

**Action brought on 12 May 2003 by AFCon Management Consultants, Patrick Mc Mullin and Seamus O'Grady against the Commission of the European Communities**

**(Case T-160/03)**

(2003/C 200/43)

*(Language of the case: English)*

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 12 May 2003 by AFCon Management Consultants, Bray, Ireland, Patrick Mc Mullin, Bray, Ireland and Seamus O'Grady, Bray, Ireland, represented by Mr B. O'Conner, Solicitor and Mr I. Carreño, lawyer.

The applicant claims that the Court should:

- require the Commission to pay the Applicants damages in respect of the loss suffered by reason of the Commission's failure to properly manage the tender procedure of TACIS project FDRUS 9902, all sums to be increased with compensatory interest, to be calculated as part of the damage, from the day on which the damage materialised;
- order default interest payable at the appropriate rate on the Applicant's claim for damages;
- order the Defendant to pay the costs of the proceedings.

*Pleas in law and main arguments*

The applicants were among the ten short-listed companies invited to submit a tender for the TACIS project FDRUS 9902. Due to a conflict of interest between another competitor and a member of the evaluation committee, a first evaluation in the latter's favour was cancelled. A second evaluation followed, which resulted in the contract to implement the TACIS project being signed with this competitor.

The applicants claim that the Commission acted unlawfully during the tender procedure FDRUS 9902. They submit they have been unfairly denied the implementation of this contract and have suffered substantial financial loss and damage including the loss sustained in the tender procedure, loss of profit, loss of profile and harm to their reputation.

The applicants submit the Commission should, after cancelling the first tender evaluation, have excluded the other consortium's tender from the second evaluation or have sanctioned it.

Due to the non-compliance of this consortium with the Commission's rules and regulations governing technical assis-

tance tenders, the applicants claim that the Commission incorrectly awarded the contract to this consortium after the second evaluation took place.

The applicants also claim that the Commission allowed the second evaluation committee to consider previous experience in TACIS projects in breach of paragraph 3 of Annex III of regulation 1279/1996 and discredited the previous successful work of the applicants.

**Action brought on 22 May 2003 by Andreas Strohm against the Commission of the European Communities**

**(Case T-177/03)**

(2003/C 200/44)

*(Language of the case: German)*

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 22 May 2003 by Andreas Strohm, residing in Brussels, Belgium, represented by C. Illig, lawyer.

The applicant claims that the Court should:

- order the defendant to appoint the applicant to administrative grade A4 in the promotion scale with retroactive effect from 1.1.2002;
- find, in the alternative, that the failure to grant seven additional points when determining the seniority of the applicant was unlawful and that this error had an effect on the selection resulting from a comparative assessment of qualifications, as a result of which the applicant is, with regard to service-, salary- and benefit rights, less well off than if he had been upgraded to the A4 as of 1.1.2002;
- order the defendant to pay the costs of the proceedings.

*Pleas in law and main arguments*

The applicant relies on the allegedly erroneous application of the Commission's promotion guidelines and on breach of the principles of equal treatment, equal opportunity and administrative legitimacy.