

# Case T-154/98

## Asia Motor France SA and Others

v

## Commission of the European Communities

(Competition — Article 85 of the EC Treaty (now Article 81 EC) — Obligations regarding the investigation of complaints — Legality of grounds for rejection — Manifest error of assessment — Article 176 of the EC Treaty (now Article 233 EC) — Admissibility of a new plea in law)

Judgment of the Court of First Instance (Fifth Chamber), 26 October 2000 II - 3456

### Summary of the Judgment

- 1. Actions for annulment — Decision of the Commission involving an appraisal of complex economic matters — Judicial review — Limits — Respect for the rights guaranteed in administrative procedures  
(EC Treaty, Art. 173 (now, after amendment, Art. 230 EC))*
- 2. Competition — Administrative procedure — Investigation of complaints — Duties of the Commission  
(Council Regulation No 17, Art. 3; Commission Regulation No 99/63, Art. 6)*

3. *Actions for annulment — Judgment annulling a measure — Effects*  
(*EC Treaty, Art. 176 (now Art. 233 EC)*)

1. Judicial review of Commission measures involving an appraisal of complex economic matters must be limited to verifying whether the relevant rules on procedure and on the statement of reasons have been complied with, whether the facts have been accurately stated and whether there has been any manifest error of assessment or a misuse of powers. Where the Commission has a power of assessment in order to carry out its duties, respect for the rights guaranteed by the Community legal order in administrative procedures is of even more fundamental importance. Those guarantees include, in particular, the duty of the competent institution to examine carefully and impartially all the relevant aspects of the individual case.

(see paras 53-54)

particulars brought to its notice by the complainant in order to decide whether they disclose conduct of such a kind as to distort competition in the common market and affect trade between the Member States.

Although the Commission is not obliged to investigate each of the complaints lodged with it, in contrast, once it 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 for it 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 55-56)

2. In the context of investigating applications submitted to the Commission pursuant to Article 3 of Regulation No 17, 'although the Commission cannot be compelled to conduct an investigation, the procedural safeguards provided for by Article 3 of Regulation No 17 and Article 6 of Regulation No 99/63 oblige it nevertheless to examine carefully the factual and legal

3. In order to comply with a judgment annulling a measure and to implement it fully, the institution responsible for the annulled measure is required to observe not only the operative part of the judgment but also to take full account of the grounds which led to the judgment and constitute its essen-

tial basis, inasmuch as they are necessary to determine the exact meaning of what is stated in the operative part. It is those grounds which, on the one hand, identify the precise provision held to be unlawful and, on the other, indicate the specific reasons which underlie the finding of illegality contained in the

operative part and which the institution concerned must take into account when replacing the annulled measure.

(see para. 101)