

Action brought on 17 July 2007 — Las Marismas de Lebrija v Council and Commission

(Case T-260/07)

(2007/C 211/98)

*Language of the case: Spanish***Parties***Applicant:* Las Marismas de Lebrija, S Coop. And. (Sevilla, Spain) (represented by: L. Ortiz Blanco, lawyer)*Defendants:* Council of the European Union and Commission of the European Communities**Form of order sought**

— declare under Article 288 EC that the applicant is entitled to have damage totalling one million five hundred and seventy five thousand one hundred and twenty two euros (EUR 1 575 122) made good by the Council and the Commission jointly and severally;

— order the defendants to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are those relied on in Case T-217/07 *Las Palmeras v Council and Commission*.

Action brought on 13 July 2007 — Commission v Banca di Roma

(Case T-261/07)

(2007/C 211/99)

*Language of the case: Italian***Parties***Applicant:* Commission of the European Communities (represented by: A.Colabianchi, lawyer, and F. Amato and M. Wilderspin, Agents)*Defendant:* Banca di Roma SpA**Form of order sought**

— Order the Banca di Roma SpA, established in Italy at Viale Umberto Tupini 180, Rome (00144), in the person of its present legal representative, to execute the Bank guarantee of 28.10.1989 in favour of the Commission of the European Communities;

— Order the Banca di Roma SpA, established in Italy at Viale Umberto Tupini 180, Rome (00144), in the person of its present legal representative, to pay to the Commission of the European Communities, established in Belgium at Rue de la Loi 200, Brussels (1039), the sum of EUR 412 607,41, together with interest of EUR 94,37 per day running from 30 December 2006 until payment in full, or such other sum as the Court may decide;

— Order the Banca di Roma SpA, established in Italy at Viale Umberto Tupini 180, Rome (00144), in the person of its present legal representative, to pay all of the costs of the present proceedings including those of the Commission.

Pleas in law and main arguments

This action is brought under Article 238 EC on the basis of the arbitration clause contained in the guarantee of 28 October 1989 issued by the Banco di Roma (now named Banca di Roma) in favour of the Commission.

By Decision C(89) 1241 of 2 August 1989 ⁽¹⁾ the Commission imposed a fine on fourteen producers of welded steel mesh, one of whom was Ferriere Nord SpA, for having taken part in agreements and concerted practices which infringed Article 85(1) EC (now Article 81(1) EC); the fine imposed on Ferriere Nord SpA was ECU 320 000.

Under Article 4 of that decision Ferriere Nord SpA had to pay the fine within three months of the date of notification of the decision, save that Ferriere Nord SpA was permitted to provide a bank guarantee covering the entire sum due, that is to say, principal and interest.

By registered post of 30 October 1989, received on 7 November 1989, Ferriere Nord sent to the Commission a letter dated 26 October 1989 whereby the Udine (Italy) branch of the Banco di Roma (now Banca di Roma) declared to the Commission that it stood as guarantor of payment by Ferriere Nord both of the fine of ECU 320 000 and of interest, calculated to run from 15 November 1989 until the date of effective payment.

In Case T-153/04 ⁽²⁾, the Court of First Instance held, by judgment of 27 September 2006, that the power of the Commission to enforce the Welded steel mesh decision was time-barred, in accordance with Article 4(1) of Regulation No 2988/74 (paragraphs 53 and 58 of the judgment).