

Case C-341/00 P

Conseil national des professions de l'automobile (CNPA) and  
Others

v

Commission of the European Communities

(Appeal — Regulation (EC) No 2790/1999 —  
Appeal clearly unfounded and clearly inadmissible)

Order of the Court (Fifth Chamber), 5 July 2001 . . . . . I-5266

Summary of the Order

1. *Actions for annulment — Natural or legal persons — Acts of direct and individual concern to them — Commission regulation on the application of Article 81(3) EC to categories of vertical agreements and concerted practices — Action brought by distributor undertakings bound by the vertical agreements in question and associations representing the interests of such undertakings — Inadmissibility (Arts 230, fourth para., EC and 249 EC; Commission Regulation No 2790/1999)*

2. *Appeals — Grounds — Plea submitted for the first time in the appeal — Inadmissibility*  
(EC Statute of the Court of Justice, Art. 51)
3. *Actions for annulment — Natural or legal persons — Acts of direct and individual concern to them — Absolute bar to proceedings — Seriousness of the infringement by the institution concerned — No effect*  
(Art. 230, fourth para., EC)
4. *Procedure — Intervention — Main proceedings manifestly inadmissible — Order ruling inadmissible delivered before an application to intervene is allowed and the time-limit for making such an application has not yet expired — Whether permissible*  
(EC Statute of the Court of Justice, Arts. 37 and 46; Rules of Procedure of the Court of First Instance, Arts 111, 114(4) and 116(3))

1. The Court of First Instance did not err in law in finding that Commission Regulation No 2790/1999 on the application of Article 81(3) EC to categories of vertical agreements and concerted practices is, in view of its scope, legislative in character and therefore not a decision within the meaning of Article 249 EC.

objective capacity as economic operators bound by vertical agreements.

(see paras 25-27)

Furthermore, the Court of First Instance correctly applied the settled case-law of the Court of Justice to the effect that natural or legal persons can be considered to be individually concerned only if the measure in question affects them because of certain attributes which are peculiar to them or by reason of circumstances in which they are differentiated from all other persons. In this case, Regulation No 2790/1999 is of concern to the appellants only by reason of their

2. To allow a party to submit for the first time before the Court of Justice a plea which it has not submitted before the Court of First Instance would enable it to refer to the Court of Justice, which has limited jurisdiction on appeal, a broader case than that considered by the Court of First Instance. On appeal the jurisdiction of the Court of Justice is therefore limited to review of the findings of the Court of First Instance with regard to the pleas originally considered by that Court.

(see para. 29)

3. The condition laid down in the fourth paragraph of Article 230 EC that proceedings brought by a natural or legal person against a decision addressed to another person are admissible only if the decision is of direct and individual concern to the former raises an absolute bar to proceeding which the Community judicature may consider at any time, even of its own motion. The seriousness of the alleged infringement by the institution concerned cannot, in any event, render inapplicable the rules on admissibility expressly laid down by the Treaty.

(see para. 32)

4. Where the application in the main proceedings is such that it must be declared inadmissible without going into the substance of the case, the Court of First Instance may, under

Article 114(4) of its Rules of Procedure, close the case before an application to intervene has been allowed, even where the time-limit for making such an application has not yet expired. First, under Article 37 of the Statute of the Court of Justice, which, pursuant to Article 46 thereof, also applies to the Court of First Instance, submissions made in an application to intervene must be limited to supporting the form of order sought by one of the parties and, second, under Article 116(3) of the Rules of Procedure of the Court of First Instance, the intervener must accept the case as he finds it at the time of his intervention. It follows that, where the application in the main proceedings is manifestly inadmissible, a third party cannot be held to be in a position to establish an interest in the result of the case or intervene in support of the form of order sought by one of the parties.

(see paras 33-37)