

Case T-14/89 REV

Montecatini SpA (previously Montedipe SpA)

v

Commission of the European Communities

(Competition — Application for revision — Admissibility)

Order of the Court of First Instance (First Chamber), 4 November 1992 II - 2410

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 (EEC), Arts 41 and 46)

It is clear from the first paragraph of Article 41 of the Statute of the Court of Justice of the EEC, which was made applicable to proceedings before the Court of First Instance by the first paragraph of Article 46 thereof, 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 final judgment on the basis of the findings of fact relied upon by the Court. Revision presupposes the discovery of elements of a factual nature which existed prior to the judgment and

which were unknown at that time 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.

It follows that an application for revision based on a fact known to the party claiming revision before judgment was delivered is inadmissible.