— apply the preferential fees provided for SMEs;

— annul invoice No 10029302 in the amount of EUR 9 300 representing the difference due in respect of the full fee tariff applied to K Chimica;

— annul the administrative charge in the amount of EUR 19 900 imposed by ECHA by way of invoice No 10043954.

Pleas in law and main arguments

In support of its action, the applicant puts forward two pleas.

1. First plea, concerning the interpretation of Commission Recommendation No 2003/361 with respect to the criteria for classifying SMEs.

   — The applicant claim in this regard that, for purposes of classification as an SME, it is necessary to verify whether the target enterprise is an autonomous enterprise or rather forms part of a group of companies. Depending on the role performed by the target enterprise, it will be necessary to evaluate the financial data of the enterprises in the group and, in particular, the financial data of the 'partner' enterprises and those of the 'linked' enterprises.

   — On this point, the applicant submits that the basic rule for assessing the size of the target enterprise is the rule according to which, in addition to data relating to its size, the following data are to be added:

   (i) the data of any partner enterprise of the target enterprise situated immediately upstream or downstream of the target enterprise, to an extent equivalent to the interest in the capital or percentage of voting rights. 100 % of the data of any enterprise 'linked' to those 'partner' undertakings must be aggregated with the data relating to the target enterprise thus calculated,

   (ii) 100 % of the data relating to the enterprises directly or indirectly 'linked' to the target enterprise. The data of any partner enterprise of the enterprises linked to the target undertaking immediately upstream or downstream of the target enterprise, to an extent equivalent to the interest in the capital or percentage of voting rights, must be aggregated with 100 % of the data relating to the enterprises linked to the target enterprise.

2. Second plea, concerning the failure to recognise K. Chimica as an SME.

   — The applicant claims in this regard that, on the basis of Article 6 of the annex to Commission Recommendation No 2003/361, the data relating to K. Chimica's possible classification as an SME are:

   (i) 100 % of the data relating to K. Chimica;

   (ii) 100 % of the data relating to I.C.B. S.r.l;

   (iii) 40 % of the data relating to Medini Ltd;

   (iv) 36.66 % of the data relating to ALO Inmobilien GmbH.

Action brought on 18 December 2013 — Italian international film v EACEA

(Case T-676/13)

(2014/C 45/73)

Language of the case: Italian

Parties

Applicant: Italian international film Srl (Rome, Italy) (represented by: A. Fratini and B. Bettelli, lawyers)

Defendant: Education, Audiovisual and Culture Executive Agency (EACEA)

Pleas in law and main arguments

The applicant claims that the Court should:

— grant the form of order sought, and consequently annul EACEA's decision of 8 October 2013 concerning the rejection of the project relating to the film 'Only God Forgives' under the call for proposals EACEA/21/12;

— direct EACEA to take all measures resulting therefrom;

— order EACEA to pay the costs of the proceedings.

Pleas in law and main arguments

The present action is directed against the decision of the Education, Audiovisual and Culture Executive Agency concerning the rejection of the project relating to the film 'Only God Forgives' under EACEA's call for proposals EACEA/21/12 (MEDIA 2007 — Support for the transnational distribution of European films — the 'Selective' scheme 2013) (OJ 2012 C 300, p. [5]).

In support of its action, the applicant puts forward two pleas in law.

1. The first plea, alleging breach of Article 296 TFEU, Article 41 of the Charter of Fundamental Rights of the European Union and Article 133(3) of the Financial Regulation by virtue of the defective statement of reasons.

   — The applicant claims in particular in this regard that it does not understand why, in the present case, the defendant formed the view that the project which it had submitted was ineligible. The contested decision provides reasons for rejection which differ from those set out in the letter sent previously on 7 August 2013, stating that there was a failure to respect an eligibility criterion in the guidelines which differed from the criterion mentioned in the pre-printed part of that letter (distribution of the film to cinemas not undertaken by the applicant itself). However, in the contested decision, the project is rejected by reference to the fifth subparagraph of Article 5.1 of the guidelines, according to which a subcontractor may be used, albeit it to a limited extent.

2. The second plea, alleging breach of Article 167 TFEU and the implementing rules, including the Financial Regulation, and of points 3 and 4 of the call for proposals EACEA/21/12.

   — The applicant claims in this regard that there is a manifest error in the arguments contained in the contested decision. On this point, the applicant states that it is clear from the content of the contested decision that EACEA erroneously and arbitrarily characterised the contractual relationship between the applicant and Rai Cinema as being subcontractual in nature. It also emerges from that letter that EACEA is confusing a subcontract and a contract delegating the act of 'physical distribution' to a third party.

Action brought on 20 December 2013 — SACBO v Commission and TEN-T EA

(Case T-692/13)

(2014/C 45/74)

Language of the case: Italian

Parties

Applicant: Società per l'aeroporto civile di Bergamo-Orio al Serio SpA (SACBO SpA) (Grassobbio (BG), Italy) (represented by: G. Greco, M. Muscardini and G. Carullo, lawyers)

Defendants: Trans-European Transport Network Executive Agency (TEN-T EA), European Commission

Form of order sought

The applicant claims that the General Court should:

— primarily: annul TEN-T EA's decision of 23 October 2013, and all the connected measures referred to therein, to the extent that, by confirming the decision of 18 March 2013, TEN-T EA considered that the external costs relating to activities 1, 2.1, 4, 5, 6 and 7 were not eligible, resulting in a reduction by TEN-T EA in the amount of co-financing due and in a request for repayment of EUR 158 517,54, with all attendant legal consequences;

— in the alternative: declare that there was neither any fraudulent subdivision of nor any intent to avoid the activity for which co-financing was provided and, accordingly, annul TEN-T EA's decision of 23 October 2013, and all the connected measures referred to therein, to the extent that, by confirming the decision of 18 March 2013, TEN-T EA considered that the external costs relating to activities 1, 2.1, 4, 5, 6 and 7 were not eligible, resulting in a reduction by TEN-T EA in the amount of co-financing due and in a request for repayment of EUR 158 517,54, with all attendant legal consequences;

— in any event: recalculate the reduction in financing decided on by the Commission to an amount which is considered more appropriate in the light of the principle of proportionality;

— order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant in the present case is the same as in Case T-270/13 *SACBO* v *Commission and TEN-T EA* (OJ C 207 of 20 July 2013, p. 46).

It should be noted in this regard that, in relation to the present proceedings, both defendants have claimed that the action is inadmissible in so far as it is directed against a measure which, in their view, is not final.

According to the applicant, it has brought an action against the decision adopted by TEN-T EA on 23 October 2013 as a purely precautionary, defensive, measure in order to draw attention once more to the unlawfulness of the decision to reduce financing.

The pleas in law and main arguments have already been put forward in Case T-270/13.