ORDER OF THE COURT
5 March 1999 *

In Case C-153/98 P,

Guérin Automobiles EURL, a company in judicial liquidation, established at Alençon (France), acting in the person of Xavier Lemée, liquidator, represented by Jean-Claude Fourgoux, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Pierrot Schiltz, 4 Rue Béatrix de Bourbon,

appellant,

APPEAL against the order of the Court of First Instance of the European Communities (Second Chamber) of 13 February 1998 in Case T-275/97 *Guérin Automobiles* v *Commission* [1998] ECR II-253, seeking to have that order set aside,

the other party to the proceedings being:

Commission of the European Communities, represented by Giuliano Marenco, Legal Adviser, and Guy Charrier, a national expert on secondment to its Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, also of its Legal Service, Wagner Centre, Kirchberg,

defendant at first instance,

* Language of the case: French.

THE COURT,

composed of: G. C. Rodríguez Iglesias, President, P. J. G. Kapteyn, J.-P. Puissochet, G. Hirsch, P. Jann (Presidents of Chambers), G. F. Mancini, J. C. Moitinho de Almeida, C. Gulmann, J. L. Murray, D. A. O. Edward, H. Ragnemalm, L. Sevón and M. Wathelet (Rapporteur), Judges,

Advocate General: G. Cosmas,
Registrar: R. Grass,

after hearing the Opinion of the Advocate General,

makes the following

Order

Facts and procedure

1 By application lodged at the Court Registry on 17 April 1998, Guérin Automobiles EURL (hereinafter 'Guérin Automobiles') brought an appeal under Article 49 of the EC Statute of the Court of Justice against the order of the Court of First

Instance of 13 February 1998 in Case T-275/97 *Guérin Automobiles* v *Commission* [1998] ECR II-253 ('the contested order'), in which the Court dismissed as inadmissible its application for the annulment of Commission Decision SG(97) D/3183 of 25 April 1997 rejecting the complaint by which Guérin Automobiles challenged the standard distribution contract for Nissan cars in France and its application.

Guérin Automobiles was originally a dealer, *inter alia*, for Nissan cars. Its dealership contract of indefinite duration with the French importer of cars of that make was terminated on 8 January 1991.

On 27 May 1994, it addressed to the Commission a complaint concerning Nissan France SA under Article 3 of Regulation No 17 of the Council of 6 February 1962, the first regulation implementing Articles 85 and 86 of the Treaty (OJ, English Special Edition 1959-1962, p. 87). By that complaint, it challenged the distribution system implemented by the manufacturer and requested the withdrawal of the exemption under Commission Regulation (EEC) No 123/85 of 12 December 1984 on the application of Article 85(3) of the Treaty to certain categories of motor vehicle distribution and servicing agreements (OJ 1985 L 15, p. 16).

Guérin Automobiles was declared insolvent by judgment of the Tribunal de Commerce (Commercial Court), Alençon, of 22 May 1995. Maître Lemée, its legal representative, was appointed as liquidator of the company.

By letter of 25 April 1997 the Commission definitively rejected Guérin Automobiles' complaint.

6 By application lodged at the Registry of the Court of First Instance on 20 October 1997, Guérin Automobiles brought an action for the annulment of the Commission's decision of 25 April 1997.

The contested order

7 By the contested order the Court of First Instance dismissed that action as manifestly inadmissible on the ground that proceedings were not commenced within the period of two months laid down in the fifth paragraph of Article 173 of the EC Treaty.

8 At paragraph 17 of the contested order the Court held that Community law does not, in a case such as the one before it, require the Community institutions to inform the addressee of a measure capable of adversely affecting it of the remedies available to challenge that measure or of the time-limits and procedures for bringing an action to that end.

The appeal

9 In support of its appeal, Guérin Automobiles relies on a single plea in law, based on the general Community law principles of the protection of legitimate expectations, legal certainty, respect for the rights of the defence and the right to an effective judicial remedy, and on the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms.

10 It argues that Community law, whose origins are autonomous and unconnected with national legal systems, takes time to be assimilated. It is not yet possible for all citizens to have a sufficient understanding of it. They will be unfamiliar with its terminology, its complex rules and the way in which the Community institutions work.

11 That is the reason why, having regard to the general principles of Community law mentioned in paragraph 9 of the present order, it is necessary to indicate the remedies available and the time-limits for availing themselves thereof in order to make the right to a judicial remedy effective.

Findings of the Court

12 Under Article 119 of the Rules of Procedure of the Court of Justice, where an appeal is clearly inadmissible or clearly unfounded, the Court may at any time dismiss it by reasoned order without initiating the oral procedure.

13 Articles 189, 190, 191 and 192 of the EC Treaty, which define precisely the nature of and rules applicable to the legal measures that may be adopted by the Community institutions, do not impose on those institutions any general obligation to inform the addressees of those measures of the judicial remedies available or of the time-limits for availing themselves thereof.

14 It is true that in the majority of the Member States the administrative authorities are under an obligation to provide this information. However, it is generally the legislature that has created and regulated that obligation. Moreover, to impose such an obligation would require the prior identification of the administrative measures concerned, the content, form and placing, in the measure adopted or in a separate document, of the compulsory information, and the consequences flowing from the absence of the required information or the inaccuracy of the information provided.

15 In the absence of express provisions of Community law, the Community administration and judicature cannot be placed under a general obligation to inform individuals of the remedies available or of the conditions under which they may avail themselves thereof.

16 It is therefore appropriate to declare, pursuant to Article 119 of the Rules of Procedure, that the appeal is clearly unfounded.

Costs

17 Article 69(2) of the Rules of Procedure provides that the unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for an order on costs and Guérin Automobiles has been unsuccessful in its appeal, the latter must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

1. Dismisses the appeal;

2. Orders Guérin Automobiles EURL to pay the costs of the appeal.

Luxembourg, 5 March 1999.

R. Grass — Registrar

G. C. Rodríguez Iglesias — President