

ORDER OF THE COURT OF FIRST INSTANCE (Third Chamber)
14 September 1999 *

In Case T-145/98,

ADT Projekt Gesellschaft der Arbeitsgemeinschaft Deutscher Tierzüchter mbH, a company governed by German law, established in Bonn, Germany, represented by **Andreas Hansen, Rechtsanwalt** at **Bienenbüttel**,

applicant,

v

Commission of the European Communities, represented by **Marie-Josée Jonczy**, Legal Adviser, and **Barbara Brandtner**, of the Legal Service, acting as Agents, with an address for service in Luxembourg at the office of **Carlos Gómez de la Cruz**, also of the Legal Service, **Wagner Centre, Kirchberg**,

defendant,

* Language of the case: German.

APPLICATION for annulment of the Commission decision not to award the applicant the contract relating to Project FD RUS 9603 ('The Russian Federation: Adapting Russian Beef and Dairy Farming to Restructuring') and, secondly, compensation for the harm allegedly suffered by the applicant as a result of the Commission's conduct,

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES (Third Chamber),

composed of: M. Jaeger, President, K. Lenaerts and J. Azizi, Judges,

Registrar: H. Jung,

makes the following

Order

Having regard to Articles 65 and 66(1) of the Rules of Procedure of the Court of First Instance;

Whereas, by way of a measure of organisation of procedure of 12 July 1999, the Court requested the Commission to produce the original evaluation records for the tendering procedure relating to Project FD RUS 9603 or a certified copy thereof, together with the minutes of the hearings organised in July 1997 and March 1998;

Whereas, by memorandum of 28 July 1999, the Commission refused to produce to the Court an unexpurgated version of the minutes of the evaluation procedures which had taken place on 9 and 10 July 1997 and on 4 and 5 March 1998, these being the documents requested by way of measure of organisation of procedure of 12 July 1999, on the ground that those documents contained information and assessments classified as confidential;

Whereas the Commission nevertheless expressed its willingness to lodge, at the request of the Court, non-confidential versions of the documents referred to;

Whereas, having regard to the arguments put forward by the applicant in support of its applications for annulment and compensation, founded in particular on infringement of the rules governing the procedure for the award of contracts, and having regard to the answers given by the Commission in its pleadings, the content of the documents requested will enable the Court to determine whether or not the Commission has failed to fulfil its obligations;

Whereas, in those circumstances, it is necessary to complete the preliminary examination in the present case and to obtain a complete version of the minutes of the evaluation procedures which took place on 9 and 10 July 1997 and on 4 and 5 March 1998, to which the Commission refers in its memorandum of 28 July 1999, so that this may be placed on the file, enabling the applicant to have sight thereof,

On those grounds,

THE COURT OF FIRST INSTANCE (Third Chamber)

hereby orders:

1. **The Commission is required to produce a certified copy of the unexpurgated version of the minutes of the evaluation procedures which took place on 9 and 10 July 1997 and on 4 and 5 March 1998, to which the Commission refers in its memorandum of 28 July 1999.**
2. **The above documentation must be produced to the Court by 12 noon on 22 September 1999 at the latest.**

Luxembourg, 14 September 1999.

H. Jung

Registrar

M. Jaeger

President