

Case T-231/02

Piero Gonnelli and Associazione Italiana Frantoiani Oleari (AIFO)

v

Commission of the European Communities

(Action for annulment — Natural or legal persons — Acts affecting them individually — Regulation — Marketing standards for olive oil — Inadmissibility)

Order of the Court of First Instance (Third Chamber), 2 April 2004 . . . II - 1055

Summary of the Order

- 1. Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Regulation concerning marketing standards for olive oil — Action by the proprietor of an agricultural enterprise in his capacity as a producer and consumer of olive oil — Action by an association of oil pressers — Inadmissibility (Art. 230, fourth para., EC; Commission Regulation No 1019/2002)*

2. *European Communities — Judicial review of the legality of acts 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 Member States to provide for a complete system of remedies to safeguard the right to effective judicial protection — Commencement of an action for annulment before the Community judicature in the event of an insuperable bar at the level of national procedural rules — Exclusion*  
(Arts 230, fourth para., EC, 234 EC and 241 EC)
3. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Interpretation contra legem of the requirement of being individually concerned — Not permissible*  
(Art. 230, fourth para., EC; Art. 48 EU)

1. In order that natural and legal persons can be considered to be individually concerned by a measure of general application they must be affected by it by reason of certain attributes peculiar to them, or by reason of a factual situation which differentiates them from all other persons and distinguishes them individually in the same way as the addressee.

ulation No 1019/2002 on marketing standards for olive oil is inadmissible.

An action for annulment brought by the owner of an agricultural enterprise in his capacity as a producer and consumer of olive oil and by an association of oil pressers against Reg-

First, the regulation is of concern to the first applicant only in his objective capacity as a consumer or producer respectively, in the same way as any other consumer or trader active in the sector in question. Even if that regulation favoured large growers in an unreasonable and excessive manner to the detriment of small producers like the applicant, that fact cannot on its own, in any case, differentiate him. It is not sufficient that certain traders may be more affected economically by a measure than their competitors for them to be considered to be individ-

ually concerned by it. Furthermore, other small producers of olive oil are equally subject to similar economic consequences. Moreover, the reference to the fact that the outcome of the proceedings may procure an advantage for him by removing unreasonable obstacles to production affecting small and medium-sized producers and certain gaps in consumer protection has no connection with the question whether the applicant is individually concerned by the contested measure, but is relevant only for determining whether the applicant has a vested and present interest in bringing an action for annulment.

Secondly, 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 when they are not individually affected, even though the existence of special circumstances, such as the role of an association in connection with a procedure which led to the adoption of a measure within the meaning of Article 230 EC, may justify the admissibility of an action brought by an association whose members are not individually concerned by the contested measure, in particular where its position as negotiator was affected by that measure.

(see paras 35, 38, 45-46, 48-49)

2. The Treaty, in Articles 230 EC and 241 EC, on the one hand, and in Article 234 EC, on the other, has established a complete system of legal remedies and procedures designed to permit a review of the legality of measures adopted by the institutions, by entrusting such review to the Community Courts. Under that system, where natural or legal persons cannot, by reason of the conditions for admissibility laid down in the fourth paragraph of Article 230 EC, directly challenge Community measures of general application, they are able, depending on the case, either indirectly to plead the invalidity of such acts before the Community Courts under Article 241 EC or to do so before the national courts and ask them, since they themselves have no jurisdiction to declare those measures invalid, to refer a question to the Court of Justice for a preliminary ruling.

Apart from the fact that it is incumbent on the Member States to provide for a complete system of remedies and procedures to safeguard the right to effective judicial protection, it is not acceptable to adopt an interpretation of the rules of admissibility laid down in Article 230 EC to the effect that an action for annulment will be admissible where it can be shown, following an examination by the Community judiciary of the national procedural rules, that those rules do not allow the individual to bring proceedings to contest the validity of the Community measure at issue. A direct action for

annulment before the Community judicature cannot be initiated even if it can be shown following an examination by the Community judicature of the national procedural rules that those rules do not allow the individual to bring proceedings to contest the validity of the Community measure at issue. Such an approach would require the Community judicature, in each individual case, to examine and interpret national procedural law, which would go beyond its jurisdiction when reviewing the legality of Community measures.

(see paras 52, 53)

3. Although, in the context of an action for annulment, 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 by taking account of the various circumstances that may distinguish an applicant individually, such an interpretation cannot, however, have the effect of setting aside the condition in question, which is expressly laid down in the Treaty, without going beyond the jurisdiction conferred by the Treaty on the Community judicature.

While it is possible to envisage a system of judicial review of the legality of Community measures of general application different from that established by the founding Treaty and never amended as to its principles, it is for the Member States, if necessary, in accordance with Article 48 EU, to reform the system currently in force.

(see paras 54, 55)