



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 80/12**

Luxembourg, 14 June 2012

Judgment in Case C-158/11

Auto 24 SARL v Jaguar Land Rover France SAS

**In order to enjoy an exemption, quantitative selective distribution systems in the motor vehicle sector do not have to be based on criteria that are objectively justified and applied in a uniform and non-differentiated manner in respect of all applicants for authorisation**

EU law prohibits agreements between undertakings which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market. However, when certain conditions are fulfilled, an exemption to that prohibition may apply.

In that context, and in the interests of legal certainty, the motor vehicle sector is covered by a specific exemption regulation<sup>1</sup> which declares the prohibition inapplicable to 'vertical agreements'<sup>2</sup> concluded between the different actors in the supply chain (manufacturers, repairers, distributors). The benefit of that regulation is limited to vertical agreements which can be assumed with sufficient certainty to improve economic efficiency within the production or distribution chain.

In connection with the sale of new motor vehicles, a 'selective distribution system' is a method of distribution where the supplier undertakes to sell the contract goods or services, either directly or indirectly, only to distributors or repairers selected on the basis of 'specified criteria'. Two types of selective distribution systems are caught by the exemption regulation: *quantitative* selective distribution systems and *qualitative* selective distribution systems. In the first type of system, in order to select distributors, the supplier uses criteria which directly limit their number. In the second type of system, the supplier uses purely qualitative criteria for the selection of distributors which are laid down uniformly for all distributors and applied in a non-discriminatory manner, and do not directly limit the number of distributors.

The present case concerns the quantitative selective distribution system established by Jaguar Land Rover France (JLR), which refused to appoint the French company Auto 24 as an authorised distributor of new Land Rover motor vehicles in Périgueux (France). JLR's distribution system provided for the possibility of concluding 72 dealership agreements for 109 sites, set out in a table in which the town of Périgueux does not feature.

Auto 24 brought an appeal before the Cour de cassation (France) seeking, in essence, compensation for the loss resulting from the refusal to appoint it as an authorised JLR distributor in Périgueux. That court asks the Court of Justice to interpret the term '*specified criteria*'. In essence, the question is whether, in order to benefit from that regulation, a quantitative selective distribution system must be based on criteria which are objectively justified and applied in a uniform manner in respect of all applicants for authorisation.

As a preliminary point, the Court points out that **non-compliance with a condition to which the benefit of the exemption regulation is subject cannot, in itself, give rise to damages under**

<sup>1</sup> Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector (OJ 2002 L 203, p. 30).

<sup>2</sup> Vertical agreements are concluded between undertakings which operate at different levels in the production or distribution chain and concern, in particular, the conditions of sale or purchase.

**EU competition law or oblige a supplier to accept an applicant distributor into a distribution system.**

As regards the interpretation of the term 'specified criteria' within the meaning of the exemption regulation, the Court explains that it refers to criteria whose precise content may be verified. It states that it is not necessary that the selection criteria used be published, at the risk of compromising business secrets, or even facilitating possible collusive behaviour.

The Court points out that **the exemption regulation lays down distinct conditions for application according to whether the system in question is classified as 'quantitative selective distribution' or 'qualitative selective distribution'**. Therefore, if, in the context of the regulation, the quantitative selection criteria had to be objective and non-discriminatory, that would result in a conflation of the conditions required by the regulation for the application of the exemption regulation to qualitative selective distribution systems and those required for the application of the exemption to quantitative selective distribution systems.

Consequently, the Court's answer is that, **in order to benefit from the exemption regulation, a quantitative selective distribution system must be based, inter alia, on criteria whose precise content may be verified, but it is not necessary for such a system to be based on criteria which are objectively justified and applied in a uniform and non-differentiated manner in respect of all applicants for authorisation.**

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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