EUROPEAN ECONOMIC COMMUNITY
OFFICIAL SPOKESMAN
of the Commission

23, avenue de la Joyeuse Entrée
Brussels 4
Telephone 35.00.40

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INFORMATION MEMO

Two applications by individuals to the Court of Justice for annulment of EEC Commission acts declared inadmissible: Sicilian fruitgrowers and German sorghum importers.

1. In a decision of 1 April 1965, the Court of Justice declared inadmissible an action for annulment brought against the EEC Commission by M. Sgarlata and nine other Sicilian citrus-fruit growers (Case 40/64) and made an order for costs against the applicants.

The object of the action was to attain annulment of Commission Regulations Nos. 65, 66 and 74/64 establishing reference prices for lemons, tangerines, clementines and sweet oranges for 1964/65. The applicants contended that the prices fixed were too low.

The action was based on the second paragraph of Article 173 of the Treaty, which states that any natural or legal person may appeal against a decision which, though not addressed to him, is of direct and individual concern to him.

For the action to be admissible, the applicants would have had to show that the acts attacked were not in fact regulations but decisions, and concerned them directly and individually.

The Commission objected that the action was inadmissible and asked the Court to give a preliminary ruling to the effect that the acts concerned were true regulations and, in any case, did not concern the applicants individually.

The Court took the view that there was no need to examine the nature of the acts: the fact that the acts in question were of general application and therefore did not concern the applicants individually was decisive.

The Court followed its previous decisions in Cases 23/63 and 1/64 - that "persons other than those to whom a decision is addressed can only claim to be concerned individually if the division affects them because of certain qualities peculiar to them or because the de facto situation singles them out from all other persons and consequently gives them the same attributes as those of the addressees".

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Accepting the Commission's arguments the Court ruled that the fixing of reference prices concerns a section of Community nationals, namely the whole category of citrus-fruit importers. This means that no one person in this category can claim to be individually concerned.

2. On 1 April 1965, the Court of Justice declared inadmissible the action for annulment brought against the EEC Commission by the German Getreide-Import Gesellschaft (Case 38/64) and made an order for costs against the applicants.

The company in question was seeking annulment of the Commission's decision of 25 June fixing the cif price of sorghum for 26 June 1964, the day on which the company had applied for an import licence covering 1 000 tons of sorghum from the United States. As a subsidiary plea, the applicants also contested the previous decisions of the Commission relating to the cif sorghum price fixed for 24 and 25 June 1965.

This action was also based on the second paragraph of Article 173 of the Treaty.

Referring to its previous rulings, the Court declared that the applicant could not be regarded as concerned individually by the decision in question and that this was decisive. The applicant put forward two reasons supporting the contention that he was concerned individually: first, according to German terminology, the measure adopted by the Commission was an "Allgemeinverfügung", i.e. a general decision or group of individual decisions; secondly, the applicant had distinguished himself, according to the case-law of the Court, from all other persons in the category by the special feature that he had applied for an import licence.

The Court accepted the Commission's submission that the applicant had no individual interest since importers were affected only as members of a category of persons abstractly defined, and not because of certain qualities peculiar to that category or because of special circumstances distinguishing it from other importers.

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