

Case T-370/02

Alpenhain-Camembert-Werk and Others

v

Commission of the European Communities

(Regulation (EC) No 1829/2002 — Registration of a designation of origin — ‘Feta’ — Application for annulment — Locus standi — Inadmissibility)

Order of the Court of First Instance (Third Chamber), 6 July 2004 II - 2100

Summary of the Order

1. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Regulation on the registration of geographical indications and designations of origin — Action by undertakings producing ‘Feta’ cheese in a Member State other than that of the origin of that cheese — Inadmissibility*

(Art. 230, fourth para., EC; Council Regulation No 2081/92; Commission Regulation No 1829/2002)

2. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Interpretation, contrary to law, of the requirement of being individually concerned — Not permissible*
(Art. 230, fourth para., EC)

1. Regulation No 1829/2002 amending the Annex to Regulation No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Regulation No 2081/92, in so far as it covers the name 'Feta' as a protected designation, constitutes a measure of general application within the meaning of the second paragraph of Article 249 EC, since, by recognising that all undertakings whose products satisfy the prescribed geographical and qualitative requirements have the right to market them under the abovementioned designation and by refusing that right to all producers whose products do not fulfil those conditions, which are identical for all undertakings, it applies to situations determined objectively and produces its legal effects vis-à-vis categories of persons envisaged in the abstract.

That regulation can therefore be of individual concern to natural or legal persons only if it affects them by reason of certain attributes peculiar to them or by reason of a factual situation which differentiates them from all other persons and thereby distinguishes them

individually in the same way as an addressee. That is not the case of certain undertakings producing Feta cheese outside Greece, the Member State of origin of that cheese.

The fact that those undertakings are among the main producers of Feta in the European Community, of which there are a limited number, and that they produce more than 90% of the Feta manufactured in the Member State in which they are established and that they market their products under the protected name is not sufficient in itself to distinguish them from all other economic operators concerned by Regulation No 1829/2002, since the general application and, therefore, the legislative nature of a measure are not called in question by the fact that it is possible to determine with a greater or lesser degree of precision the number or even the identity of the persons to which it applies at a given time.

In addition, having recourse to the simplified procedure for registration of the protected name could not constitute a breach of those undertakings' proce-

dural rights since Regulation No 2081/92 did not establish, at Community level, specific procedural guarantees in favour of individuals.

(see paras 54-56, 58, 59, 67)

2. Whilst it is true that the condition of individual interest laid down by the fourth paragraph of Article 230 EC must be interpreted in the light of the principle of effective judicial protection, having regard to the various circum-

stances by which an applicant can be individually distinguished, such an interpretation cannot lead to disapplication of the condition in question, which is expressly laid down by the Treaty, without the jurisdiction conferred on the Community Courts by the Treaty thereby being exceeded. It follows that if that condition is not fulfilled, a natural or legal person does not, under any circumstances, have standing to bring an action for annulment of a regulation.

(see para. 72)