

Case C-264/95 P

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

(Appeal — Competition — Transport by rail —
Legal basis for a decision — Regulation No 1017/68 — Scope)

Opinion of Advocate General Lenz delivered on 11 July 1996	I - 1289
Judgment of the Court, 11 March 1997	I - 1312

Summary of the Judgment

1. *Competition — Transport — Competition rules — Transport by rail — Regulation No 1017/68 — Scope — Clause inserted in agreements of an association of railway companies, prohibiting accredited travel agents from favouring means of transport in competition with rail — Whether included*
(Council Regulations Nos 17, 141 and 1017/68)
2. *Appeals — Pleas in law — Plea against a ground of the judgment not necessary to support the operative part — Plea inoperative*

1. Regulation No 1017/68 applying rules of competition to transport by rail, road and inland waterway applies *inter alia*, in accordance with Article 1 thereof, to agreements which have as their object or effect the fixing of transport rates or the limitation or control of the supply of transport. Its application depends upon the nature of the agreements in question, and not upon the prior identification of the market on which those agreements produce their effects.

In that respect, a clause inserted in agreements of an association of railway companies prohibiting accredited travel agents from favouring, in their advertising, proposals or advice to the public, means of transport in competition with rail falls within the transport sector and not under Regulation No 17. Indeed, it was the whole of the transport sector which was removed from the scope of the latter regulation by Regulation No 141, which

was subsequently replaced by three sectoral regulations, including Regulation No 1017/68 relating to land, and thus to rail, transport.

In the first place, such a clause is intended to produce effects, if not its principal effects, in the land transport sector, since it imposes upon accredited travel agents a neutrality deemed to be favourable to the supply of rail transport. Secondly, it forms part of a series of decisions by an association of undertakings the essential clauses of which fall within the scope of Regulation No 1017/68.

2. On an appeal, a plea that is directed against a supererogatory ground of a judgment of the Court of First Instance, the operative part of which is already sufficiently supported on other legal grounds, must be dismissed.