

Case T-376/04

Polyelectrolyte Producers Group

v

Council of the European Union and Commission of the European Communities

(Action for annulment — Council decision determining the Community's position
— Decision of the EEA Joint Committee — Objection of inadmissibility —
Challengeable act — Standing to bring proceedings — Inadmissibility)

Order of the Court of First Instance (Second Chamber), 22 July 2005 II - 3011

Summary of the Order

1. Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Action brought by a European economic interest grouping — Inadmissible

(Art. 230, fourth para., EC)

2. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Whether directly concerned — Criteria — Council decision adopting a draft decision of the EEA Joint Committee — A European economic interest grouping not directly concerned*
(Art. 230, fourth para., EC; EEA Agreement, Annex II, as amended by the Decision of the EEA Joint Committee No 59/2004)
3. *Plea of illegality — Incidental nature — Main action inadmissible — Plea inadmissible*
(Art. 241 EC)
4. *Procedure — Originating application — Formal requirements — Identification of the subject-matter of the dispute — Brief summary of the pleas in law on which the application is based — Action for compensation for damage caused by a Community institution*
(Statute of the Court of Justice, Art. 21; Rules of Procedure of the Court of First Instance, Art. 44(1)(c))

1. An association formed to promote the collective interests of a category of persons cannot be deemed to be individually concerned by a measure affecting the general interests of that category of persons when they are not themselves individually affected. That answer also applies to the case of a European economic interest grouping which has been constituted in order to represent and defend the interests of a category of undertakings and whose role is, therefore, comparable to that of an association. While the presence of special circumstances, such as the role played by an association in a procedure which has led to the adoption of an act within the meaning of Article 230 EC, may establish the admissibility of an action brought by an association whose members are not directly and individually concerned by that act, in particular where its position as negotiator has been affected by that act, that is not the case

where the applicant association has not assumed the role of negotiator and where the legislation in question does not accord it any procedural rights.

(see paras 38, 40)

2. For a person to be directly concerned by a Community measure for the purposes of the fourth paragraph of Article 230 EC that measure must directly affect that person's legal situation and its

implementation must be automatic and result from Community rules alone without the need for the application of other intermediate measures. The direct connection between the Community measure and the applicant is not thereby broken where the Member State has no individual discretion of its own and, in certain cases, the implementation by a Member State of measures adopted to implement a Community act, where that act confers on it only a mere power to act for that purpose, does not necessarily give rise to the breaking of that direct link.

rejected by the vote of the Contracting Parties' representatives on the Committee. Also, the Norwegian authorities were perfectly at liberty to take advantage or not of any power to derogate which might be conferred by the Joint Committee's decision. As a result, the direct link between the Council's decision and the Norwegian measures is broken.

(see paras 43, 45)

In that regard, by adopting the draft of Decision No 59/2004 of the EEA Joint Committee amending Annex II to the EEA Agreement by introducing a derogation from Article 30 of Directive 67/548, in favour of Norway, as regards acrylamide, the Council cannot be regarded as the institution which granted that derogation but merely as one of the participants in the Joint Committee's decision. That Council decision cannot therefore be of direct concern to a European economic interest grouping representing producers of coagulants and synthetic flocculants. When the Council's decision was adopted, there was real legal uncertainty as to the adoption of the Joint Committee's decision, an intermediate act interposed between the Council decision and the Norwegian measures, as the proposed derogation could well have been

3. The possibility offered by Article 241 EC of invoking the illegality of a measure which forms the legal basis of the contested act does not constitute an independent right of action and may only be sought incidentally, so that if the main action is inadmissible so also is the plea of illegality.

(see para. 49)

4. According to Article 44(1)(c) of the Rules of Procedure, applications must state, in particular, the subject-matter of the action and give a summary of the pleas advanced. An application seeking compensation for damage allegedly caused by a Community institution must state the evidence on which the conduct alleged against the institution may be identified, the reasons why it considers

that a causal link exists between that conduct and the damage which it claims to have suffered, and the nature and extent of that damage. A claim for unspecified damages is not sufficiently concrete and must therefore be regarded as inadmissible.

clearly indicates the evidence which enables its nature and extent to be assessed, so that the defendant is in a position to conduct its defence. In such circumstances, the absence of precise figures in the application does not affect the other party's rights of defence.

However, an applicant may omit to put in figures the amount of the loss which it submits it has suffered, provided it

(see paras 54-55)