

## Case T-272/02

**Comune di Napoli (Italy)**

**v**

**Commission of the European Communities**

(European Regional Development Fund (ERDF) — Construction of an underground rail line in Naples (Italy) — Conclusion of Community financial assistance — Action for annulment — Legitimate expectations — Fairness — Statement of reasons)

Judgment of the Court of First Instance (Fifth Chamber), 31 May 2005 . . . II - 1851

### Summary of the Judgment

- 1. Economic and social cohesion — European Regional Development Fund — Grant of Community financial assistance — Establishment of the legal and financial framework of the assistance in the Community decision — Beneficiary exceeding the expenditure initially provided for — No effect on the determination of the amount of the assistance (Council Regulation No 1787/84)*

2. *Economic and social cohesion — European Regional Development Fund — Grant of Community financial assistance — Amendment of the allocation of public expenditure intended for projects receiving assistance — Amendment not communicated to the Commission — Commission decision not adjusted to that amendment — Breach of the principle of the protection of legitimate expectations — None*  
(Council Regulation No 1787/84)

1. Since the Commission Decision concluding the financial assistance granted from the European Regional Development Fund and the implied rejection of an application for correction of the account relating to other financial assistance granted from the same fund satisfies the principle that the legal and financial framework of each assistance must be strictly defined by the Community decision granting that assistance, the Commission is right to limit itself to paying the amount provided for by the latter, notwithstanding the fact that total public expenditure turns out to be higher than initially provided for.

(see paras 46, 50)

2. Where there is Community financial assistance granted from the European Regional Development Fund, when it has not been shown that the relevant national authorities informed the Com-

mission in due time, and with the detail that it was entitled to expect from the beneficiaries of such assistance, of the relevant amendments to the plans affected by the assistance, the absence of objections on the part of the Commission to those amendments cannot be taken to signify its acceptance that certain public expenditure was imputed to a project other than the one for which it was initially intended.

It follows that, in order to challenge the lawfulness of the decision concluding the financial assistance, which impliedly rejects the application for correction of the account relating to the assistance, the beneficiary cannot rely on the protection of legitimate expectations since such a principle may be invoked only by an economic operator to whom an institution has given justified hopes.

(see paras 62, 64)