

## **Joined Cases T-236/04 and T-241/04**

**European Environmental Bureau (EEB)  
and Stichting Natuur en Milieu**

**v**

**Commission of the European Communities**

(Action for annulment — Decisions 2004/247/EC and 2004/248/EC —  
Objection of inadmissibility — Standing to bring proceedings)

Order of the Court of First Instance (Second Chamber), 28 November 2005 II - 4948

### **Summary of the Order**

1. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Directive concerning the placing of plant protection products on the market — Decisions concerning marketing authorisations for certain substances — Actions by associations having special consultative status with Community institutions and/or with national or supranational authorities — Inadmissibility*  
(Art. 230, fourth para., EC; Council Directive 91/414)

2. *European Communities — Judicial review of the legality of the acts of the institutions — Measures of general scope — Need for natural or legal persons to have recourse to a plea of illegality or a reference for a preliminary ruling on validity*  
(Arts 230, fourth para., EC, 234 EC and 241 EC)

1. Actions for annulment brought by an association and a foundation having as their goal to promote the protection and the conservation of the environment against Decisions 2004/248 and 2004/247 concerning, respectively, the non-inclusion of atrazine and simazine in Annex I to Directive 91/414 and the withdrawal of authorisations for plant protection products containing those active substances are inadmissible.

Those provisions affect the applicants in their objective capacity as entities whose purpose is to protect the environment, in the same manner as any other person in the same situation.

Moreover, nor does the fact that the applicants have special consultative status with the Commission or other European or national institutions, whereas the Community legislation applicable to the adoption of those decisions does not provide for any procedural guarantee for the applicants,

or even for any form of participation by the Community advisory bodies established pursuant to that legislation, to which the applicants claim to belong, support the finding that they are individually concerned by the decisions in question. The fact that a person participates, in one way or another, in the process leading to the adoption of a Community act does not distinguish him individually in relation to the act in question unless the relevant Community legislation has laid down specific procedural guarantees for such a person.

Likewise, the standing conferred on applicants in some of the legal systems of the Member States is irrelevant for the purposes of determining whether they have standing to bring an action for annulment of a Community act pursuant to the fourth paragraph of Article 230 EC.

Moreover, the fact that, in the statement of reasons for a regulation proposal, the Commission states that the applicants have standing does not exempt them

from the requirement of having to prove that they are individually concerned by the contested act. The principles governing the hierarchy of norms preclude secondary legislation from conferring standing on individuals who do not meet the requirements of the fourth paragraph of Article 230 EC. A fortiori the same holds true for the statement of reasons of a proposal for secondary legislation.

(see paras 56, 58, 61-62, 71-72)

2. By Article 230 EC and Article 241 EC, on the one hand, and by Article 234 EC, on the other, the EC Treaty has established a complete system of legal remedies and procedures designed to ensure

judicial review of the legality of acts of the institutions, and has entrusted such review to the Community courts. Under that system, where natural or legal persons cannot, by reason of the conditions for admissibility laid down in the fourth paragraph of Article 230 EC, directly challenge Community measures of general application, they are able, depending on the case, either indirectly to plead the invalidity of such acts before the Community courts under Article 241 EC or to do so before the national courts and ask them, since they have no jurisdiction themselves to declare those measures invalid, to make a reference to the Court of Justice for a preliminary ruling on validity.

(see para. 66)