

Case T-14/93

Union Internationale des Chemins de Fer v Commission of the European Communities

(Competition — Transport by rail — Legal basis for a decision —
Regulation No 1017/68 — Travel agents — Sale of international tickets)

Judgment of the Court of First Instance (Third Chamber, Extended Composition), 6 June 1995 II - 1505

Summary of the Judgment

1. *Competition — Transport — Rules governing competition — Transport by rail — Regulation No 1017/68 — Scope — Decision of an association of railway undertakings laying down conditions for the accreditation of travel agencies authorized to issue international railway tickets and the conditions of sale of tickets — Included*
(Council Regulation No 1017/68, Arts 1 and 2)
2. *Actions for annulment of measures — Pleas in law — Breach of an essential procedural requirement — Error in law involving the application of Regulation No 17 instead of Regulation No 1017/68 in proceedings concerning an infringement of the rules governing competition — Deprivation of procedural safeguards*
(EEC Treaty Art. 173; Council Regulations Nos 17 and 1017/68)

1. A decision of an association of railway undertakings which lays down conditions for the accreditation of travel agencies authorized to issue international railway tickets and the conditions under which accredited agencies may sell such tickets, in particular as regards the prices to be charged to customers and the commissions which they may receive falls within the scope of Regulation No 1017/68 applying rules of competition to transport by rail, road and inland waterway.
2. There are fundamental differences between Regulation No 17, implementing Articles 85 and 86 of the Treaty, and Regulation No 1017/68, applying rules of competition to transport by rail, road and inland waterway, as regards the notification of agreements, the committees to be consulted by the Commission during the administrative procedure and the role to be played by the Council in that procedure.

The travel agency operations with which such a decision is concerned — namely the conclusion of contracts of carriage on behalf of a principal and the issuing of tickets — are related to, and indispensable for, the provision of rail transport services and must be regarded as operations of providers of services ancillary to transport within the meaning of Article 1 of that regulation.

The error in law committed by the Commission in adopting a decision concerning an association of undertakings pursuant to Regulation No 17 where Regulation No 1017/68 was applicable consequently amounted to a breach of an essential procedural requirement and had the effect of depriving the association concerned of the procedural safeguards to which it was entitled in the context of Regulation No 1017/68, so that the decision must be annulled.