

**Form of order sought**

- declare non-existent, or at least annul, Commission Decision C(2006)7093/6 of 19 December 2006 concerning the recovery of Claim No 3240206544 payable jointly and severally by the members of the European Economic Interest Grouping (EEIG) Euroterroirs, within the framework of Project No 93.EU.06.002 concerning a study to compile an inventory on European heritage in respect of typical and regional agricultural and food products (certified local and regional products), at any rate in so far as the Hoofdproductschap Akkerbouw is thereby held to be jointly and severally liable for the full amount of the aforementioned claim;
- order the Commission to pay the costs.

**Pleas in law and main arguments**

The applicant challenges the recovery of a claim from Euroterroirs established by Commission decision of 14 August 2000. According to the applicant, the contested decision must, at least to the extent to which the applicant is thereby declared to be jointly and severally liable for the full amount of the claim, be declared to be non-existent and void, in view of the fact that that decision is vitiated by particularly serious and manifest defects. The applicant further contends that a ruling can be given to the effect that the decision has given rise to no effects in law even after expiry of the period within which that decision ought to have been challenged.

By its first plea, the applicant submits that there has been a breach of Regulation No 2137/85 <sup>(1)</sup> inasmuch as the applicant has never been a member of the European Economic Interest Grouping (EEIG) Euroterroirs and for that reason cannot be liable.

Second, the applicant alleges infringement of the rights of the defence. The Commission, it submits, failed to provide the applicant with an opportunity to set out its views before the Commission adopted the contested decision, and notified the applicant of the claim established by decision of 14 August 2000 only when it sent the contested decision to the applicant.

Third, the applicant submits that the principle of proportionality has been infringed. The Commission, it claims, declared the applicant to be jointly and severally liable six years after the claim was established without first having itself taken appropriate measures against Euroterroirs, against the establishing member — and also the administrator — of Euroterroirs, namely the Conseil national des Arts Culinaires (CNAC) in France, or against the Member State France. In addition, the applicant submits, the Netherlands expert engaged for individual inventarising activities in 1994/1995 in the context of the Euroterroirs project received remuneration of merely EUR 13 055.

In conclusion, the applicant submits that the claim is time-barred in view of the fact that the Commission sent the disputed debit note to Euroterroirs on 28 September 2000 without

subsequently informing the applicant in good time of activities which might have suspended the limitation period.

<sup>(1)</sup> Council Regulation (EEC) No 2137/85 of 25 July 1985 on the European Economic Interest Grouping (EEIG) (OJ 1985 L 199, p. 1).

**Action brought on 19 June 2008 — Commission v Commune de Valbonne****(Case T-238/08)**

(2008/C 223/88)

*Language of the case: French***Parties**

*Applicant:* Commission of the European Communities (represented by: L. Escobar Guerrero, acting as Agent, and E. Bouttier, lawyer)

*Defendant:* Commune de Valbonne

**Form of order sought**

- Order the Commune de Valbonne, represented by its current mayor, to pay the applicant the sum of EUR 18 619,38 corresponding to the principal sum of EUR 14 261,29 and late-payment interest thereon of EUR 4 358,09 due from 31 May 2008;
- Order the Commune de Valbonne to pay the sum of EUR 5 000 in order to cover the costs the applicant was obliged to incur to recover the debt;
- Order the Commune de Valbonne to pay the costs.

**Pleas in law and main arguments**

For 1998 and 1999, the Commission concluded, with the Commune de Valbonne (municipality of Valbonne) in France, the municipality of Fermo in Italy and the European Economic Interest Group ARCHI-MED, a research and training contract relating to a mutual education project between the city of Valbonne and the province of Di Ascoli Piceno, called 'VALASPI MM 1027'.

The municipalities and ARCHI-MED undertook, inter alia, to supply the Commission with a final report. Since they did not supply that report following a letter of formal notice from the Commission, the Commission took the view that the contracting parties had failed to fulfil their obligations under the contract and terminated it, requesting reimbursement of part of the advances paid by the Commission, together with interest.

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.

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**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 <sup>(1)</sup> 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.

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<sup>(1)</sup> OJ 1997 C 209, p. 3.

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**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.