

**Action brought on 25 June 2012 — S.I.C.O.M v Commission**

(Case T-279/12)

(2012/C 243/56)

*Language of the case: Italian*

**Parties**

*Applicant:* S.I.C.O.M. Srl — Società industriale per il confezionamento degli olii meridionale (Cercola, Italy) (represented by: R. Manzi, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- Declare that S.I.C.O.M. Srl, in liquidation, is owed by the Commission the sum of EUR 24 338,10 plus interest and adjustment to be calculated in accordance with Article 18(7) of Commission Regulation No 2519/1997, or such other sum as the Court may decide and, consequently, order the Commission to pay the sums thereby awarded;
- Consequently, order the Commission to pay the costs together with any tax or contribution due.

**Pleas in law and main arguments**

The applicant in the present case is the successful tenderer in Action No 35 — adjudicated upon pursuant to Commission Regulation (EC) No 664/2001 of 2 April 2001 on the supply of vegetable oil as food aid (OJ 2001 L 93, p. 3) — concerning the provision of 500 tonnes of refined rapeseed oil, in 5-litre cans, which were delivered on a free-at-destination basis at Tombo PAM Warehouse in Guinea by 17 June 2001. The applicant challenges the fact that the Commission withheld part of the payment, imposing a penalty for late delivery and a further penalty for non-delivery.

In support of its action, the applicant relies on the following pleas in law.

1. As regards the imposition of the penalty for non-delivery of goods, the applicant states that, in fact, the goods actually delivered amounted to 498,819 tonnes, namely, 1,435 tonnes less than that laid down in the call for tenders. In that connection, the applicant relies on the 1 % tolerance laid down in Article 17 of Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid (OJ 1997 L 346, p. 23). As regards Article 15 of that

regulation, the applicant states that, in the present case, it is a fact that the goods actually delivered to the beneficiary amounted to 498,819 tonnes, as is apparent from the delivery certificate and, therefore, any subsequent event resulting in a reduction in the amount of goods could not have been attributable to the applicant.

2. As regards the penalty for late delivery, the applicant invokes the *force majeure* exemption with regard to the sudden delay of the motor vessel involved in the operation — near to the port of landing of Naples — and, consequently, the 30-day extension laid down in Article 14(15) of Regulation No 2519/97. On that point, the applicant also invokes Articles 22(4) and 25 of that regulation.

**Action brought on 22 June 2012 — FIS'D v Commission**

(Case T-283/12)

(2012/C 243/57)

*Language of the case: Italian*

**Parties**

*Applicant:* FIS'D — Formazione integrata superiore del design (Catanzaro, Italy) (represented by: S. Baratti and A. Sodano, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- grant the requests for measures of organisation of procedure and/or for measures of inquiry;
- order the Commission to pay the costs.

**Pleas in law and main arguments**

The present action is brought against the European Commission's decision of 12 April 2012 (Ref. Ares (2012) 446225), which dismissed the applicant's administrative appeal lodged under Article 22 of Council Regulation (EC) No 58/2003 of 19 December 2002 against the decision of the Education, Audiovisual and Culture Executive Agency ('the EACEA') of 13 January 2012 ('Termination of the Framework Partnership Agreement 2011-0181, Erasmus Mundus Masters Course in City Regeneration') terminating early the Framework Partnership Agreement 2011-0181 concluded under the Erasmus Mundus programme 2009-2013.