

Case T-397/02

Arla Foods AMBA and Others

v

Commission of the European Communities

(Regulation (EC) No 1829/2002 — Registration of a designation of origin — ‘Feta’ —
Action for annulment — Standing to bring proceedings — Inadmissibility)

Order of the Court of First Instance (Third Chamber), 13 December 2005 . . . II - 5368

Summary of the Order

Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Regulation on the registration of geographical indications and designations of origin — Actions brought by undertakings producing ‘Feta’ cheese in a State other than that of the cheese’s origin — Regulations of the first State concerning the use of the name — Undertakings producing a large proportion of the ‘Feta’ cheese made in the European Union — No effect — Application inadmissible

(Art. 230, fourth para., EC; Council Regulation No 2081/1992; Commission Regulation No 1829/2002)

The action for annulment brought by Danish producers of feta cheese against Regulation (EC) No 1829/2002 amending the Annex to Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Regulation No 2081/92 is invalid, to the extent to which that regulation registered 'Feta' as a protected designation of origin under the headings 'Cheeses' and 'Greece'.

The contested regulation is a measure of general application within the meaning of the second paragraph of Article 249 EC. It applies to objectively determined situations and produces its legal effects *vis-à-vis* categories of persons envisaged in the abstract.

Moreover, the contested regulation is of concern to the applicants only in their capacity as economic operators producing or marketing cheese, and in particular those who have also marketed their products under the name 'Feta' or 'dansk Feta', which does not conform to the conditions for use of the protected designation of origin 'Feta' and are therefore affected in the same way as all other undertakings whose products are likewise not in conformity with the requirements of the Community provisions in question.

In that respect, the applicants cannot avail themselves of the Danish legislation which requires that the feta produced in that State to be clearly labelled as 'Danish Feta', to claim that they are in a specific situation of such a kind that they should be granted the right to bring an action against the contested regulation, unlike all other producers of Feta in the Community. In fact, first, it confers no specific right on the applicants. Secondly, even if the applicants possess a special right, recognised by the national legislation, they are not individually concerned since the name 'dansk Feta' is not a designation of origin or geographical indication protected under Regulation No 2081/92. In contrast to the situation with respect to trade marks, where a system for protection regulated at national level coexists with the Community system, those designations of origin and geographical indications can be protected in a Member State only if they are registered at Community level in accordance with the Basic Regulation.

Furthermore, even if it were assumed that that legislation might be regarded as introducing a quality label, that would not be sufficient to distinguish the applicants from all producers of Feta who fulfil the obligations laid down by the legislation at issue.

Lastly, the applicants' position is not distinguished by reason of the fact that they produce a large proportion of the Feta cheese made in the European Union, since the fact that an undertaking holds a large share of the relevant market is not sufficient in itself to distinguish that undertaking from all other economic operators concerned by the contested regulation. Likewise, the fact that an applicant is, at the time when a regulation for the registration of a designation of origin is adopted, in a situation such that it must

adapt its production structure in order to comply with the conditions laid down by the regulation is not sufficient for the applicant to be individually concerned in the same way as an addressee of the measure would be.

(see paras 53, 55-56, 61, 63,
67, 69, 71, 76)