

Case T-321/04

Air Bourbon SAS

v

Commission of the European Communities

(State aid — Decision not to raise objections — Action for annulment — Period for instituting proceedings — Publication of a summary notice — Inadmissibility)

Order of the Court of First Instance (Fourth Chamber), 19 September 2005 II - 3471

Summary of the Order

Actions for annulment — Time-limits — Starting point — Publication or notification — Day on which a measure came to the knowledge of the applicant — Subsidiary nature — Commission decision addressed to a Member State finding State aid compatible with the common market without initiating the formal investigation procedure — Publication — Definition

(Art. 230, fifth para., EC; Council Regulation No 659/1999, Art. 26(1))

II - 3469

It follows from the wording itself of the fifth paragraph of Article 230 EC that the criterion of the day on which the contested decision came to the knowledge of the applicant as the start of the period for instituting proceedings is subsidiary to the criteria of publication or notification of the measure.

The provision by the Commission of access to a full version of the text of a decision placed on its website, coupled with the publication of a summary notice in the *Official Journal of the European Union* allowing interested parties to identify the decision in question and informing them of the possibility of viewing it on the internet,

must be considered to constitute publication within the meaning of the fifth paragraph of Article 230 EC.

The right of an interested party to obtain a copy of such a decision provided for in Article 20(3) of Regulation No 659/1999 laying down detailed rules for the application of Article [88 EC] does not undermine that conclusion.

(see paras 32, 34-35)