ORDER OF THE COURT OF FIRST INSTANCE (First Chamber)

11 September 2007 *

In Case T-35/06,

Honig-Verband eV, established in Hamburg (Germany), represented by M. Hagenmeyer and T. Teufer, lawyers,

applicant,

v

Commission of the European Communities, represented by F. Erlbacher and B. Doherty, acting as Agents,

defendant,

APPLICATION for annulment of Commission Regulation (EC) No 1854/2005 of 14 November 2005 supplementing the annex to Regulation (EC) No 2400/96 as regards the entry of a name in the 'Register of protected designations of origin and protected geographical indications' (Miel de Provence) (PGI) (OJ 2005 L 297, p. 3),

* Language of the case: German.

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

composed of J.D. Cooke, President, R. García-Valdecasas and V. Ciucă, Judges,

Registrar: E. Coulon,

makes the following

Order

Legal framework

1 Article 1 of Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ 1992 L 208, p. 1) lays down the rules on Community protection of designations of origin and geographical indications which certain agricultural products and certain foodstuffs may be eligible to use.

2 Article 2(2)(b) of Regulation No 2081/92 defines a geographical indication as the name of a region, a specific place or, in exceptional cases, a country, used to describe

an agricultural product or a foodstuff originating in that region, specific place or country, which possesses a specific quality, reputation or other characteristics attributable to that geographical origin and the production and/or processing and/or preparation of which take place in the defined geographical area.

3 Registration of the name of an agricultural product or of a foodstuff as a protected designation of origin (PDO) or a protected geographical indication (PGI) must, for that purpose, fulfil the conditions laid down by Regulation No 2081/92 and, in particular, comply with a specification defined in Article 4 of that regulation. Registration confers on the name in question the protection defined in Articles 13 and 14 of Regulation No 2081/92.

4 Articles 5 to 7 of Regulation No 2081/92 lay down a registration procedure which allows any group — defined as an association of producers and/or processors working with the same agricultural product or foodstuff — or, subject to certain conditions, any natural or legal person, to apply for registration of a PDO or PGI in respect of agricultural products or foodstuffs which they produce or obtain, and which originate in the defined geographical area, to the Member State in which the geographical area is located. The Member State is to check that the application is justified and forward it to the Commission, including, inter alia, the product specification referred to in Article 4 (Article 5(5) of Regulation No 2081/92).

5 Under Article 6(1) of Regulation No 2081/92, the Commission is to verify within a period of six months, by means of a formal investigation, whether the registration application includes all the particulars referred to in Article 4. If the Commission concludes that the name qualifies for protection, it is to publish various details of the applicant and the product in question in the *Official Journal of the European Communities* (Article 6(2) of Regulation No 2081/92). If no statement of objections

is notified to the Commission in accordance with Article 7 of Regulation No 2081/92, the name is to be entered in a register kept by the Commission entitled 'Register of [PDO] and [PGI]' (Article 6(3) of Regulation No 2081/92). The names entered in the register are then published in the *Official Journal of the European Communities* (Article 6(4) of Regulation No 2081/92).

6 Article 7 of Regulation No 2081/92, as amended by Council Regulation (EC) No 535/97 of 17 March 1997 (OJ 1997 L 83, p. 3), provides:

'1. Within six months of the date of publication in the *Official Journal of the European Communities* referred to in Article 6(2), any Member State may object to the registration.

2. The competent authorities of the Member States shall ensure that all persons who can demonstrate a legitimate economic interest are authorised to consult the application. In addition and in accordance with the existing situation in the Member States, the Member States may provide access to other parties with a legitimate interest.

3. Any legitimately concerned natural or legal person may object to the proposed registration by sending a duly substantiated statement to the competent authority of the Member State in which he resides or is established. The competent authority shall take the necessary measures to consider these comments or objection within the deadlines laid down.

4. A statement of objection shall be admissible only if it:

— either shows non-compliance with the conditions referred to in Article 2,

— shows that the registration of the name proposed would jeopardise the existence of an entirely or partly identical name or of a mark or the existence of products which have been legally on the market for at least five years preceding the date of the publication provided for in Article 6(2),

— or indicates the features which demonstrate that the name whose registration is applied for is generic in nature.

5. Where an objection is admissible within the meaning of paragraph 4, the Commission shall ask the Member States concerned to seek agreement among themselves in accordance with their internal procedures within three months. If:

(a) agreement is reached, the Member States in question shall communicate to the Commission all the factors which made agreement possible together with the applicant's opinion and that of the objector. Where there has been no change to the information received under Article 5, the Commission shall proceed in accordance with Article 6(4). If there has been a change, it shall again initiate the procedure laid down in Article 7;

(b) no agreement is reached, the Commission shall take a decision in accordance with the procedure laid down in Article 15, having regard to traditional fair

practice and of the actual likelihood of confusion. Should it decide to proceed with registration, the Commission shall carry out publication in accordance with Article 6(4).'

7 Commission Regulation (EC) No 2400/96 of 17 December 1996 on the entry of certain names in the 'Register of [PDO] and [PGI]' provided for in Regulation No 2081/92 (OJ 1996 L 327, p. 11, as amended several times) lists the PDO and the PGI in an annex in accordance with Article 6(3) of Regulation No 2081/92.

8 Commission Regulation (EC) No 1854/2005 of 14 November 2005 supplementing the annex to Regulation No 2400/96 as regards the entry of a name in the 'Register of protected designations of origin and protected geographical indications' (Miel de Provence) (PGI) (OJ 2005 L 297, p. 3; 'the contested regulation') registered the PGI 'miel de Provence'.

Facts

9 The applicant is an association whose members produce and market honey. The applicant's members have been marketing several varieties of mixed honey under the name 'Honig aus der Provence' (honey from Provence) for decades.

10 Pursuant to Article 6(2) of Regulation No 2081/92, on 30 October 2003 the Commission published the application of the French authorities to register 'miel de Provence' (OJ 2003 C 261, p. 4). In accordance with Article 4 of Regulation No 2081/92, the application was based on a specification excluding, inter alia, sunflowers.

11 In its letter of 29 March 2004 to the competent German authority, the Bundesanstalt für Landwirtschaft und Ernährung (Federal Office for Agriculture and Food), the applicant opposed the registration of the name 'miel de Provence'.

12 On the basis of that letter, the Federal Republic of Germany opposed the registration in a letter to the Commission dated 22 April 2004, pursuant to Article 7(1) of Regulation No 2081/92.

13 In its letter of 11 January 2005, the Commission informed the German authorities that the objection was admissible and invited them to contact the French authorities.

14 In its letter of 16 March 2005, the competent French authority, the French Ministère de l'Agriculture, de l'Alimentation, de la Pêche et de la Ruralité (Ministry of Agriculture, Food, Fisheries and Rural Affairs) commented on the German authorities' objection, while maintaining the application for registration.

15 By letter of 2 May 2005, the applicant sent its observations on that letter of 16 March 2005 to the competent German ministry. The German authorities sent the letter of 2 May 2005 on to the Commission on 24 May 2005 in order to assist the Commission in reaching its decision.

16 On 14 November 2005, the Commission adopted the contested regulation, adding the name 'miel de Provence (PGI)' to the annex to Regulation No 2400/96. The contested regulation was published in the *Official Journal of the European Union* on 15 November 2005.

Procedure and forms of order sought by the parties

17 By application lodged at the Registry of the Court of First Instance on 30 January 2006, the applicant brought the present action.

18 By a separate document registered at the Registry of the Court on 24 April 2006, the Commission raised an objection of inadmissibility pursuant to Article 114 of the Rules of Procedure of the Court of First Instance.

19 The applicant filed its written observations in response to that objection on 16 June 2006.

20 The applicant claims that the Court should:

— dismiss the objection of inadmissibility;

— annul the contested regulation;

— order the Commission to pay the costs.

21 The Commission contends that the Court should:

— dismiss the application as inadmissible;

— order the applicant to pay the costs.

Law

22 Under Article 114 of the Rules of Procedure, if a party makes an application to that effect, the Court can rule on inadmissibility without going to the substance of the case. According to Article 114(3), the remainder of the proceedings is to be oral, unless the Court decides otherwise. In the present case, the Court considers that the information in the documents before it is sufficient to enable it to rule on the application without opening the oral procedure.

Arguments of the parties

23 The Commission claims that the action is inadmissible on the grounds that the contested regulation is a measure of general application; that, in its capacity as a trade association, the applicant is not in a position which distinguishes it from all other persons; and that the applicant cannot claim that it has no effective judicial protection.

24 The Commission claims, first of all, that the regulations by which the Commission protects geographical indications and designations of origin in accordance with the basic regulation — in this case, Regulation No 2081/92 — are measures of general application within the meaning of the second paragraph of Article 249 EC, which apply to objectively determined situations and which produce their legal effects with respect to categories of persons envisaged in the abstract (orders in Case T-114/99 *CSR Pampryl* v *Commission* [1999] ECR II-3331 ('*CSR Pampryl* order'), paragraphs 42 and 43; Case T-215/00 *La Conqueste* v *Commission* [2001] ECR II-181 ('*La Conqueste* order'), paragraph 33; and Case T-370/02 *Alpenhain-Camembert-Werk and Others* v *Commission* [2004] ECR II-2097, paragraph 55).

25 The Commission submits also that a trade association formed to defend and represent the interests of its members is entitled to bring an action for annulment only in three situations. Of those three situations, the applicant invokes only two, namely where a legal provision expressly confers various procedural powers on the association, and where the association represents the interests of undertakings which would themselves be entitled to bring proceedings.

26 First, the Commission submits that, according to the established case-law of the Court of Justice and of the Court of First Instance referred to in paragraph 24 above, Regulation No 2081/92 does not provide individuals or, therefore, trade associations with procedural safeguards. Article 7 of Regulation No 2081/92 provides only for a Member State to object, and the applicant's letters cannot constitute such an objection, even though the competent German authority referred to them and even if the applicant had addressed them directly to the Commission.

27 Secondly, the Commission submits that the applicant's members do not have legal standing to bring an action either. Their situation cannot be distinguished from that of other honey producers or distributors from within the Community or from third

countries who have marketed their products under the name in question ('miel de Provence') and who are no longer authorised to use that name following its protection by registration.

28 Lastly, the Commission claims that the inadmissibility of the action is not affected by the applicant's argument relating to the requirement of effective judicial protection. According to the established case-law of the Court of Justice since its judgment in Case 25/62 *Plaumann* v *Commission* [1963] ECR 95, confirmed in Case C-50/00 P *Unión de Pequeños Agricultores* v *Council* [2002] ECR I-6677, an action for annulment of a regulation is admissible only if the applicant's individual interest is established.

29 The applicant takes the view that it is directly and individually concerned by the contested regulation.

30 It claims, first, that, in its capacity as initiator and negotiator in the objection and conciliation procedure, it was closely associated with the process of registering the name 'miel de Provence', and that the fact that it was associated in this way with the procedural aspects of the adoption of that Community measure demonstrates its individual interest.

31 In that regard, the applicant states that its close association with the procedural aspects of the decision-making process in the present case is apparent from the actual conduct of the objection procedure. It states that the objection to the registration of the name 'miel de Provence' was not made by the Federal Republic of Germany but by the applicant itself, and that the objection was merely formally transmitted to the Commission by the German Federal Ministry. The applicant claims that the conciliation procedure was opened purely as a result of its actions and takes the view that that is sufficient to confer on it legal standing to bring

proceedings (Case 264/82 *Timex* v *Commission and Council* [1985] ECR 849, and Case 169/84 *Cofaz* v *Commission* [1986] ECR 391). The applicant regards itself as the sole negotiator in respect of the objection raised, and claims in that respect that recital 5 in the preamble to the contested regulation expressly mentions that the statement of objection was sent by the German authorities.

32 Secondly, the applicant takes the view that it is individually concerned by the contested regulation because of the adverse effect on the procedural safeguards conferred on it by Article 7(3) of Regulation No 2081/92. The applicant states, first of all, that that article confers on it its own right of objection, independent of the Member States' specific right of objection, and that it exercised that right. According to the applicant, the procedural rules contained in Regulation No 2081/92 provided for the personal right of a natural or legal person to object to be given only organisational support by the competent national authorities. It also observes that that personal right to object was defined and emphasised by the amendments made by Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ 2006 L 93, p. 12), which replaced Regulation No 2081/92.

33 The applicant adds that the Commission stated in recital 8 in the preamble to the contested regulation that it had based the registration decision on the fact that it had not been adequately established that the German producers would in fact be economically concerned. It follows that the applicant has procedural rights which have not been respected in the present case.

34 The applicant also challenges the Commission's interpretation of the case-law relating to Article 7 of Regulation No 2081/92. Those judicial decisions do not contradict the applicant's arguments, since the present case can be distinguished from those which gave rise to the *La Conqueste* order, to the order in *Alpenhain-Camembert-Werk and Others* v *Commission* and to the order in Case T-381/02 *Confédération générale des producteurs de lait de brebis et des industriels de Roquefort* v *Commission* [2005] ECR II-5337.

35 Thirdly, the applicant submits that its members, whose interests it represents, are individually concerned, and infers from that that it has legal standing to bring proceedings.

36 In that respect, the applicant claims that the situation of its members is distinguished on account of the consequences of registration of the name 'miel de Provence' which directly concern the members' economic situation. As a result, its members can be distinguished from the category of potentially concerned undertakings as a whole, because the applicant's members have been marketing their products in Germany for more than five years as 'Honig aus der Provence' (honey from Provence).

37 Fourthly, the applicant takes the view that, on account of its content, the contested regulation is equivalent to a decision in respect of the applicant. The contested regulation is also a decision dismissing the applicant's objection and therefore distinguishes it individually.

38 Fifthly, the applicant claims that it is individually concerned, having regard to the principle of effective judicial protection. It claims that it cannot obtain a preliminary ruling without infringing the contested regulation. Furthermore, according to the applicant, there is no appropriate domestic legal remedy available.

Findings of the Court

39 According to the fourth paragraph of Article 230 EC, the admissibility of an action for annulment instituted against a regulation by a natural or legal person is conditional upon the contested regulation being, as a matter of fact, a decision which is of direct and individual concern to that person. According to settled case-

law, the criterion for distinguishing between a regulation and a decision must be sought in the general application or otherwise of the measure in question (orders in Case C-10/95 P *Asocarne* v *Council* [1995] ECR I-4149, paragraph 28, and Case C-87/95 P *CNPAAP* v *Council* [1996] ECR I-2003, paragraph 33). A measure is of general application if it applies to objectively determined situations and produces its legal effects with respect to categories of persons envisaged generally and in the abstract (Case T-482/93 *Weber* v *Commission* [1996] ECR II-609, paragraph 55).

40 In the present case, the contested regulation ensures that the name 'miel de Provence' is given the protection of geographical indications provided for by Regulation No 2081/92, with geographical indication being defined in Article 2(2)(b) as the name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural product or a foodstuff originating in that region, specific place or country, which possesses a specific quality, reputation or other characteristics attributable to that geographical origin and the production and/or processing and/or preparation of which take place in the defined geographical area.

41 The protection afforded by registration consists in the use of the name 'miel de Provence' being reserved to those producers whose products satisfy the geographical and qualitative requirements set for the production of honey from Provence in the specification. As the Commission correctly stated, rather than being addressed to specific operators, such as the applicant, the contested regulation confers on all undertakings whose products satisfy the geographical and qualitative requirements laid down, the right to market them as 'miel de Provence', and denies that right to any whose products to not fulfil those conditions, which are identical for all undertakings. The contested regulation applies as much to all those producers of 'miel de Provence' legally authorised to use that name, as it does to all those — now and in the future (where appropriate, after expiry of the transitional period referred to in Article 13(2) of Regulation No 2081/92) — who are not authorised to use that name. It does not apply only to producers from the Member States, but also produces legal effects with respect to an unknown number of producers from third

countries wishing to export 'miel de Provence' (honey from Provence) in the Community, now or in the future.

42 The contested regulation is therefore a measure of general application within the meaning of the second paragraph of Article 249 EC. It applies to objectively determined situations and produces legal effects with respect to categories of persons envisaged in the abstract (see, to that effect, the orders in Case T-109/97 *Molkerei Großbraunshain and Bene Nahrungsmittel* v *Commission* [1998] ECR II-3533, paragraph 51; Case T-114/96 *Biscuiterie-Confiserie LOR and Confiserie du Tech* v *Commission* [1999] ECR II-913, paragraphs 27 to 29; and *CSR Pampryl* order, paragraphs 42 and 43).

43 However, a provision which, by virtue of its nature and scope, is of a legislative character may be of individual concern to natural or legal persons. That is so where the measure in question affects such persons 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 of a decision (*Plaumann* v *Commission*, p. 107; Case C-309/89 *Codorníu* v *Council* [1994] ECR I-1853, paragraphs 19 and 20; *Unión de Pequeños Agricultores* v *Council*, paragraph 36; and *Weber* v *Commission*, paragraph 56).

44 In this case, the applicant puts forward five arguments in support of its claim to be distinguished individually, but these do not reveal an attribute that is peculiar to the applicant, or a factual situation which differentiates it and consequently distinguishes it individually from the other economic operators concerned.

45 As regards the applicant's argument based on procedural rights, it should first be pointed out that neither the process of preparing legislative acts, nor the acts themselves, as measures of general application, require, by virtue of the general principles of Community law, such as the right to a fair hearing, the participation of the persons affected, their interests being deemed to be represented by the political bodies called upon to adopt those acts (order in *Molkerei Großbraunshain and Bene Nahrungsmittel* v *Commission*, paragraph 60; *CSR Pampryl* order, paragraph 50; and *La Conqueste* order, paragraph 42). Consequently, in the absence of expressly guaranteed procedural rights, it would be contrary to the wording and spirit of Article 230 EC to allow any individual, where he has participated in the preparation of a legislative measure, subsequently to bring an action against that measure (order in *Molkerei Großbraunshain and Bene Nahrungsmittel* v *Commission*, paragraph 68; *CSR Pampryl* order, paragraph 50; and *La Conqueste* order, paragraph 42).

46 The admissibility of the present action must therefore be assessed in the light only of those procedural safeguards specifically afforded to individuals by Regulation No 2081/92 (see, to that effect, *CSR Pampryl* order, paragraph 51).

47 Contrary to the applicant's claim, under the objection procedure provided for by that regulation, the procedural safeguards afforded to individuals fall exclusively within the scope of responsibility of the Member States and do not operate with respect to the Commission.

48 Article 7(1) of Regulation No 2081/92 thus grants only to the Member States the right to raise objections to registration before the Commission. Although, under Article 7(3) of that regulation, any legitimately concerned natural or legal person may also object to the proposed registration, he is required to do so by sending a duly substantiated statement to the competent authority of the Member State in which he resides or is established. That provision does not require the Member State concerned to forward that statement of objection to the Commission, but merely to take the necessary measures 'to consider' the objection within the deadlines laid down (*La Conqueste* order, paragraph 45). Furthermore, although the 13th recital in

the preamble to Regulation No 2081/92 provides that 'the registration procedure should enable any person individually and directly concerned in a Member State to exercise his rights by notifying the Commission of his opposition', such notification is given through the Member State. No provision in Article 7 of Regulation No 2081/92 authorises the Commission to consider an objection notified to it by anyone other than a Member State. Lastly, where an objection is acknowledged to be 'admissible' within the meaning of Article 7(4) of Regulation No 2081/92, Article 7(5) provides that the Commission is to ask the Member States concerned to seek agreement among themselves; it makes no provision for any intervention by individuals (*La Conqueste* order, paragraph 45).

49 The applicant cannot therefore reasonably rely on the argument that recital 5 in the preamble to the contested regulation expressly mentions that the statement of objection was sent by the German authorities, thereby proving that the Commission regarded the applicant as sole negotiator. As stated in the preceding paragraph, the Commission is not authorised to take account of an objection from an individual. Only objections raised by the Member States are admissible. Recital 5 in the preamble to the contested regulation thus merely describes the objection procedure established by Regulation No 2081/92 and consequently does not confer a procedural right on the applicant.

50 As regards the applicant's argument that the case-law relied on by the Commission relates to a different situation than that of the present case, it must be held that that case-law interprets Article 7 of Regulation No 2081/92 upon which the applicant relies, with the result that its argument must be rejected.

51 As regards the applicant's argument based on Regulation No 510/2006, as amended, the Court observes that that regulation does not apply in this case and it is not possible, therefore, to draw any conclusions in relation to the resolution of the present dispute. In any event, Regulation No 510/2006 could also be interpreted as ruling out the existence of such a safeguard in the scheme laid down by Regulation No 2081/92.

52 It must be added that the provisions of Article 7 of Regulation No 2081/92 relating to the right of individuals to raise objections differ fundamentally from the very specific provisions which exist in relation to dumping and subsidies, which give certain economic operators a particular role in the Community procedure leading to the adoption of an anti-dumping or anti-subsidy duty (see, to that effect, Case 191/82 *Fediol* v *Commission* [1983] ECR 2913, paragraphs 16 and 25). Therefore, the reference to the judgment in *Timex* v *Commission and Council*, in which the action brought by a complainant in an anti-dumping case was held to be admissible by reason, in particular, of the rights granted to complainants by the basic regulation, the active role played by that complainant in the preliminary anti-dumping investigation, and also the fact that the anti-dumping duty imposed was based on that complainant's own situation, and likewise the reference to the judgment in *Cofaz* v *Commission*, concerning procedural safeguards afforded to the complainant undertakings which entitled them to request the Commission to find that the Community rules on State aid had been infringed, are irrelevant in the present case.

53 It follows from the foregoing that Regulation No 2081/92 does not establish specific procedural safeguards at Community level for individuals (*CSR Pampryl* order, paragraph 55), and that the applicant therefore cannot rely on those procedural safeguards.

54 The applicant cannot reasonably rely on the fact that the contested regulation had a serious economic impact on its members' business either. The fact that an act of general application may have specific effects which differ according to the various persons to whom it applies is not such as to differentiate them in relation to all the other operators concerned where, as in the present case, that measure is applied on the basis of an objectively determined situation (Case T-138/98 *ACAV and Others* v *Council* [2000] ECR II-341, paragraph 66, and *La Conqueste* order, paragraph 37).

55 On the contrary, the applicant's member undertakings are concerned by the contested regulation only in their capacity as economic operators who produce or market honey and do not fulfil the requirements for the use of the PGI 'miel de

Provence'. They are therefore affected in the same way as any other undertakings whose products are equally non-compliant with the requirements of the Community legislation in question, not only from Germany, but also from other Member States of the Community and even from third countries.

56 The fact that the applicant's members have for a long time marketed their products under the name 'Honig aus der Provence' does not confer on them a specific right which distinguishes them individually. The applicant's situation is not thereby distinguished from that of the other producers who have also marketed their products as 'miel de Provence' and are no longer authorised to use that name, which is henceforth protected by its registration as a PGI (see, to that effect, the order in *Alpenhain-Camembert-Werk and Others* v *Commission*, paragraph 66, and the order in Case T-397/02 *Arla Foods and Others* v *Commission* [2005] ECR II-5365, paragraph 58).

57 The Court of Justice has expressly confirmed that the fact that, at the time of adoption of a regulation relating to registration of a protected geographical indication, an applicant had to adjust its production structure in order to fulfil the conditions laid down by that regulation is not sufficient for it to be individually concerned in a manner analogous to that of the addressee of a measure (order in Case C-151/01 P *La Conqueste* v *Commission* [2002] ECR I-1179, paragraph 35).

58 That outcome is not affected by the applicant's argument that it was individually concerned by the contested regulation, which is in reality a decision in respect of the applicant. As a measure of general application, the regulation cannot, in this case, be treated as a decision.

59 As regards, lastly, the applicant's argument relating to the requirement of effective judicial protection, it must be noted, first of all, that a direct action for annulment

could not be brought before the Community Court even if it could be shown, following an examination by that Court of the national procedural rules, that those rules do not allow an individual to bring proceedings to contest the validity of the Community measure at issue (order in Case C-258/02 P *Bactria* v *Commission* [2003] ECR I-15105, paragraph 58).

60 Furthermore, with regard to the requirement of individual concern laid down by the fourth paragraph of Article 230 EC, the Court has clearly established that, although that requirement 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 have the effect of setting aside the condition in question, which is expressly laid down in the Treaty, without the Community Courts going beyond the jurisdiction conferred on them by the Treaty. It follows that, if that requirement is not fulfilled, a natural or legal person does not, under any circumstances, have standing to bring an action for annulment of a regulation (*Unión de Pequeños Agricultores* v *Council*, paragraphs 37 and 44, and Case C-263/02 P *Commission* v *Jégo-Quéré* [2004] ECR I-3425, paragraph 36).

61 It follows from all the foregoing considerations that, in its capacity as an association of German honey producers, the applicant cannot be regarded as being individually concerned by the contested regulation within the meaning of the fourth paragraph of Article 230 EC.

62 It follows from the foregoing that, since the contested regulation is a measure of general application, and the applicant is not affected by reason of certain circumstances peculiar to the applicant, or by reason of a factual situation which differentiates it from all other persons and distinguishes it individually, the action is inadmissible.

Costs

63 Under Article 87(2) of the Rules of Procedure, 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 and the Commission has applied for costs, the applicant must be ordered to bear its own costs and to pay those of the Commission.

On those grounds,

THE COURT OF FIRST INSTANCE (First Chamber)

hereby orders:

1. The action is dismissed as inadmissible.

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

Luxembourg, 11 September 2007.

E. Coulon — Registrar

J.D. Cooke — President