

Case T-7/92

Asia Motor France SA and Others

v

Commission of the European Communities

(Competition — Obligations with regard to the investigation of complaints —
Legality of grounds for rejection —
Manifest error of assessment — Error of law)

Judgment of the Court of First Instance (Second Chamber), 29 June 1993 II - 671

Summary of the Judgment

1. *Acts of the institutions — Statement of reasons — Obligation — Scope — Decision applying the competition rules*
(EEC Treaty, Art. 190)
2. *Actions for annulment — Commission decision involving an appraisal of complex economic matters — Judicial review — Limits — Respect for the guarantees conferred on the individual*
(EEC Treaty, Art. 173)
3. *Competition — Administrative procedure — Examination of complaints — Obligations of the Commission*
(Council Regulation No 17, Art. 3; Commission Regulation No 99/63, Art. 6)
4. *Competition — Community rules — Application — Anti-competitive conduct fostered by the authorities of a Member State — No effect*
(EEC Treaty, Art. 85)

1. The statement of reasons of a decision adversely affecting a person must be such as to enable the person concerned to ascertain the matters justifying the measure adopted so that he can if necessary defend his rights and verify whether or not the decision is well founded and to enable the Community judicature to exercise its power of review.

The Commission is not obliged to adopt a position, in stating the reasons for the decisions which it is required to take in order to apply the competition rules, on all the arguments relied on before it by the parties concerned. It is sufficient if it sets out the facts and legal considerations having decisive importance in the context of the decision.

2. 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 appraisal or a misuse of powers.

Where the Commission has a power of appraisal in connection with the performance of its duties, respect for the rights guaranteed by the Community legal order in administrative procedures assumes fundamental importance. Those guarantees

include, in particular, the duty of the Commission to examine carefully and impartially all the relevant aspects of the individual case.

3. 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 6 of Regulation No 99/63 oblige it nevertheless to examine carefully the factual and legal 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.

Likewise, once it decides to proceed with an investigation, the Commission must, in the absence of a duly substantiated statement of reasons, conduct it with the requisite care, seriousness and diligence so as to be able to assess with full knowledge of the case the factual and legal particulars submitted for its appraisal by the complainants.

4. The fact that anti-competitive conduct was fostered or encouraged by the authorities of a Member State has in itself no bearing on the applicability of Article 85 of the Treaty.