

Case T-77/01

Territorio Histórico de Álava — Diputación Foral de Álava and Others

v

Commission of the European Communities

(Action for annulment — State aid — Aid in the steel sector —
Action for annulment — Article 33 CS — Action brought
by an intra-State authority — Inadmissibility)

Order of the Court of First Instance (Third Chamber, Extended Composition), 11 January 2002 II- 83

Summary of the Order

1. *Actions for annulment — Action based on Article 33 CS — Action brought by an intra-State authority — Inadmissible*
(Art. 33, first and second paras, CS)

2. *Actions for annulment — Action based on the second paragraph of Article 33 CS — Conditions for admissibility — Conditions more restrictive than those of the fourth paragraph of Article 230 EC — Restriction offset by more flexible rules on intervention*
(Art. 33, second para., CS; Art. 230, fourth para., EC; ECSC Statute of the Court of Justice, Art. 34; EC Statute of the Court of Justice, Art. 37)

1. The first paragraph of Article 33 CS cannot be the basis for declaring admissible an action for annulment brought by intra-State authorities against a Commission decision declaring aid granted to steel undertakings to be incompatible with the common market in coal and steel. It is apparent from the general scheme of the Treaties that the term Member State, within the meaning of the institutional provisions and, in particular, those relating to proceedings before the courts, refers only to government authorities of the Member States and cannot include the governments of regions or autonomous communities, irrespective of the powers they may have.
2. The conditions for admissibility stated in the second paragraph of Article 33 CS are more restrictive than those in the fourth paragraph of Article 230 EC. That restrictiveness as regards admissibility is offset by the fact that the rules governing intervention in actions brought under the ECSC Treaty are more flexible than the rules under the EC Treaty.

Moreover, since such intra-State authorities are neither undertakings nor associations of undertakings within the meaning of the second paragraph of Article 33 CS, they cannot bring an action for annulment under that provision either.

Where a Member State brings before the Court of Justice an action for annulment against a decision adopted under the ECSC Treaty, not only undertakings and associations of undertakings within the meaning of the second paragraph of Article 33 CS, but any other natural or legal person, and therefore also the intra-State authorities of the Member States, may intervene in the proceedings under Article 34 of the ECSC Statute of the Court of Justice, if it can establish an interest in the outcome of the case. There is no such range of capacity to intervene in the course of an action for annulment brought by a Member State against a decision adopted under the EC Treaty. Under Article 37 of the EC Statute of the Court of Justice, natural and legal persons are not entitled to intervene in actions between Member States and the institutions.

(see paras 26–27, 29)

(see paras 37–38)