

Case T-204/03

Haladjian Frères SA

v

Commission of the European Communities

(Competition — Article 81 EC — Article 82 EC — Distribution of replacement parts — Parallel imports — Complaint — Rejection decision)

Judgment of the Court of First Instance (First Chamber), 27 September 2006 II - 3783

Summary of the Judgment

1. *Competition — Administrative procedure — Examination of complaints*
(Council Regulation No 17; Commission Regulation No 2842/98)
2. *Competition — Administrative procedure — Examination of complaints — Obligations of the Commission*
(Arts 81 EC and 82 EC)
3. *Actions for annulment — Commission decision requiring a complex economic assessment*
(Arts 81 EC, 82 EC and 230 EC)

4. *Competition — Agreements, decisions and concerted practices — Agreements between undertakings — Effect on trade between Member States — Criteria*
(Art. 81(1) EC)
5. *Competition — Administrative procedure — Examination of complaints — Extreme delay*
(Arts 81 EC and 82 EC)
6. *Competition — Administrative procedure — Obligations of the Commission*
(Arts 81 EC and 82 EC)
7. *Acts of the institutions — Statement of reasons — Obligation — Scope*
(Arts 81 EC, 82 EC and 253 EC)

1. Neither Regulation No 17 nor Regulation No 2842/98 on the hearing of parties in certain proceedings under Articles [81 EC] and [82 EC] contains express provisions relating to the action to be taken concerning the substance of a complaint and any obligations on the part of the Commission to carry out an investigation. In fact, the Commission is under no obligation to initiate procedures to establish possible infringements of Community law and the rights conferred on complainants by Regulations No 17 and No 2842/98 do not include the right to obtain a final decision as to the existence or non-existence of the alleged infringement.

seek evidence of the existence or non-existence of an infringement which it is not required to establish. Furthermore, even when such an investigation has been carried out, no provision of secondary law gives the complainant the right to insist that the Commission take a final decision as to the existence or non-existence of the alleged infringement. The existence of the discretion recognised to the Commission in examining complaints does not depend on the more or less advanced stage of the investigation of a case.

(see paras 27, 28)

Since the Commission is under no obligation to rule on the existence or non-existence of an infringement, it cannot be compelled to carry out an investigation, because such an investigation could have no purpose other than to

2. Following a complaint alleging infringement of Articles 81 EC and 82 EC, the Commission is not required to initiate a

proceeding seeking to establish those infringements, but only to examine carefully the elements of fact and of law brought to its attention by the complainant with a view to determining whether those elements reveal conduct of such a kind as to distort competition within the common market and affect trade between Member States. When the Commission decides to proceed with an investigation, it must, in the absence of a duly substantiated statement of reasons, conduct it with the requisite care, seriousness and diligence so as to be able to assess with full knowledge of the case the factual and legal particulars submitted for its appraisal by the complainants.

(see paras 29, 212)

3. In the context of an action for annulment of a Commission decision rejecting a complaint alleging infringement of the Community competition rules, the Court must assess whether the contested decision contains an appropriate examination of the factual and legal particulars submitted for the Commission's appraisal in the context of the administrative procedure. In that regard, the judicial review of Commission measures involving appraisal of complex economic matters, as is the case for allegations of infringements of Articles 81 EC and 82 EC, is limited to verifying whether the relevant rules on procedure and on the statement of reasons have been com-

plied with, whether the facts have been accurately stated and whether there has been any manifest error of appraisal or a misuse of powers.

(see para. 30)

4. In order to justify the application of the competition rules to an agreement concerning products purchased in the United States for sale in the Community, that agreement must, on the basis of a range of elements of fact and of law, make it possible to envisage with a sufficient degree of probability that it is capable of having a more than insignificant influence on competition in the Community and on trade between Member States. The mere fact that conduct produces certain effects, no matter what they may be, on the Community economy does not in itself constitute a sufficiently close link to be able to found Community competence. In order to be capable of being taken into account, that effect must be substantial, that is to say, appreciable and not negligible.

(see para. 167)

5. The excessive amount of time it may have taken to deal with a complaint alleging infringement of the Community

competition rules cannot, as a rule, affect the actual content of the final decision adopted by the Commission. It cannot, save in exceptional circumstances, alter the substantive matters which, according to the case, determine whether or not the existence of an infringement of the competition rules is established or give the Commission good reason not to conduct an investigation. The length of time taken to investigate the complaint is not, as a rule, prejudicial to the complainant when the complaint is rejected.

(see para. 193)

6. The observance by the Commission of a reasonable time when adopting decisions following administrative procedures in the matter of competition policy constitutes an application of the principle of sound administration. Whether or not the duration of an administrative procedure of that kind is

reasonable must be determined in relation to the particular circumstances of the case and, in particular, its context, the various procedural stages to be gone through by the Commission, the complexity of the case and its importance for the various parties involved.

(see para. 195)

7. In stating the reasons for the decision which it is led to take in order to apply the competition rules, the Commission is not obliged to adopt a position on all the arguments relied on by the parties concerned in support of their request; it is sufficient if it sets out the facts and legal considerations having decisive importance in the context of the decision.

(see para. 199)