

Faced with ARCHI-MED's insolvency, the Commission seeks an order that the defendant pay the sums due, since the contracting parties were jointly and severally liable to perform the contract.

Action brought on 23 June 2008 — Konsum Nord v Commission

(Case T-244/08)

(2008/C 223/89)

Language of the case: Swedish

Parties

Applicant: Konsum Nord ekonomisk förening (Umeå, Sweden) (represented by: U. Öberg, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- Annul in its entirety Commission Decision C(2008) 311 final of 30 January 2008 on the State aid implemented by Sweden for Konsum Jämtland ekonomisk förening;
- order the Commission of the European Communities to pay the costs.

Pleas in law and main arguments

By decision of 30 January 2008 on State aid No C 35/2006 (ex NN 37/2006) implemented by Sweden for Konsum Jämtland, which merged with the applicant in 2006, the Commission found that the sale by the municipality of Åre of parts of an unbuilt plot of land for SEK 2 million instead of SEK 6,6 million, which was offered by Konsum Jämtland's competitor, Lidl, constituted State aid contrary to Article 87 EC.

The applicant submits in support of its action that the Commission has committed a series of incorrect assessments in its legal classification of the disputed sale as State aid since:

- the Commission incorrectly found that the sale was not at the market price and thus constituted an economic advantage for Konsum Jämtland;
- the Commission did not take into consideration the fact that the sale formed part of a series of land transactions undertaken between different parties, the purpose of which was the implementation of detailed plans for the village of Åre;

- the Commission incorrectly assumed that the offer made by the competitor, Lidl, was incompatible with a number of conditions and that it was binding and credible; and
- the Commission wrongly applied the principle of a private investor in a market economy.

Further, the applicant submits that the Commission disregarded its own guidelines in the Communication on State aid elements in sales of land and buildings by public authorities ⁽¹⁾ and failed to fulfil its duty of inquiry since it failed to examine all the factual circumstances.

Finally, the applicant asserts that the alleged State aid neither distorts competition nor affects trade between the Member States.

⁽¹⁾ OJ 1997 C 209, p. 3.

Action brought on 20 June 2008 — Iranian Tobacco v OHIM — AD Bulgartabac (TIR 20 FILTER CIGARETTES)

(Case T-245/08)

(2008/C 223/90)

Language in which the application was lodged: German

Parties

Applicant: Iranian Tobacco Company (Tehran, Iran) (represented by: M. Beckensträter, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal of OHIM: AD Bulgartabac Holding (Sofia, Bulgaria)

Form of order sought

- annul the decision of the First Board of Appeal of 11 April 2008 (Case R 708/2007-1), notified on 21 April 2008;
- order the third party to pay the refundable costs, including those of the main proceedings and of the defendant;
- in the alternative, annul the decision of 11 April 2008 and that of 7 March 2007 — 1414C — and hold the third party's application of 8 November 2005 to be inadmissible.