1. *the application is dismissed as inadmissible;*

2. *there is no need to rule on the application to intervene;*

3. *the applicant is ordered to bear its own costs and to pay the costs of the Commission. The Hellenic Republic is ordered to bear the costs incurred by it in connection with the submission of its application to intervene.*

(1) OJ No C 208, 12. 8. 1995.

ORDER OF THE COURT OF FIRST INSTANCE

of 13 November 1995

in Case T-127/95: Société auxiliaire d'entreprises v. Commission of the European Communities (1)

(Refusal by the Commission to initiate Treaty infringement proceedings — Action for annulment — Action for declaration of failure to act — Inadmissible)

(96/C 16/31)

(Language of the case: French)

In Case T-127/95: Société auxiliaire d'entreprises, established at Issy-les-Molineaux (France), represented by Alexandre Carnelutti, of the Paris Bar, v. Commission of the European Communities (Agent: Henrik van Lier) — application, primarily, for the annulment of the decision of the Commission of 29 March 1995 not to initiate proceedings against the Hellenic Republic for infringement of Community law with respect to the award of the public contract for the new Athens airport on the Spata site, alternatively, for a declaration that the Commission has failed to act — the Court of First Instance (Third Chamber), composed of C.P. Briët, President, and B. Vesterdorf and A. Potocki, Judges; H. Jung, Registrar, made an order on 13 November 1995, the operative part of which is as follows:

1. *the application is dismissed as inadmissible;*

2. *there is no need to rule on the application to intervene;*

3. *the applicant is ordered to bear its own costs and to pay the costs of the Commission. The Hellenic Republic is ordered to bear the costs incurred by it in connection with the submission of its application to intervene.*

(1) OJ No C 208, 12. 8. 1995.

ORDER OF THE COURT OF FIRST INSTANCE

of 13 November 1995

in Case T-128/95: Aéroports de Paris v. Commission of the European Communities (1)

(Refusal by the Commission to initiate Treaty infringement proceedings — Action for annulment — Action for declaration of failure to act — Inadmissible)

(96/C 16/32)

(Language of the case: French)

In Case T-128/95: Aéroports de Paris, established in Paris, represented by Hugues Calvet, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand-Rue, v. Commission of the European Communities (Agent: Henrik van Lier) — application, primarily, for annulment of the decision of the Commission of 29 March 1995 not to initiate proceedings against the Hellenic Republic for infringement of Community law with respect to the award of the public contract for the new Athens airport on the Spata site, alternatively, for a declaration that the Commission has failed to act — the Court of First Instance (Third Chamber), composed of C.P. Briët, President, and B. Vesterdorf and A. Potocki, Judges; H. Jung, Registrar, made an order on 13 November 1995, the operative part of which is as follows:

1. *the application is dismissed as inadmissible;*

2. *there is no need to rule on the application to intervene;*

3. *the applicant is ordered to bear its own costs and to pay the costs of the Commission. The Hellenic Republic is ordered to bear the costs incurred by it in connection with the submission of its application to intervene.*

(1) OJ No C 208, 12. 8. 1995.

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE

of 7 November 1995

in Case T-168/95 R: Eridania Zuccherifici Nazionali SpA and Others v. Council of the European Union

(96/C 16/33)

(Language of the case: Italian)

In Case T-168/95 R: Eridania Zuccherifici Nazionali SpA, established in Genoa (Italy), Industria Saccarifera Italiana Agroindustriale SpA (ISI), established in Padua (Italy), Sadam Zuccherifici, established in Bologna (Italy), Sadam Castiglionese SpA, established in Bologna, Sadam Abruzzo SpA, established in Bologna, Zuccherificio del Molise SpA,

established in Termoli (Italy), Societá Fondiaria Industriale Romagnola SpA (SFIR), established in Cesena (Italy), Ponteco Zuccheri SpA, established in Pontelagoscuro (Italy), represented by Bernard O'Connor, Solicitor, and by Ivano Vigliotti and Paolo Crocetta, of the Genoa Bar, with an address for service in Luxembourg at the Chambers of Arsène Kronshagen, 12 Boulevard de la Foire, against the Council of the European Union (Agents: Jan-Peter Hix and Marco-Umberto Moricca) — application for suspension of the operation of Article 1 (f) of Council Regulation (EC) No 1534/95 of 29 June 1995 fixing, for the 1995/96 marketing year, the derived intervention prices for white sugar, the intervention price for raw sugar, the minimum prices for A and B beet, and the amount of compensation for storage costs (OJ No L 148, p. 11) — the President of the Court of First Instance made an order on 7 November 1995, the operative part of which is as follows:

1. *the application for the adoption of interim measures is dismissed;*

2. *the costs are reserved.*

Action brought on 16 October 1995 by Fintecna SpA against the Commission of the European Communities

(Case T-193/95)

(96/C 16/34)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 16 October 1995 by Fintecna SpA, whose registered office is in Rome (Italy), represented by Professor Antonio Tizzano and Gian Michele Roberti, both of the Naples Bar, with an address for service in Brussels at the Chambers of Professor Tizzano, 36 Place du Grand Sablon.

The applicant claims that the Court should:

— annul Article 1 (4) of the contested Decision,

— order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

The applicant, a company in which the IRI has a 100 % controlling interest and to which the assets of Iritecna (an IRI subholding, subsequently placed in liquidation), which were either economically viable or potentially such if removed from Iritecna during its restructuring, were transferred for Lit 1 653 billion, seeks the partial annulment of the Commission's Decision of 7 June 1995 concerning aid of approximately ECU 2 116 million granted to Iritecna by the Italian State.

Pursuant to Article 92 (3) of the Treaty, the Commission made the authorization of that aid subject to a number of conditions, some entailing specific legal obligations of a highly restrictive nature, with which the applicant must comply. In particular, the applicant is required to:

— reduce Iritecna's liquidation debts by selling all its assets to (private) third parties and assigning the proceeds to cover those debts,

— assign the entire proceeds of that sale, to be set off against Iritecna's debts, even if those proceeds exceed the amount forecast in the decision; the Commission estimated that the privatization of Fintecna might raise Lit 1 653 billion, matching the price paid by Fintecna for the Iritecna shares.

The applicant claims, first, that the Commission cannot require it to reduce the aid deriving from Iritecna's liquidation by selling all its assets to private third parties and setting the proceeds against Iritecna's debts. The applicant maintains that the aid in question was directly proportionate to the liquidation and restructuring effected and could therefore be authorized in accordance with the criteria laid down by the Commission itself concerning State aids for the restructuring of undertakings.

Secondly, the applicant submits that, even assuming that it was under an obligation to help reduce Iritecna's debts, the Commission has made its performance of that obligation subject to conditions which are excessively restrictive and totally unjustified.

As regards the need to prevent the distortion of competition, the applicant points out that the sacrifices made in terms of reducing the group's economic capacity more than qualify for the aid in question. Furthermore, that aid merely covered the costs directly connected with the restructuring and liquidation of Iritecna, and did not finance any other intervention liable to distort competition.

Nor can it be contended that the contested conditions are justifiable in view of the fact that the undertaking's property is publicly, not privately, owned. That would be contrary to the principle of equal treatment of private and public undertakings laid down by Articles 222 and 90 of the Treaty.

Lastly, the applicant asserts that, in the present case, the Commission should merely have verified that, of all the various possible options, the plan drawn up by the holding company (IRI) constituted the most reasonable choice from the financial point of view.
