar refinery by the commission, answer a great number of questions fro the commission, and submit a quantity of data ordered by the Ministry of Agriculture, although the government order says nothing about such procedures.

Last but not least, the petitioner added that the milk quotas announced in the interim only confirm the gravity of the problem and point to a dangerous trend in limiting the right to freely conduct business.

At the hearing on 14 February 2001, the government’s attorney presented the procedural statement that had been delivered to the Constitutional Court the day before the hearing. Primarily, he objected that the constitutional complaint should have been denied on formal grounds as inadmissible under § 75 par. 1 of Act no. 182/1993 Coll., on the Constitutional Court, because the petitioner had not exhausted the procedural means for protection of its rights. The government considers the contested action by the Ministry of Agriculture to be an administrative decision that could and should have been contested through an appeal on a point of law under § 61 of the Administrative Procedure Code, or an administrative complaint. If the petitioner did not do so, the judge rapporteur should have denied the complaint. If he did not do so, the plenum should have made that decision. As regards the matter itself, the government’s attorney stated that this is a fundamental decision. In its accession agreement, the Czech Republic committed itself to creating equal conditions for all investors from the fifteen EU member states, and is therefore also obligated to comply with commitments arising from the Common Agricultural Policy. In EU countries commitments arising from Art. 39 of the Treaty on the European Communities are secured primarily by sugar and milk quotas. Therefore, he disagreed with the petitioner arguments that the quotas interfere in property rights, and referred to the case law of the European Court of Human Rights on these issues. He also stated that the government is convinced that Act no. 252/1997 Coll., on Agriculture, can be interpreted in a manner that shows that the government acted within the bounds of the Act when issuing Order no. 51/2000 Coll.

The Minister of Agriculture stated at the hearing that, at the time when the government was deciding through its order, it could take into account only the sugar refineries that were producing white sugar at that time, and the previous five years of production had been taken as a measure for allocating quotas. EU states have acted similarly in the past. The petitioner is one of the companies that wanted to enter the system after it had already been created, and therefore he believes that the adopted system for the sugar sector is fair. If the Constitutional Court nevertheless decided to annul the contested order, it would be desirable in terms of market stability for it to do so with effect as of 1 October 2001, because by then a new government order will have been prepared, tied to the new Act on the State Agriculture Intervention Fund.

The petitioner's attorney responded to the government's abovementioned supplemental statement by casting doubt on the opinion that a two-line letter from the Minister of Agriculture, which has none of the formal characteristics of an administrative act, could be considered an administrative decision that would first have to be contested in the manner described by the government. He emphasized that the purpose of their petition is not a battle against quotas as such, but an attempt to have all producers have equal access to the market, under conditions set forth in advance. However, as the appendix to the contested directed named 8 producers and their quotas, then that part is not a normative act, but an individual act, as it is not intended for an uncertain number of subjects, and in that regard is therefore unconstitutional. Only a very small part of the quota was left for unnamed subjects, and no conditions at all were set for its allocation. Therefore, he maintained the petition in full, as submitted.

The Constitutional Court deliberated on the petition as follows:

As regards the supplementally raised objection that the constitutional complaint and the petition submitted with it had to be denied on grounds o inadmissibility, i.e. due to failure to exhaust administrative means of recourse, we must state the following.

In the judgment promulgated as no. 243/1999 Coll., the Constitutional Court stated the principle that the Constitutional Court cannot accept an objection that the complainant did not exhaust all procedural means of recourse that the law provides for protection of its rights, if the complaint concerned is one whose significance substantially exceeds the complainant's own interests. There is no doubt that this is so in the present case, which is also attested to by the brief from the party to the proceeding on the seriousness of the issue. Thus, it is evident that the conditions in § 75 par. 2 let. a) of Act no. 182/1993 Coll., on the Constitutional Court, have been met. Therefore, the Constitutional Court merely states that it does not share the opinion of the party to the proceeding on the possibility of a remedy in administrative proceedings, or the possibility of an administrative complaint in the present matter, without considering necessary to further explain and justify its opinion, because it is evident that it would be authorized to handle the matter, under the cited provision of the Act on the Constitutional Court, even in a situation if procedural remedies really had not been exhausted.

As regards the merits of the matter, the Constitutional Court deliberated as follows.

First, it stated that the contested government order is derived from and intended to implement § 2 par. 1 of Act no. 252/1997 Coll., on Agriculture. That Act has as its aim, under § 1:

a) to create conditions to ensure the ability of Czech agriculture to ensure the basic sustenance of the population, food security, and the necessary non-food raw materials;

b) to create the prerequisites for support of non-production functions of agriculture that contribute to protection of elements of the environment such as the ground, water, and air and to preserve settled countryside and landscape;

c) establish an obligation to compensate detriment suffered by persons injured by the imposed economic regimes arising from statutory limitations.

It is provided in § 2 par. 1 that the state contributes to the creation of conditions for maintaining the production potential of agriculture through indirect support, direct support through subsidy programs, and creating conditions for price stabilization of the market in agricultural commodities, in particular with the help of warehouse coupons, futures contracts, certification of public wheat warehouses and support for the functioning of commodities exchanges. The following par. 2 states that subsidy programs and indirect support are approved by the Chamber of Deputies together with the Act on the State Budget.

Under § 2 par. 3 state subsidy programs also support non-production agricultural functions consisting of protection of elements of the environment such as the ground, water, and air, and activities involved in maintaining the countryside. Under par. 4 the state creates conditions for the support of less favorable areas and adopts assistance programs for that purpose. Par. 5 provides that the government shall establish, by decree, subsidy programs to support the cited measures and criteria for evaluating them.

Government Order no. 51/2000 Coll. provides in § 1 that its subject matter is regulation of state participation in the creation of conditions for ensuring and maintaining production of sugar beets and sugar and stabilization of the sugar market in the CR. Particularly important among the other provisions is § 10, which provides that sugar produced over the individual or special individual quotas may not be brought to the market in the CR or to the market in countries where import of sugar from the CR is not permitted or is limited by an international treaty by which the CR is bound. Appendix 1 to the decree indirectly sets individual quotas for “strategic sugar producers” (a total of 8 companies).

The Constitutional Court also stated that it has no reason to deviate from its previous relevant case law in evaluating the petition.

This case law is primarily judgment Pl. US 17/95, promulgated as no. 271/1995 Coll., in which the Constitutional Court stated that, under Art. 78 of the Constitution, the government is authorized to issue orders to implement statute, while remaining within the bounds thereof, and thus does not need express delegation in a statute; however, the order may not exceed the statutory bounds – i.e. it cannot be praeter legem. In other words, it must remain within the bounds of the statute, which are either defined expressly or follow from the statute’s meaning and purpose. The Constitutional Court also stated that it can be said generally that the executive branch never has completely free

discretion, because it is always limited by the Constitution, international treaties, and general legal principles.

In judgment Pl. US 32/95, promulgated as no. 112/1996 Coll., the Constitutional Court stated that the rights set forth in Part IV. of the Charter, entitled "Economic, Social and cultural Rights," are made concrete only by a relevant statute, and can be exercised on the basis of such a statutes and within its bounds. The Constitutional Court also stated that these rights therefore are not directly applicable (unlike rights arising directly from human existence, such as the right to life, inviolability of the person, personal freedoms, etc.), but require the conjunction of other factors in order to be exercised. Thus, according to the judgment, these rights can be exercised under Art. 41 par. 1 of the Charter only within the bounds of statutes that implement these provisions. The Constitutional Court ruled according to the same principles in judgment Pl. US 35/95, promulgated as no. 206/1996 Coll., when it stated that the legislature cannot rid itself of the obligation of the statutory definition of the content, scope and manner of providing a fundamental right (in that case the right to payment-free health care) by authorizing an executive body to issue norms of lesser legal force than a statute that would determine, instead of a statute, the bounds of these fundamental rights or freedoms.

From a constitutional viewpoint, bodies with legislative powers are authorized and obligated to issue legal regulations in the form that is prescribed for them. Under Art. 78 of the Constitution, the form prescribed for the government is an order. Under that provision the government may issue orders in order to implement statues, and while remaining within the bounds thereof. Thus, the existence of a statute is sufficient, but within it there must be room for the government's legislative activity. The fact that in some cases the legislature expressly authorizes the government to issue orders changes nothing about this. The government must then act "secundum et intra legem," not outside the statute (praeter legem). Simply stated, if, according to a statute, X is to exist, the government may specify that X1, X2, or X3 is to exist, not that Y is to exist.

From a theoretical viewpoint, an order is subject to the requirement that it be general and affect an uncertain group of subjects, because the Constitution authorizes issuing legal regulations, not issuing an individual administrative act /a bill of attainder. Protection from excesses by the executive branch is provided by the obstacle of matters reserved for regulation only by statute ("statutory reservation").

To summarize, the constitutional definition of derived norm creation by the executive branch rests on the following principles.

- an order must be issued by an authorized entity,

- an order may not interfere in matters reserved to statutes (i.e. it cannot establish primary rights and obligations),

- legislative intent for regulation beyond the statutory standard must be evident (i.e. discretion must be provided for the sphere in which the order functions).

Under Art. 26 par. 1 of the Charter, everybody has the right to engage in commercial and economic activity, and par. 2 states that the law may set conditions and limitations upon the conduct of certain professions or activities. Thus, it is evident that this is a

fundamental right which does not apply directly within the meaning of the abovementioned judgments, and can be exercised only within the bounds of statutes; on the other hand, however, any limits for such conduct of business or activities are subject to statutory reservation.

There is no doubt that the order in question contains a number of provisions that interfere in the sphere of free conduct of business. If the government derives its authorization for this from Act no. 252/1997 Coll., on Agriculturally, and specifically cites the disputed order as an implementing regulation for § 2 par. 1 of that Act, then although the Constitutional Court respects the already cited principle of a looser relationship between a statute and an order, as it considers the priority for an order to be constitutional that it be consistent with the meaning and purpose of a statute as a whole, it is forced to state that neither grammatical, systematic, or logical interpretation, even with the greatest degree of an expansive approach, indicates that it would be possible to derive from the cited statutory provision regulation of production that is tied to agriculture, i.e. to limit the placement of produced goods on a particular market.

Thus, insofar as the Constitutional Court, in the abovementioned judgment promulgated as no. 206/1996 Coll., stated that the legislature cannot delegate to the executive branch an area of regulation of relationships designated for statutory regulation, and thereby give up its own legislative obligation, all the more so the executive branch cannot itself assume the right to such regulation, with reference to a statute that obviously has a different purpose and meaning. The cited Act on Agriculture is aimed quite clearly at the area of primary production, and if it authorizes the government to issue orders, it is quite evident that these are regulations aimed at different areas. If the legislature wished to authorize the executive branch to regulate the conduct of business through production quotas, it would undoubtedly do so expressly, as it did in § 2 par. 5, § 3 par. 3 and 4, or in § 5 par. 3.

Thus, we can summarize that the contested government order violates the statutory reservation set forth by Art. 26 par. 1 of the Charter, and in the form of an order limits the free conduct of business in a manner that the statute does not foresee or generally regulate. In other words, if the Constitutional Court acted to annul sub-statutory regulations on the grounds that the bounds created by the legislature for legislative activity by the executive branch are uncertain, then it must do so all the more in an area where the statute does not at all foresee any legislative initiative by the government. This excess is sufficient grounds for annulling the contested legal regulation without any need to consider in greater detail the other objections and arguments from the petitioner and the party to the proceeding.

The Constitutional Court is, of course, aware that in the interim Act no. 256/2000 Coll., on the State Agricultural Intervention Fund and on the Amendment of Certain Other Acts (the "Act on the State Agricultural Intervention Fund), has entered into effect; that Act regulates, among other things, "production quotas," and, in § 12 par. 3, authorizes the government to issue orders that establish these quotas and conditions for them. However, that cannot change anything about the fact that the contested Government Order no.. 51/2000 Coll. was issued outside the bounds of the law, as the original Act no. 472/1992 Coll., on the State Fund for Market Regulation in Agriculture (annulled by the cited Act no. 256/2000 Coll.) did not establish any support for setting production quotas.

For all the stated reasons, the plenum of the Constitutional Court decided to annul Government Order no. 51/2000 Coll., due to inconsistency with Art. 4 par. 1 and 2 and with Art. 26 par. 1 and 2 of the Charter, as well as with Art. 2 par. 4 of the Constitution of the CR, as of the day this judgment is promulgated in the Collection of Laws, as it found no reasons to postpone the executability of its decision.

Instruction: Decisions of the Constitutional Court cannot be appealed (§ 54 par. 2 of the Act on the Constitutional Court).

Brno, 14 February 2001