

Case T-8/89 REV

DSM NV

v

Commission of the European Communities

(Competition — Application for revision — Admissibility)

Order of the Court of First Instance (First Chamber), 4 November 1992 II - 2400

Summary of the Order

Procedure — Revision of a judgment — Conditions for admissibility of an application for revision — New fact — Fact known before delivery of the contested judgment — Inadmissibility (Statute of the Court of Justice of the EEC, Arts 41 and 46)

It is clear from the first paragraph of Article 41 of the Statute of the Court of Justice (EEC), made applicable to the procedure before the Court of First Instance by the first paragraph of Article 46 of that Statute, that revision is not an appeal procedure but an exceptional review procedure that allows an applicant to call in question the authority of *res judicata* attaching to a judgment bringing the proceedings to an end on the basis of the findings of fact relied upon by the Court. Revision presupposes the discovery of matters of fact which existed prior to delivery of

the judgment and which were previously unknown to the court which delivered it as well as to the party applying for revision and which, had the court been able to take them into consideration, could have led it to a different determination of the proceedings.

An application for revision in support of which the applicant puts forward a fact known to it before the judgment was pronounced is therefore manifestly inadmissible.