



TRIBUNAL DE PRIMERA INSTANCIA DE LAS COMUNIDADES EUROPEAS  
SOD PRVNÍHO STUPNĚ EVROPSKÝCH SPOLEČENSTVÍ  
DE EUROPÆISKE FÆLLESSKABERS RET I FØRSTE INSTANS  
GERICHT ERSTER INSTANZ DER EUROPÄISCHEN GEMEINSCHAFTEN  
EUROOPA ÜHENDUSTE ESIMESE ASTME KOHUS  
ΠΡΩΤΟΔΙΚΕΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ  
COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES  
TRIBUNAL DE PREMIÈRE INSTANCE DES COMMUNAUTÉS EUROPÉENNES  
CÚIRT CHÉADCHÉIME NA GCOMHPHOBAL EORPACH  
TRIBUNALE DI PRIMO GRADO DELLE COMUNITÀ EUROPEE  
EIROPAS KOPIENU PIRMĀS INSTANCES TIESA

EUROPOS BENDRIŲ PIRMOSIOS INSTANCIOS TEISMAS  
EURÓPAI KÖZÖSSÉGEK ELSŐFOKÚ BÍRÓSÁGA  
IL-QORT TAL-PRIMĪSTANZA TAL-KOMUNITAJIET EWROPEJ  
GERECHT VAN EERSTE AANLEG VAN DE EUROPESE GEMEENSCHAPPEN  
SĄD PIERWSZEJ INSTANCJI WSPÓLNOT EUROPEJSKICH  
TRIBUNAL DE PRIMEIRA INSTÂNCIA DAS COMUNIDADES EUROPEIAS  
SÚD PRVÉHO STUPŇA EURÓPSKYCH SPOLOČENSTEV  
SODIŠČE PRVE STOPNJE EVROPSKIH SKUPNOSTI  
EUROOPAN YHTEISÖJEN ENSIMMÄISEN OIKEUSASTEEN TUOMIOISTUIN  
EUROPEISKA GEMENSKAPERNAS FÖRSTAINSTANSRÄTT

## Press and Information

### PRESS RELEASE No 77/05

15 September 2005

Judgment of the Court of First Instance in Case T-325/01

*DaimlerChrysler AG v Commission of the European Communities*

### **THE COURT OF FIRST INSTANCE REDUCES THE FINE IMPOSED BY THE COMMISSION ON DAIMLERCHRYSLER FOR RESTRICTING PARALLEL TRADE IN MERCEDES-BENZ VEHICLES FROM €71 825 000 TO €9 800 000**

*It annuls the Commission's decision in so far as it accuses DaimlerChrysler of anticompetitive conduct in Germany and Spain, but upholds the decision with respect to its conduct in Belgium.*

By decision of 10 October 2001<sup>1</sup>, the Commission of the European Communities found that DaimlerChrysler AG had, itself or through its Belgian and Spanish subsidiaries, infringed the Community rules on competition by concluding agreements with its distributors in Germany, Belgium and Spain on retail sales of cars of the Mercedes-Benz make. It fined DaimlerChrysler a total of EUR 71 825 000, namely:

- EUR 47 025 000 for giving its German agents instructions to sell new cars, in particular cars in the new E-class, as far as possible only to customers in their own contract territory and to avoid internal competition (from February 1996 to June 1999) and for requiring the payment of a deposit of 15% of the price of the vehicle for orders for new cars from customers from outside the territory (from September 1985);
- EUR 15 000 000 for prohibiting, from 1996, the German agents and Spanish dealers from supplying cars to leasing companies where no customer was identified, thus preventing them from establishing a stock; and
- EUR 9 800 000 for participating in agreements to restrict the granting of discounts in Belgium (these measures were applied from April 1995 to June 1999).

DaimlerChrysler brought an action for the annulment of that decision before the Court of First Instance, which gave judgment today.

<sup>1</sup> Commission Decision 2002/758/EC of 10 October 2001 relating to a proceeding under Article 81 of the EC Treaty (Case COMP/36.264 – Mercedes-Benz) (OJ 2002 L 257, p. 1).

With respect to the alleged anticompetitive conduct of DaimlerChrysler in Germany, the Court recalls that, while the EC Treaty prohibits coordinated anticompetitive conduct by two or more undertakings, the unilateral conduct of a manufacturer is not covered by that prohibition. The Court finds that DaimlerChrysler acted unilaterally. The German agents must be assimilated to employees of DaimlerChrysler and regarded as integrated into that undertaking and forming an economic unit with it. Neither their activity of soliciting orders for cars with a view to transmitting them to DaimlerChrysler nor the other services supplied by them for DaimlerChrysler, such as repairs and after-sales service, are associated with a commercial risk which could allow them to be classified as independent operators.

With respect to the conduct of DaimlerChrysler in Spain, the Court finds that under Spanish law every leasing company must already have an identified customer for the leasing contract at the time of acquiring the vehicle. The restrictions of which DaimlerChrysler is accused thus derive from the applicable legislation, so that they are not contrary to the prohibition of agreements in the EC Treaty.

The Court confirms, however, that DaimlerChrysler participated, through its Belgian subsidiary, in an "anti-price-slashing" agreement with the Belgian dealers. The agreement was intended to restrict price competition in Belgium by introducing detection and deterrent measures against discounts of more than 3% for the E-class.

Consequently, the Court annuls the part of the Commission's decision relating to the conduct of DaimlerChrysler in Germany and Spain, and reduces the fine to EUR 9 800 000.

**REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.**

*Unofficial document for media use, not binding on the Court of First Instance.*

*Languages available: CS DE EN FR PL SK*

*The full text of the judgment may be found on the Court's internet site*

*<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>*

*It can usually be consulted after midday (CET) on the day judgment is delivered.*

*For further information, please contact Christopher Fretwell*

*Tel: (00352) 4303 3355 Fax: (00352) 4303 2731*