ORDER OF THE COURT OF FIRST INSTANCE (Third Chamber)
25 April 2001 *

In Case T-244/00,

Coillte Teoranta, established in Dublin, Ireland, represented by G. French, Solicitor, P. Gallagher SC and N. Hyland, Barrister, with an address for service in Luxembourg,

applicant,

v

Commission of the European Communities, represented by M. Niejahr and K. Fitch, acting as Agents, with an address for service in Luxembourg,

defendant,

* Language of the case: English.

APPLICATION for annulment of Commission Decision 2000/449/EC of 5 July 2000 excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) (OJ 2000 L 180, p. 49) to the extent that that decision excludes from that financing expenditure declared by the Irish accredited paying agency in respect of afforestation aid,

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES (Third Chamber),

composed of: J. Azizi, President, K. Lenaerts and M. Jaeger, Judges,

Registrar: H. Jung,

makes the following

Order

Legal background

1 On 30 June 1992, the Council adopted Regulation (EEC) No 2080/92 instituting a Community aid scheme for forestry measures in agriculture (OJ 1992 L 215, p. 96).

2 Article 1 of that regulation states that the aid is part-financed by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF).

3 Article 2 provides as follows:

'1. The aid scheme may comprise:

...

(c) an annual premium per hectare to cover losses of income resulting from afforestation of agricultural land;

...

(b) Aid as referred to in paragraph 1(c) shall be eligible only if it is granted to:

— farmers not participating in the early-retirement scheme introduced by Council Regulation (EEC) No 2079/92 of 30 June 1992 instituting a Community aid scheme for early retirement from farming,

— any other private-law, natural or legal person.

...'

Facts of the case

4 On the basis of Article 2(1)(c) of Regulation No 2080/92, the Irish authorities paid aid to the applicant (the Irish Forestry Board Ltd), a company incorporated under Irish law which is active in the forestry sector, in the amount of EUR 2 871 261.26 in 1997 and EUR 1 973 084.09 in 1998 to cover losses of income resulting from afforestation of agricultural land.

5 By letter of 3 August 1999, the Commission informed the Irish authorities that:

'...

The Commission services have the position that [the applicant] is a public entity and not entitled to the premium according to Article 2(2)(b) of Regulation No 2080/92. As a result, the payments to the [applicant] are not eligible for Community co-financing under the afforestation scheme.

...

In order to facilitate the determination of the correction, the national authorities are requested to communicate the amounts of premium paid to Coillte Teoranta during the following periods: 01.08.1996 — 15.10.1996, 16.10.1996 — 15.10.1997 and 16.10.1997 — 15.10.1998. The financial year 1999 will be treated in the clearance procedure in due time.'

6 On 5 July 2000, on the basis of Article 5(2)(c) of Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy (OJ, English Special Edition 1970 (I), p. 218), the Commission adopted Decision 2000/449/EC excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the EAGGF (OJ 2000 L 180, p. 49) on the ground of failure to comply with the Community rules ('the contested decision'). The expenditure concerned is shown in the Annex to that decision.

7 That expenditure includes that declared by the Irish accredited paying agency in respect of the afforestation aid of EUR 2 871 261.26 and EUR 1 973 084.09 paid by that body in 1997 and 1998 respectively. That aid is declared not eligible.

Procedure

8 By application lodged at the Registry of the Court of First Instance on 14 September 2000, the applicant brought an action for annulment of the contested decision to the extent that it excludes from Community financing the expenditure referred to in the preceding paragraph. A parallel action with the same purpose was brought before the Court of Justice by Ireland (Case C-339/00).

9 By separate document, lodged at the Registry of the Court of First Instance on 16 January 2001, the Commission raised a plea of inadmissibility on the basis of Article 114(1) of the Rules of Procedure of the Court of First Instance. The applicant lodged its observations on that plea on 28 February 2001.

10 By letter sent to the Registry of the Court of First Instance on 7 March 2001, Ireland applied for leave to intervene in support of the form of order sought by the applicant.

Forms of order sought

11 The applicant claims that the Court should:

— annul the part of the contested decision which excludes from Community financing the expenditure incurred by Ireland in respect of ineligible afforestation aid;

— order the Commission to pay the costs.

12 In its plea of inadmissibility, the Commission contends that the Court should:

— dismiss the application for annulment as manifestly inadmissible;

— order the applicant to pay the costs.

13 In its observations on that plea, the applicant claims that it should be rejected.

Admissibility of the application

14 Under Article 111 of the Rules of Procedure of the Court of First Instance, where an action is manifestly inadmissible or manifestly lacking any foundation in law, the Court of First Instance may, by reasoned order and without taking further steps in the proceedings, give a decision on the action. That is the case where the application for annulment appears to be manifestly inadmissible according to the case-law of the Court of Justice (see, by analogy, Case C-155/98 P *Alexopoulou* v *Commission* [1999] ECR I-4069, paragraphs 13 to 15).

15 In this case, the Court considers that there is sufficient information before it and decides, pursuant to Article 111 aforesaid, to give a decision on the action without taking further steps in the proceedings.

Arguments of the parties

16 The Commission contends that the applicant does not meet the conditions laid down in the fourth paragraph of Article 230 EC so as to be eligible to bring proceedings for annulment of the contested decision.

17 First, that decision is not addressed to the applicant.

18 Second, according to the case-law (Joined Cases 89/86 and 91/86 *Étoile Commerciale and CNTA* v *Commission* [1987] ECR 3005, paragraphs 9 to 15; and Case T-54/96 *Oleifici Italiani and Fratelli Rubino* v *Commission* [1998] ECR II-3377, paragraph 51), the applicant cannot be regarded as directly and individually concerned by that decision.

19 The applicant's position is identical to that of the applicants in *Étoile Commerciale*. In the contested decision, the Commission does no more than state that the sums paid by the Irish authorities to the applicant in 1997 and 1998 cannot be charged to the EAGGF. Admittedly, Article 8 of Regulation No 729/70 requires those authorities to recover sums lost as a result of irregularities or negligence. However, that requirement must be implemented in accordance with the provisions of Irish law. In those circumstances, it is for the national authorities to decide, in the light of those provisions and subject to review by the national courts, whether it is necessary to seek reimbursement of the aid from the applicant.

20 In addition, the contested decision relates solely to the sums paid by the Irish authorities to the applicant in 1997 and 1998. It does not produce any binding legal effect in respect of subsequent years.

21 The Commission adds that the distinction relied on by the applicant between the present case and *Étoile Commerciale* results from a misreading of that judgment. In that case, the applicants asserted that they were directly concerned by the

contested decision since the French authorities had granted the contested aid on condition that it be chargeable to the EAGGF. The applicants had submitted that, in those circumstances, recovery of that aid was the direct consequence of the Commission's decision, unlike the situation where, as a result of a Commission decision excluding certain expenditure from Community financing, the Member State concerned decides whether it is appropriate to recover the sums at issue. However, the Court of Justice held that that difference was not relevant for the purpose of adjudicating on the question of the admissibility of the application for annulment of the Commission decision.

22 The applicant disputes the arguments put forward by the Commission and claims that the application is admissible.

23 It claims that it is directly and individually concerned by the part of the contested decision which it seeks to have annulled.

24 It states that that part of the contested decision is based on the fact that the Commission regards the applicant as a public-law entity which, under Article 2(2)(b) of Regulation No 2080/92, is not entitled to a premium in respect of losses of income resulting from afforestation of agricultural land. Only the applicant's situation is affected by such a consideration. It is therefore individually concerned by the contested decision.

25 That decision is also of direct concern to the applicant within the terms of the case-law (Case T-85/94 *Branco* v *Commission* [1995] ECR II-45, paragraph 26; and Case C-386/96 P *Dreyfus* v *Commission* [1998] ECR I-2309, paragraph 43).

26 The contested decision prohibits the Irish authorities from paying the Community premiums owed to the applicant in respect of the period between 1993 and 1999, in particular for 1997 and 1998, the payment of which was suspended by those authorities in November 1999. The decision also prevents those authorities from paying the applicant the premiums to which it would have been entitled until 2013.

27 Furthermore, the Irish authorities may, on the basis of the contested decision, seek repayment from the applicant of the aid referred to in that decision.

28 The applicant claims that the Irish authorities have no discretion in this case. The contested decision, in so far as it relates to aid paid to the applicant, is based on a finding of breach of Community legislation, which is linked to the fact that the applicant does not fulfil the condition laid down in Article 2(2)(b) of Regulation No 2080/92 and is therefore not entitled to loss-of-income premiums under that regulation. The suspension of the payment of aid due to the applicant is the result of the letter which the Commission sent to the Irish authorities on 3 August 1999 and on which the contested decision, in so far as it concerns the applicant, is apparently based.

29 It is clear from that letter that the Commission intends to treat the sums paid to the applicant in 1999 in the same way as those referred to in the contested decision. In the absence of evidence of a possible change in the Commission's view on that subject, it is difficult to maintain that the reasons for that decision, which relate to failure to comply with Community rules, are applicable solely to the expenditure to which it refers. Furthermore, the proper implementation by the Irish authorities of the contested decision, assuming it is valid, requires those

authorities not only to act on it in relation to the premiums paid between 1996 and 1998, but also to make a final decision against the payment of the premiums which was suspended in November 1999 and not to pay any further premiums.

30 The applicant states that the payment of the premiums which was suspended as a result of the Commission's letter of 3 August 1999 constitutes a manifest infringement of the contested decision, which must be presumed to be lawful, and a breach by the Irish authorities of their obligations under Article 10 EC. It adds that if the Irish authorities continued to pay it Community aid, although the Commission has held that it was not entitled to it and has announced its intention to recover sums already paid in 1999, they would be in breach of the obligation imposed on Member States to facilitate the attainment of the Community's objectives and to abstain from any measure which might hinder the pursuit of those objectives.

31 In those circumstances, the discretion enjoyed by the Irish authorities to pay to the applicant the suspended premiums and future premiums could be exercised only in breach of Community law. It follows that the action to be taken by those authorities on the contested decision is automatic or is, at least, a foregone conclusion. The applicant should therefore be regarded as directly affected by that decision (Opinion of Advocate General Warner in Case 100/74 *CAM* v *Commission* [1975] ECR 1393, 1410; and *Dreyfus*, paragraph 44).

32 The applicant then submits that its situation is different from that of the applicants in *Étoile Commerciale* and *Oleifici Italiani*.

33 In the first case, the applicants claimed that the Commission's decision refusing to recognise the aid in question as chargeable to the EAGGF had had a direct impact on their situation because, as a result of that decision, the national authorities concerned had used the option, which they had reserved when granting the aid, to claim its repayment. The Court of Justice held that the Commission's decision had indeed encouraged those authorities to recover the amounts paid, but that that recovery was the direct consequence not of the decision itself, but of the fact that those authorities had made the definitive grant of the aid conditional upon its being charged, in the end, to the EAGGF. The Court of Justice therefore concluded that the application for annulment of the Commission's decision was inadmissible. However, in the present case, the payment of aid to the applicant was unilaterally suspended by the Irish authorities. That suspension is the direct consequence of the contested decision. The decision thus directly affects the applicant.

34 The applicant adds that the considerations set out by the Court of Justice in *Étoile Commerciale* concerning the judicial protection guaranteed to economic operators by means of the remedies available in the national courts apply exclusively to the decision of the national authorities concerned to order the reimbursement of aid already paid. By contrast, in the present case, national legal proceedings would not enable the applicant to obtain from the Irish authorities payment of the premiums owed to it for the period between 1993 and 1998, in particular for 1997 and 1998, or payment of future premiums. The national courts could issue an injunction to that effect to the authorities concerned only by declaring the contested decision invalid, which they are not authorised to do according to the case-law of the Court of Justice (Case 314/85 *Foto-Frost* [1987] ECR 4199).

35 The applicant also states that, in the present case, the Member State concerned is challenging the legality of the contested decision before the Court of Justice. Such

a circumstance also distinguishes the present case from *Étoile Commerciale*, in which the national authorities concerned required the repayment of the aid in question without first challenging the legality of the decision on that aid.

36 As regards *Oleifici Italiani*, the applicant states that, in that case, the contested act was a letter from the Commission requesting the Italian authorities to put a temporary block on the payment of Community aid in the olive-oil sector. The Court of First Instance held that that letter had not produced binding legal effects on the Italian authorities, since it had not had any direct influence on their conduct. The Court also stated that that letter had had no immediate consequence as regards the day-to-day financial relations between the Italian authorities and the EAGGF, since the EAGGF continued to pay monthly advances on the expenditure for storage of the olive oil in question. The Court concluded that the contested letter had not produced any binding legal effects such as to affect the applicants' interests directly. However, in the present case, the contested decision clearly has legal effects and a direct influence on the conduct of the national authorities concerned.

Findings of the Court

37 Under the fourth paragraph of Article 230 EC, any natural or legal person may, under the conditions referred to in the first and second paragraphs of that article, institute proceedings 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.

38 In the present case, it is clear from Article 2 of the contested decision that it is addressed to the Member States.

39 In those circumstances, it is necessary to determine whether the applicant, which cannot be regarded as the addressee of the contested decision for the purposes of the fourth paragraph of Article 230 EC, may bring an action for annulment of that decision on the ground that it is of direct and individual concern to it.

40 In order to demonstrate that it is directly concerned by the contested decision, the applicant claims, first, that on the basis of that decision the Irish authorities are able to claim from it repayment of the aid which it received in 1997 and 1998. It states, second, that the considerations underlying the Commission's decision to exclude from Community financing the expenditure relating to the premiums which were paid to it in 1997 and 1998 also apply to that relating to the premiums which it received in 1999, so that the contested decision directly affects its legal situation also in respect of the 1999 premiums. Third, it submits that the contested decision, in view of the reasons on which it is based in respect of the expenditure declared by the Irish authorities, prohibits those authorities from paying it the premiums which are owed to it for the period between 1993 and 1998, in particular for 1997 and 1998, and the payment of which was suspended in November 1999, and the premiums which it was entitled to receive until 2013.

41 As regards, first, the aid referred to in the contested decision, it should be noted that, in *Étoile Commerciale*, which is comparable to the present case, the Court of Justice found, in connection with an action for annulment brought by the recipients of Community aid against a Commission decision refusing to recognise that aid as chargeable to the EAGGF, that such a decision relates only to financial relations between the Commission and the Member State concerned (paragraph 9 of the judgment).

42 The Court of Justice held (paragraphs 11 and 12 of the judgment):

'[A]ccording to the general principles on which the institutional system of the Community is based and which govern the relations between the Community and the Member States, it is for the Member States, in the absence of any contrary provision of Community law, to ensure that Community regulations, particularly those concerning the common agricultural policy, are implemented within their territory (see judgment of 21 September 1983 in Joined Cases 205/82 to 215/82 *Deutsche Milchkontor* v *Germany* [1983] ECR 2633). As regards more particularly financing measures adopted under that policy, it is incumbent upon the Member States, by virtue of Article 8 of Regulation No 729/70, to take the measures necessary to recover sums lost as a result of irregularities or negligence.

As regards the system of subsidies set up as part of the common organisation of the markets with which this case is concerned, it is therefore for the national authorities to implement the Community regulations and to take the necessary individual decisions regarding the traders concerned. In doing so, the Member States act in accordance with the rules and procedures laid down in national legislation, subject to the limits imposed by Community law (see judgment of 6 June 1972 in Case 94/71 *Schlüter* v *Hauptzollamt Hamburg* [1972] ECR 307, and *Deutsche Milchkontor* v *Germany*, *supra*).'

43 It concluded that the contested decision did not directly affect the legal situation of the applicants and declared their applications inadmissible (paragraphs 14 and 15 of the judgment).

44 As Advocate General Cruz Vilaça pointed out in his Opinion in *Étoile Commerciale* (at p. 3012, points 59 and 60), in relation to traders, a decision

on the expenditure incurred by Member States under the EAGGF has a declaratory rather than a constitutive function, since the direct effects to which those traders are subject derive from the decisions adopted by the national intervention authorities in the exercise of their own powers. In general, the Commission has no power to interfere directly regarding the granting or withholding of aid and consequently it cannot require the national authorities to adopt specific individual measures.

45 In the present case, in the contested decision, the Commission does no more than exclude from Community financing, on the ground of failure to comply with the Community rules, various items of expenditure on the part of the paying agencies accredited by the Member States which were declared under the EAGGF Guarantee Section, including those amounting to EUR 2 871 261.26 for the 1997 financial year and EUR 1 973 084.09 for the 1998 financial year which were declared by the Irish accredited paying agency. As is clear from the wording of the contested decision, it concerns only the financial relations between the EAGGF and the Member States, in this case Ireland. In contrast to the practice usually followed by the Commission in connection with unlawful aid declared incompatible with the common market or expenditure which is ineligible for financing by the European Social Fund, the decision does not include any provision requiring the national bodies concerned to recover the sums indicated in the annex thereto from their recipients, in this case the applicant. The proper execution of the decision requires only that the Member State concerned refund to the EAGGF the sums corresponding to the expenditure excluded from Community financing.

46 Even if account is taken, in the light of the Commission's letter of 3 August 1999 (see paragraph 5 above) relied on by the applicant, of the fact that the ground for the contested decision, as regards the expenditure declared under the EAGGF by the Irish authorities for the 1997 and 1998 financial years, is the fact that the applicant, the recipient of the aid at issue, is a public-law, legal person which, under Article 2(2)(b) of Regulation No 2080/92, is not entitled to the aid referred to in Article 2(1)(c) thereof, it must be observed that the only consequence drawn

from that consideration by the Commission in the contested decision is the exclusion of that expenditure from Community financing. The Commission does not attach to the aforesaid consideration any binding legal effect *vis-à-vis* the applicant.

47 In those circumstances, reimbursement of the Community aid paid to the applicant in 1997 and 1998 would be the direct consequence, not of the contested decision, but of the action which would be taken for that purpose by those authorities on the basis of their national legislation in order to fulfil obligations under the Community rules on the subject (see, to that effect, *Deutsche Milchkontor*, paragraphs 19 and 20; Opinion of Advocate General Cruz Vilaça in *Étoile Commerciale*, points 48 to 52).

48 In that regard, it cannot be excluded that particular circumstances may lead the national authorities concerned to decide not to claim repayment of the aid at issue from the recipient and themselves to bear the burden of reimbursing to the EAGGF the sums which they had wrongly considered themselves authorised to pay (see Case 11/76 *Netherlands* v *Commission* [1979] ECR 245, paragraph 8; and Opinion of Advocate General Cruz Vilaça in *Étoile Commerciale*, point 54).

49 It should be added that traders can be effectively protected against individual decisions adopted by national bodies by means of the remedies available in the national courts which may, in appropriate cases, refer a question to the Court of Justice for a preliminary ruling in accordance with Article 234 EC if there is doubt as to the validity or interpretation of the Community norms relied on in support of such individual decisions (see *Étoile Commerciale*, paragraph 14; and Opinion of Advocate General Cruz Vilaça in that case, point 53).

50 In order to avoid the application of *Étoile Commerciale* in this case, the applicant claims that the two cases are different. It claims that, in that case, the Court of Justice concluded that the contested act did not directly affect the legal situation of the applicants on the ground that the recovery of aid required by the national body concerned was the direct consequence, not of that act, but of the link made by that body between the definitive grant of that aid and its recognition by the EAGGF as eligible expenditure. It submits that there is no such link in the present case.

51 It must, however, be pointed out that the analysis set out in paragraphs 41 to 43 above, which was made by the Court of Justice in *Étoile Commerciale*, applies *a fortiori* in a situation where, as in the present case, the national authorities concerned do not seem to have reserved the right, when they granted the aid, to claim its repayment from the recipient in the event of a Commission decision excluding it from Community financing and where, accordingly, the impact of that decision on the possible recovery of the aid in question is even more indirect than that of the contested decision in *Étoile Commerciale*.

52 The fact, stressed by the applicant, that in the present case, unlike the Member State concerned in that case, Ireland is also challenging the legality of the Commission decision to exclude the expenditure at issue from Community financing is not such as to contradict the analysis effected in paragraphs 41 to 51 above.

53 As regards, second, the premiums paid to the applicant in 1999, it is sufficient to observe that, in the contested decision, the Commission does no more than exclude from Community financing the expenditure declared by the accredited Irish paying agency in relation to the 1997 and 1998 financial years. That decision does not concern the Irish authorities' expenditure relating to aid paid during the 1999 financial year. The proper execution of that decision does not mean that the Irish authorities should repay to the EAGGF the sums relating to

the expenditure for 1999 or that the applicant should reimburse the premiums corresponding to it. As is clear from the Commission's letter of 3 August 1999 (see paragraph 5 above), the premium payments in relation to the 1999 financial year must be the subject of a separate procedure and decision.

54 In those circumstances, even in the light of the fact that the inherent reasons for the contested decision may also apply to the Irish authorities' expenditure for the 1999 financial year, that decision cannot be regarded as directly affecting the legal situation of the applicant in respect of the premiums which were paid to it during that year.

55 Furthermore, the applicant can be protected against any request from the Irish authorities to reimburse the premiums which were paid to it in 1999 by means of the remedies available in the national courts, under the conditions set out in paragraph 49 above.

56 As regards, third, the premiums relating to the period between 1993 and 1999, as well as future premiums, payment of which is suspended by the Irish authorities, it must also be borne in mind that, in the contested decision, the Commission rules exclusively on the expenditure declared by the Irish authorities under the EAGGF in relation to the 1997 and 1998 financial years. The contested decision does not concern the premiums referred to above. It does not include any provision requiring the Irish authorities to suspend, whether temporarily or permanently, their payment to the applicant.

57 In those circumstances, the decision taken by the Irish authorities to suspend the payment of those premiums cannot, on any view, be regarded as the direct and necessary consequence of that decision.

58 It is also clear from the documents annexed to the application that, on 22 September 1999, the Irish authorities decided to suspend all payments of aid to the applicant pending legal advice. On 22 November 1999, they informed the applicant that that advice recommended that no further payments be made until the conciliation procedure had been completed and a decision adopted by the service responsible for the clearance of accounts. On 15 March 2000, the applicant was informed by the Irish authorities that all premium payments were suspended pending the outcome of discussions with the Commission on the applicant's eligibility for Community aid.

59 The decision of the Irish authorities to suspend payment to the applicant of the premiums referred to in paragraph 56 above thus predates the contested decision. It cannot, therefore, be regarded as the direct consequence of that decision. It is to be seen as a precautionary measure prompted by the position set out by the Commission in its letter, which was sent on 3 August 1999 to the Irish authorities and reproduced in the application, according to which '[the applicant] is a public entity and not entitled to the premium according to Article 2(2)(b) of Regulation No 2080/92', with the result that 'the payments to the [applicant] are not eligible for Community co-financing under the afforestation scheme'.

60 Although, admittedly, the contested decision undoubtedly prompted the Irish authorities to prolong the effects of their decision to suspend the payment to the applicant of the premiums in question, such a fact cannot cast doubt on the analysis in the preceding paragraph or the finding in paragraph 56 above, from which it is clear that the contested decision has no binding legal effect in respect of those premiums.

61 Again in the light of the finding in paragraph 56, it is necessary to add that the decision, which might be taken by the Irish authorities if Ireland's action against

the contested decision were to fail, not to pay Community premiums to the applicant and the loss of financial resources which might ensue for the applicant could not be regarded as direct and necessary consequences of the contested decision. Conversely, a payment by those authorities of additional premiums to the applicant could not be regarded as a failure on their part properly to implement the contested decision, but it would mean, in the current legal and factual context, that they would be exposed to a Commission decision excluding the recognition of the expenditure relating to those premiums as chargeable to the EAGGF.

62 It is clear from the considerations set out in paragraphs 56 to 61 above that the contested decision does not directly affect the legal situation of the applicant in respect of the premiums referred to in paragraph 56 above.

63 It should again be pointed out that the applicant can be effectively protected against any decision by the Irish authorities not to pay it Community premiums by means of the remedies available in the national courts, which do not, admittedly, have jurisdiction themselves, according to the case-law (*Foto-Frost*, paragraphs 11 to 20), to declare invalid the Community rules relied on by those authorities in support of their decision, but may, on the other hand, in appropriate cases, refer a question to the Court of Justice for a preliminary ruling in accordance with Article 234 EC if there is doubt as to the validity or interpretation of the norms concerned (see the cases cited in paragraph 49 above).

64 At the conclusion of the above analysis, it must be found that the contested decision is not of direct concern to the applicant. Since the applicant does not fulfil one of the conditions of eligibility laid down in the fourth paragraph of Article 230 EC, it is not necessary to examine the question whether that decision is of individual concern to it.

65 It follows that the present application must be dismissed as manifestly inadmissible.

The application for leave to intervene

66 Since the present application must be declared manifestly inadmissible, it is not necessary to adjudicate on Ireland's application for leave to intervene in support of the form of order sought by the applicant.

Costs

67 Under Article 87(2) of the Rules of Procedure of the Court of First Instance, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the applicant has been unsuccessful, it must bear its own costs and also pay those of the Commission, in accordance with the form of order sought by the Commission.

68 Since it is not necessary to adjudicate on the application for leave to intervene, Ireland must bear its own costs.

On those grounds,

THE COURT OF FIRST INSTANCE (Third Chamber)

hereby orders:

1. **The application is dismissed as manifestly inadmissible.**

2. **The applicant shall bear its own costs and shall pay those of the Commission.**

3. **Ireland shall bear its own costs.**

Luxembourg, 25 April 2001.

H. Jung
Registrar

J. Azizi
President