

# Case T-167/02

Établissements Toulorge

v

European Parliament and Council of the European Union

(Action for annulment — Natural or legal persons — Acts of direct and individual concern to them — Directive 2002/2/EC — Inadmissibility — Action for damages)

Order of the Court of First Instance (Fourth Chamber), 21 March 2003 . . . II - 1114

## Summary of the Order

1. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Directive requiring the indication of the exact percentages by weight of the feed materials in animal feedingstuffs — Inadmissible (Art. 230, fourth para., EC; European Parliament and Council Directive 2002/2)*

2. *European Communities — Judicial review of the legality of measures of the institutions — Measures of general application — Need for natural or legal persons to have recourse to a plea of illegality or a reference for a preliminary ruling on validity — Obligation of the national courts to apply national procedural rules so as to allow challenges to the legality of Community measures of general application — Availability of an action for annulment before the Community Courts in the event of an insurmountable obstacle at the level of national procedural rules — Excluded (Arts 234 EC, 241 EC and 230, fourth para., EC)*

1. In so far as the rules it contains, and in particular the obligation to indicate the exact percentages by weight of the feed materials in compound feedingstuffs for animals, are stated in a general way, apply to objectively determined situations and have legal effects for categories of person contemplated in a general and abstract manner, namely manufacturers, packers, importers, sellers and distributors of those feedingstuffs, Directive 2002/2 on the circulation of compound feedingstuffs concerns an animal food undertaking whose main activity is the development and research of compound feedingstuffs for production animals only in its objective capacity as a manufacturer of such feedingstuffs and does not adversely affect any specific right held by it on the basis of alleged protection under Community law of know-how and business secrets, with the result that the Directive is not of individual concern to it within the meaning of Article 230 EC.
2. The Treaty, in Articles 230 and 241, on the one hand, and in Article 234, on the other, established a complete system of legal remedies and procedures designed to permit the Court of Justice to review the legality of measures adopted by the institutions. Under that system natural and legal persons, who, by reason of the conditions of admissibility laid down in the fourth paragraph of Article 230 EC, cannot contest directly Community measures of general application, may, depending on the circumstances, plead the illegality of those measures either as an incidental plea under Article 241 EC before the Community court or before the national courts and cause the latter, which do not have jurisdiction themselves to declare those measures illegal, to request the Court of Justice to give a preliminary ruling.

Apart from the fact that it is for the Member States to provide for a system of remedies and procedures guaranteeing observance of the right to effective judicial protection, an interpre-

(see paras 50-57)

tation of the rules for admissibility laid down in Article 230 EC, to the effect that an action for annulment should be declared admissible where it is shown following an examination by the Community judicature of the particular national procedural rules, that those rules do not allow an individual to bring proceedings to contest the validity of the Community measure, is not acceptable. Indeed, such an interpretation would require the Community Court, in each individual case, to examine and interpret national pro-

cedural law, which would go beyond its jurisdiction when reviewing the legality of Community measures. That assessment must be accepted *a fortiori* where it is not alleged that there are no legal remedies before the national courts making it possible to challenge the validity of a directive.

(see paras 65-66)