

Judgment of the Court of Justice, Plaumann, Case 25/62 (15 July 1963)

Caption: Excerpt from the Plaumann judgment relating to the admissibility of action for annulment. The Court interprets the fourth paragraph of Article 230 of the EC Treaty (former Article 173) according to which any natural or legal person may bring an action for annulment 'against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former'.

Source: Reports of Cases before the Court. 1963. [s.l.].

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Judgment of the Court of 15 July 19631

Plaumann & Co. v Commission of the European Economic Community²

Case 25-62

Summary

1. *Measures adopted by institutions of the Community - Decision - Concept*
(EEC Treaty, Article 189; Cf. Summary of judgment in Joined Cases 16 and 17/62, Rec. 1962)
2. *Measures adopted by institutions of the Community - Proceedings by individuals against a decision addressed 'to another person'*
- *Scope of that expression - Broad interpretation*
(EEC Treaty, second paragraph of Article 173)
3. *Measures adopted by institutions of the Community - Right of action of interested parties - Non-restrictive interpretation of the provisions of the Treaty*
(EEC Treaty, second paragraph of Article 173)
4. *Measures adopted by institutions of the Community - Proceedings by individuals against a decision addressed 'to another person'*
- *Decision of individual concern to them*
(EEC Treaty, second paragraph of Article 173)

[...]

1. A measure must be considered as a decision if it refers to a particular person and binds that person alone.
2. The words and the natural meaning of the second paragraph of Article 173 of the EEC Treaty which allows an individual to institute proceedings against decisions addressed to another person which are of direct and individual concern to the former justify the broadest interpretation.
3. The provisions of the Treaty regarding the right of action of interested parties must not be interpreted restrictively; where the Treaty is silent a limitation in this respect may not be presumed.
4. Persons other than those to whom a decision is addressed may only claim to be individually concerned if that decision affects them by reason of certain attributes which are peculiar to them or by reason of circumstances in which they are differentiated from all other persons, and by virtue of these factors distinguishes them individually just as in the case of the person addressed.

[...]

In Case 25/62

PLAUMANN & CO., Hamburg, represented by Harald Ditges, advocate of the Cologne Bar, with an address for service in Luxembourg at the offices of Mr Audry, Fédération des Commerçants, 8 Avenue de l'Arsenal,

applicant,

v

COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY, represented by Hubert Ehring, Legal Adviser to the European Executives, acting as Agent, assisted by Ernst Steindorff, Professor of Law at the University of Tübingen, with an address for service in Luxembourg at the offices of Henri Manzanarès, Secretary of the Legal Service of the European Executives, 2 Place de Metz,

defendant,

Application for:

- annulment of the Decision No. SIII 03079 of the Commission of 22 May 1962, refusing to authorize the

Federal Republic of Germany to suspend in part customs duties applicable to ‘mandarins and clementines, fresh’ imported from third countries;

- payment of 39 414.01 DM compensation;

THE COURT

composed of: A. M. Donner, President, L. Delvaux and R. Lecourt (Presidents of Chambers), Ch. L. Hammes, R. Rossi (Rapporteur), A. Trabucchi and W. Strauß, Judges,

gives the following

JUDGMENT

[...]

Grounds of judgment

I - On the application for annulment

Admissibility

Under the second paragraph of Article 173 of the EEC Treaty ‘any natural or legal person may ... institute proceedings against a decision ... which, although in the form of ... a decision addressed to another person, is of direct and individual concern to the former’. The defendant contends that the words ‘other person’ in this paragraph do not refer to Member States in their capacity as sovereign authorities and that individuals may not therefore bring an action for annulment against the decisions of the Commission or of the Council addressed to Member States.

However the second paragraph of Article 173 does allow an individual to bring an action against decisions addressed to ‘another person’ which are of direct and individual concern to the former, but this Article neither defines nor limits the scope of these words. The words and the natural meaning of this provision justify the broadest interpretation. Moreover provisions of the Treaty regarding the right of interested parties to bring an action must not be interpreted restrictively. Therefore, the Treaty being silent on the point, a limitation in this respect may not be presumed.

It follows that the defendant’s argument cannot be regarded as well founded.

The defendant further contends that the contested decision is by its very nature a regulation in the form of an individual decision and therefore action against it is no more available to individuals than in the case of legislative measures of general application.

It follows however from Articles 189 and 191 of the EEC Treaty that decisions are characterized by the limited number of persons to whom they are addressed. In order to determine whether or not a measure constitutes a decision one must enquire whether that measure concerns specific persons. The contested Decision was addressed to the government of the Federal Republic of Germany and refuses to grant it authorization for the partial suspension of customs duties on certain products imported from third countries. Therefore the contested measure must be regarded as a decision referring to a particular person and binding that person alone.

Under the second paragraph of Article 173 of the Treaty private individuals may institute proceedings for annulment against decisions which, although addressed to another person, are of direct and individual concern to them, but in the present case the defendant denies that the contested decision is of direct and individual concern to the applicant.

It is appropriate in the first place to examine whether the second requirement of admissibility is fulfilled because, if the applicant is not individually concerned by the decision, it becomes unnecessary to enquire whether he is directly concerned.

Persons other than those to whom a decision is addressed may only claim to be individually concerned if that decision affects them by reason of certain attributes which are peculiar to them or by reason of circumstances in which they are differentiated from all other persons and by virtue of these factors distinguishes them individually just as in the case of the person addressed. In the present case the applicant is affected by the disputed Decision as an importer of clementines, that is to say, by reason of a commercial activity which may at any time be practised by any person and is not therefore such as to distinguish the applicant in relation to the contested Decision as in the case of the addressee.

For these reasons the present action for annulment must be declared inadmissible.

[...]

THE COURT

hereby:

- 1. Dismisses the application for annulment as inadmissible;**
- 2. Dismisses the claim for compensation as unfounded;**
- 3. Orders the applicant to pay the costs.**

Donner
Delvaux
Lecourt
Hammes
Rossi
Trabucchi
Strauß

Delivered in open court in Luxembourg on 15 July 1963.

A. Van Houtte
Registrar

A. M. Donner
President

- 1 - Language of the Case : German.
- 2 – CMLR.