

Case T-49/97

TAT European Airlines SA

v

Commission of the European Communities

(State aid — Air transport — Authorisation of aid payable in three tranches — Action brought against the decision authorising payment of the third tranche — Adoption of a fresh decision authorising the aid in implementation of a judgment annulling an earlier decision — No need to adjudicate — Conditions)

Order of the Court of First Instance (Second Chamber, Extended Composition), 27 January 2000 II- 53

Summary of the Order

1. *Actions for annulment — Action contesting a decision implementing an annulled decision authorising State aid — Adoption by the Commission of a fresh decision authorising the aid which replaces, but does not confirm, the contested implementing decision — Interest in continuing an action for the annulment of the implementing decision — No subsisting interest*
(EC Treaty, Art. 173 (now, after amendment, Art. 230 EC))

2. *Procedure — Amendment of the pleadings in the course of the proceedings — Detailed rules — Mere manifestation of an intention to contest an act — Insufficient to constitute an amendment of the pleadings*
(*Rules of Procedure of the Court of First Instance, Art. 44*)

1. Where a Commission decision authorising State aid has been annulled in its entirety by the Community judicature, the effect of that annulment is to remove the legal basis and *raison d'être* for every implementing decision by which the Commission authorised payment of the various tranches of the aid in question. An act by which the Commission subsequently reaffirms that the aid is compatible with the common market and renews authorisation for payment of the various tranches must be regarded as an autonomous act replacing the earlier authorisation decisions, not as an act which merely confirms them.
- (see paras 32-36)
2. Just as it cannot take the place of an application in conformity with the requirements of Article 44 of the Rules of Procedure of the Court of First Instance, a mere manifestation of an intention of challenging a particular act cannot be treated as an amendment of the pleadings in an action in progress, an option open to applicants in special circumstances and by way of exception.

Adoption of that new act — which is an instrument creating or altering legal rights and therefore amounts to a new act so far as concerns authorisation of payment of the tranches — causes an applicant to lose all legitimate interest in continuing an action directed to

(see para. 41)