



Press and Information

General Court of the European Union  
**PRESS RELEASE No 123/10**  
Luxembourg, 16 December 2010

Judgment in Case T-19/07  
Systran SA and Systran Luxembourg SA v Commission

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## **The General Court orders the Commission to pay Systran liquidated damages of €12 001 000**

*The Commission infringed the copyright and know-how held by the Systran group in the Unix version of the Systran machine translation software*

The non-contractual liability of the European Union is dependent on a number of conditions being satisfied: the conduct alleged against an institution must be unlawful, actual damage must have been suffered and there must be a causal link between the conduct and the damage alleged.

Between 22 December 1997 and 15 March 2002, the company Systran Luxembourg adapted, under the name EC-Systran Unix, its Systran-Unix machine translation software to the specific needs of the Commission in this field.

On 4 October 2003 the Commission published a call for tenders for the maintenance and linguistic enhancement of its machine translation system. The services required by the Commission from the successful contractor concerned, inter alia, 'enhancements, adaptations and additions to linguistic routines'; 'specific improvements to analysis, transfer and synthesis programs' and 'system updates', as covered by the call for tenders.

Following that call for tenders, Systran – the parent company of Systran Luxembourg – contacted the Commission to inform it that the planned work appeared likely to infringe its intellectual property rights. For more than 40 years Systran has supplied companies and authorities with machine translation solutions based on the software which bears its name. In particular, Systran created and marketed a version of the Systran software capable of functioning on the Unix and Windows operating systems (Systran Unix) and of replacing the earlier, now obsolete version, which functioned on the Mainframe operating system (Systran Mainframe).

After correspondence between Systran and the Commission, the latter took the view that Systran had not produced 'probative documents' capable of establishing the rights which Systran might claim in respect of its EC-Systran Unix machine translation system. The Commission therefore considered that the Systran group had no right to object to the work carried out by the company which had been successful in the call for tenders.

Considering that, after the award of the tender contract, the Commission had unlawfully disclosed its know-how to a third party and that the Commission was infringing its copyright when unauthorised development of the EC-Systran Unix version was carried out by the successful contractor, Systran and Systran Luxembourg brought an action for damages against the Commission before the General Court.

Since the parties could not reach any agreement to resolve the matter when invited by the General Court following the hearing to attempt conciliation, the General Court now gives its ruling on the action for damages.

The General Court states, first, that the dispute concerns non-contractual liability. The contracts entered into in the past by the Commission to enable it to use the Systran software do not deal with

questions of disclosure of Systran's know-how to a third party or the carrying out of work which might infringe the intellectual property rights of that company.

As regards the unlawfulness of the Commission's alleged conduct, the General Court considers that the Systran group has established that there is a substantial similarity, in the core material and certain linguistic routines (programmes), between the Systran Unix and EC-Systran Unix versions, and that the Systran group can therefore rely on the rights held in the Systran Unix version, developed and marketed by Systran since 1993, to object to the disclosure to a third party without its consent of the derivative EC-Systran Unix version, adapted by Systran Luxembourg from 1997 onwards to meet the needs of the Commission.

For its part, the Commission was unable to establish over which parts of the core material and the linguistic routines of Systran Unix it claimed rights of property as a result, inter alia, of the rights it held in dictionaries encoded by its own staff.

Moreover, Systran has proved that, contrary to the claims of the Commission, the alterations requested by the call for tenders require access to elements of the EC-Systran Unix version which are taken from the version Systran Unix and require their alteration.

Consequently, by granting the right to carry out work which necessarily entailed an alteration of elements of the Systran Unix version of the Systran software which are within the EC-Systran Unix version, without first obtaining the consent of the Systran group, the Commission acted unlawfully by infringing the general principles common to the law of the Member States applicable to copyright and know-how. That wrongful act, which is a sufficiently serious breach of the copyright and know-how held by the Systran group in the Systran Unix version of the Systran software, gives rise to non-contractual liability on the part of the European Union.

As regards the damage, the General Court rules that liquidated damages and interest amounting to €12 001 000 must be paid to Systran to compensate it for the damage suffered as a result of the Commission's unlawful conduct, namely:

- €7 million corresponding to the total fees which would have been payable between 2004 and 2010 if the Commission had requested permission to use Systran's intellectual property rights in order to carry out the work specified in the call for tenders, which requires access to and alteration of elements of the Systran Unix version reproduced in the EC-Systran Unix version;
- €5 million as compensation for the effect which the Commission's conduct might have had on Systran's turnover in the years 2004 to 2010, and more widely on the development of that company;
- €1 000 as compensation for non-material damage.

In addition, the General Court observes that it is for the Commission to draw all appropriate conclusions in order to ensure that Systran's rights in the Systran Unix version are taken into account as concerns the work relating to the EC-Systran Unix version. If they are not taken into account, given that the damage for which compensation is awarded in this case holds only for the period from 2004 to the date of delivery of this judgment, Systran would be entitled to bring before the General Court a fresh action seeking damages in respect of the further damage it might suffer.

Lastly, the General Court adds that the publication of this press release is also a form of non-pecuniary compensation for the non-material damage caused by the harm to Systran's reputation as a result of the Commission's unlawful conduct.

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**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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