

## I

(Information)

## COURT OF JUSTICE

## COURT OF JUSTICE

## JUDGMENT OF THE COURT

(Fifth Chamber)

of 7 January 2004

**in Joined Cases C-204/00 P, C-205/00 P, C-211/00 P, C-213/00 P, C-217/00 P and C-219/00 P: Aalborg Portland A/S and Others v Commission of the European Communities** <sup>(1)</sup>

**(Appeal — Competition — Cement market — Article 85(1) of the EC Treaty (now Article 81(1) EC) — Jurisdiction of the Court of First Instance — Rights of the defence — Access to the file — Single and continuous infringement — Liability for an infringement — Evidence of participation in the general agreement and measures of implementation — Fine — Determination of the amount)**

(2004/C 59/01)

(Languages of the cases: Danish, English, French, Italian)

In Joined Cases C-204/00 P, C-205/00 P, C-211/00 P, C-213/00 P, C-217/00 P and C-219/00 P, Aalborg Portland A/S, established in Aalborg (Denmark), represented by K. Dyekjær-Hansen and K. Høegh, advokaterne (C-204/00 P), Irish Cement Ltd, established in Dublin (Ireland), represented by P. Sreenan SC, instructed by J. Glackin, Solicitor, with an address for service in Luxembourg (C-205/00 P), Ciments français SA, established in Paris (France), represented by A. Winckler, avocat, with an address for service in Luxembourg (C-211/00 P), Italcementi — Fabbriche Riunite Cemento SpA, established in Bergamo (Italy), represented by A. Predieri, M. Siragusa, M. Beretta, C. Lanciani and F. Moretti, avvocati, with an address for service in Luxembourg (C-213/00 P), Buzzi Unicem SpA, formerly Unicem SpA, established in Casale Monferrato (Italy), represented by C. Osti and A. Prastaro, avvocati, with an address for service in Luxembourg (C-217/00 P), and Cementir — Cementerie del Tirreno SpA, established in Rome (Italy), represented by G.M. Roberti and P. Criscuolo Gaito, avvocati (C-219/00 P): APPEAL against the judgment of the Court of First Instance of the European Communities in Joined Cases T-25/95, T-26/95, T-30/95 to T-32/95, T-34/95 to T-39/95, T-42/95 to T-46/95, T-48/95, T-50/95 to T-65/95, T-68/

95 to T-71/95, T-87/95, T-88/95, T-103/95 and T-104/95 Cimenteries CBR and Others v Commission [2000] ECR II-491, seeking to have that judgment set aside in part, the other party to the proceedings being: Commission of the European Communities, represented in Case C-204/00 P by R. Lyal and by H.P. Hartvig, acting as Agents, and in the other cases by R. Lyal, and also by N. Coutrelis, avocat (C-211/00 P) and by A. Dal Ferro, avvocato (C-213/00 P, C-217/00 P and C-219/00 P), with an address for service in Luxembourg, the Court (Fifth Chamber), composed of: P. Jann, acting for the President of the Fifth Chamber, D.A.O. Edward (Rapporteur) and A. La Pergola, Judges; D. Ruiz-Jarabo Colomer, Advocate General; H. von Holstein, Deputy Registrar, and H.A. Rühl, Principal Administrator, has given a judgment on 7 January 2004, in which it:

1. Sets aside paragraph 12, seventh indent, of the operative part of the judgment of the Court of First Instance of the European Communities of 15 March 2000 in Cases T-25/95, T-26/95, T-30/95 to T-32/95, T-34/95 to T-39/95, T-42/95 to T-46/95, T-48/95, T-50/95 to T-66/95, T-68/95 to T-71/95, T-87/95, T-88/95, T-103/95 and T-104/95;
2. Sets the amount of the fine imposed on Ciments français SA for the infringement found in Article 1 of Commission Decision 94/815/EC of 30 November 1994 relating to a proceeding under Article 85 of the EC Treaty (Cases IV/33.126 and 33.322 — Cement) at EUR 9 620 000;
3. Dismisses the appeals for the remainder;
4. Orders Aalborg Portland A/S, Irish Cement Ltd, Italcementi-Fabbriche Riunite Cemento SpA, Buzzi Unicem SpA and Cementir-Cementerie del Tirreno SpA to pay the costs in Cases C-204/00 P, C-205/00 P, C-213/00 P, C-217/00 P and C-219/00 P;

5. *Orders Ciments français SA and the Commission of the European Communities to bear their own costs in Case C-211/00 P.*

(<sup>1</sup>) OJ C 247 of 26.08.2000.

## JUDGMENT OF THE COURT

of 6 January 2004

**in Joined Cases C-2/01 P and C-3/01 P: Bundesverband der Arzneimittel-Importeure eV against Commission of the European Communities** (<sup>1</sup>)

*(Appeals — Competition — Parallel imports — Article 85(1) of the EC Treaty (now Article 81(1) EC) — Meaning of agreement between undertakings — Proof of the existence of an agreement — Market in pharmaceutical products)*

(2004/C 59/02)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Joined Cases C-2/01 P and C-3/01 P: Bundesverband der Arzneimittel-Importeure eV, established in Mülheim an der Ruhr (Germany), (Agents: U. Zinsmeister and W.A. Rehmann), with an address for service in Luxembourg, supported by European Association of Euro Pharmaceutical Companies (EAEPC), established in Brussels (Belgium), (Agents: M. Epping and M. Lienemeyer), with an address for service in Luxembourg, against Commission of the European Communities (Agents: K. Wiedner and W. Wils, assisted by H.-J. Freund), with an address for service in Luxembourg, supported by Kingdom of Sweden (Agent: A. Kruse), and by European Association of Euro Pharmaceutical Companies (EAEPC): two Appeals against the judgment of the Court of First Instance of the European Communities (Fifth Chamber, Extended Composition) of 26 October 2000 in Case T-41/96 Bayer v Commission [2000] ECR II-3383, seeking to have that judgment set aside, the other parties to the proceedings being: Bayer AG, established in Leverkusen (Germany), (Agent: J. Sedemund) with an address for service in Luxembourg, and European Federation of Pharmaceutical Industries' Associations, established in Geneva (Switzerland), (Agent: A. Woodgate), the Court, composed of: V. Skouris, President, P. Jann, C.W.A. Timmermans and J.N. Cunha Rodrigues (Presidents of Chambers), D.A.O. Edward (Rapporteur), A. La Pergola, J.-P. Puissochet, R. Schintgen, F. Macken, N. Colneric and S. von Bahr, Judges; A. Tizzano, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 6 January 2004, in which it:

1. Dismisses the appeals;
2. Orders the Bundesverband der Arzneimittel-Importeure eV, Bayer AG and the European Federation of Pharmaceutical Industries' Associations to bear their own costs in relation to Case C-2/01 P;
3. Orders the Commission of the European Communities to pay the costs in relation to Case C-3/01 P;
4. Orders the Kingdom of Sweden to bear its own costs.

(<sup>1</sup>) OJ C 79 of 10.03.2001.

## ORDER OF THE COURT

of 11 November 2003

**in Case C-488/01 P: Jean-Claude Martinez** (<sup>1</sup>)

*(Appeal — Statement of formation of a group under Rule 29(1) of the Rules of Procedure of the European Parliament — Lack of political affinities — Retroactive dissolution of the TDI Group — Appeal manifestly inadmissible in part and manifestly unfounded in part)*

(2004/C 59/03)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-488/01 P, Jean-Claude Martinez, a member of the European Parliament, residing in Montpellier (France), represented by F. Wagner and V. de Poulpique de Brescanvel, avocats: Appeal against the judgment of the Court of First Instance of the European Communities (Third Chamber, Extended Composition) in Joined Cases T-222/99, T-327/99 and T-329/99 Martinez and Others v Parliament [2001] ECR II-2823, seeking to have that judgment set aside, the other parties to the proceedings being: European Parliament (Agents: G. Garzón Clariana, J. Schoo and H. Krück), defendant at first instance, Charles de Gaulle, a member of the European Parliament, residing in Paris (France), applicant at first instance, the Court, composed of: V. Skouris, President, P. Jann, C.W.A. Timmermans (Rapporteur), C. Gulmann, J.N. Cunha Rodrigues and A. Rosas, Presidents of Chambers, D.A.O. Edward, A. La Pergola, J.-P. Puissochet, R. Schintgen, F. Macken, N. Colneric and S. von Bahr, Judges; D. Ruiz-Jarabo Colomer, Advocate General; R. Grass, Registrar, has made an order on 11 November 2003, the operative part of which is as follows: