

Case T-95/99

Satellimages TV 5 SA

v

Commission of the European Communities

(Action for annulment — Competition — Complaint —
Commission letter addressed to the complainant —
Preparatory measure — Inadmissibility)

Judgment of the Court of First Instance (Second Chamber), 7 March 2002 II - 1427

Summary of the Judgment

*Actions for annulment — Actionable measures — Definition — Measures with binding legal effects — Preparatory measures — Excluded
(EC Treaty, Art. 173 (now, after amendment, Art. 230 EC))*

Only measures which produce binding legal effects and are capable of affecting the interests of the applicant by bringing about a distinct change in his legal position constitute measures challengeable by an action for annulment under Article 173 of the EC Treaty (now, after amendment, 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, in principle, an act is reviewable only if it is a measure definitively establishing the position of the Commission at the conclusion of that procedure, and not a provisional measure intended to pave the way for the final decision.

complainant which constitutes the contested measure that the assessments contained therein are of a provisional nature, the content of the contested measure confirms that statement, and the Commission makes it clear that its comments are subject to any further observations that the applicant might wish to make, it must be concluded that the contested measure is to be regarded as a preparatory statement of position. Since the contested measure is not one which definitively establishes the Commission's position, it does not produce binding legal effects capable of affecting the complainant's interests, and is not therefore a reviewable act for the purposes of Article 173 of the Treaty.

In those circumstances, where the Commission makes it clear in a letter to the

(see paras 32, 34, 36-38, 41)