

Case T-55/01 R

Asahi Vet, SA

v

Commission of the European Communities

(Application for interim relief — Authorisation of an additive in feedingstuffs —
Directive 70/524/EEC — Admissibility)

Order of the President of the Court of First Instance, 5 July 2001 II - 1935

Summary of the Order

1. *Applications for interim measures — Conditions for admissibility — Admissibility of the main action — Irrelevant — Limits*
(Arts 242 EC and 243 EC; Rules of Procedure of the Court of First Instance, Art 104(1))

2. *Actions for annulment — Actionable measures — Definition — Measures producing binding legal effects — Preparatory acts — Not actionable*
(Art. 230 EC; Council Directive 70/524)

1. In principle the issue of the admissibility of the main application should not be examined in proceedings relating to an application for interim relief, so as not to prejudge the substance of the case. It may nevertheless be found necessary, when it is contended that the main application to which the application for interim relief relates is manifestly inadmissible, to establish whether there are any grounds for concluding *prima facie* that the main application is admissible.

(see para. 51)

2. Only measures producing binding legal effects of a nature such as to affect the interests of the applicant by bringing about a distinct change in his legal position constitute acts or decisions, which may be the subject of an application for annulment under Article 230 EC.

In the case of acts or decisions adopted by a procedure involving several stages, in particular where they are the culmination of an internal procedure, only measures definitively establishing the position of the institution on the conclusion of that procedure, and not provisional measures intended to pave the way for the final decision, may be the subject of an action for annulment.

The procedure for obtaining Community authorisation for an additive used in feedingstuffs, referred to in Article 4 of Directive 70/524 concerning additives in feedingstuffs, comprises several stages and the postponement until a subsequent meeting of the expression of an opinion on the safety of a product does not constitute a measure definitively establishing the Commission's position.

(see paras 61-62, 67)