

# Case T-141/03

**Sniace, SA**

**v**

**Commission of the European Communities**

(State Aid — Equity loan — Legal interest in bringing proceedings —  
Inadmissibility)

Judgment of the Court of First Instance (Third Chamber, Extended Composition), 14 April 2005 . . . . . II - 1200

## Summary of the Judgment

- 1. Procedure — Admissibility — Defendant's obligation to challenge it by separate document — None — Possibility of confining oneself to casting doubt on it in the defence (Rules of Procedure of the Court of First Instance, Arts 113 and 114(1))*

2. *Actions for annulment — Interest in bringing proceedings — Requirement of a vested and present interest — Assessment as at the date on which the action is brought — Interest concerning future uncertain circumstances — Not included*  
(Arts 87(1) EC, 88(3) EC and 234 EC)

1. Article 114(1) of the Rules of Procedure of the Court of First Instance does not oblige a party who intends to challenge the admissibility of an action to do so by separate document. A defendant may, without formally raising an objection of inadmissibility, confine itself, in its defence, to expressing, before examination of the substance of the case, grave doubt as to the action's admissibility and to submitting to the Court's decision the possibility of declaring it inadmissible. In any event, under Article 113 of the Rules of Procedure, the Court of First Instance may at any time, of its own motion, consider whether there exists any absolute bar to proceeding with an action, such as the lack of a legal interest in bringing proceedings.

(see paras 20-22)

2. An action for annulment brought by a natural or legal person is not admissible unless the applicant has an interest in seeing the contested measure annulled. That interest must be vested and present and is assessed as at the date on which the action is brought. If the interest upon which an applicant relies concerns a future legal situation, he must demon-

strate that the prejudice to that situation is already certain. Therefore, an applicant cannot rely upon future uncertain circumstances to establish his interest in applying for annulment of the contested act.

Thus it is that an applicant, to prove, as it must, that it has a vested and present interest in bringing proceedings against the Commission's decision classifying as State aid compatible with the common market the equity loan accorded it by a credit institution, a public undertaking, cannot confine itself to claiming, purely hypothetically, that actions could be brought, on the basis of the last sentence of Article 88(3) EC, without even alleging that such actions are pending. Nor can it base an argument on the alleged effects of the classification of the measure concerned as State aid on its relations with that credit institution, because the fact that the Commission, in this case, classified that credit institution as a public undertaking could not entail the obligation to notify it in future of any measure adopted in favour of the applicant.

Finally, even if judicial proceedings had still to be brought before the national courts, such an applicant would not in the least be deprived of effective judicial protection of the rights it derives from the Community legal order. First, it could rely on all the defences available under national law to oppose the repayment of the aid. Second, its direct action before the Community Court being declared inadmissible, nothing would prevent the applicant requesting the

national court, in the course of any proceedings before it, to make a reference for a preliminary ruling under Article 234 EC putting in issue the validity of the contested decision in so far as it finds that the measure in question is State aid.

(see paras 23, 25-33, 39-41)