JUDGMENT OF THE GENERAL COURT (Ninth Chamber)

20 December 2023 (*)

(Arbitration clause – Loan agreement concerning a project for the completion of a first-class road in a third country – Non-performance of the agreement – Repayment of the sums advanced – Default interest – Procedure by default)

In Case T-465/22,

European Investment Bank (EIB), represented by T. Gilliams, R. Stuart and F. Oxangoiti Briones, acting as Agents, and by D. Arts and E. Paredis, lawyers,

applicant,

v

Syrian Arab Republic,

defendant,

THE GENERAL COURT (Ninth Chamber),

composed of L. Truchot, President, R. Frendo (Rapporteur) and M. Sampol Pucurull, Judges,

Registrar: V. Di Bucci,

having regard to the written part of the procedure,

gives the following

Judgment

1 By its action based on Article 272 TFEU, the European Investment Bank (EIB) requests that the Syrian Arab Republic be ordered to pay it the sum of EUR 233 051.96, together with interest, under Loan Agreement No 60136 concerning a project for the completion of a first-class road from Aleppo (Syria) to Tall Kochak (Iraq) (‘the loan agreement’).

Background to the dispute

2 Subsequent to the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic of 18 January 1977 (OJ 1978 L 269, p. 2) and its protocols, the EIB concluded, on 15 May 1979, the loan agreement with the Syrian Arab Republic, as amended by the letters of 16 March, 22 August and 8 November 1983, 13 February 1984, 13 January and 3 December 1987 and 21 February 1989.

3 Under Articles 1.01 and 1.02 of the loan agreement, the EIB granted the Syrian Arab Republic a loan of EUR 3 500 000 to be drawn down on request. That loan was disbursed in tranches between 14 July 1982 and 9 November 1992.

4 According to Article 4.01 of the loan agreement, read in conjunction with Annex C thereto, the Syrian Arab Republic was to repay the loan in 60 half-yearly instalments, as from 31 March 1989, with interest:

– on the outstanding balance of the loan half-yearly in arrears, at the nominal annual rate of 1% (Article 3.01) (‘contractual interest’);

– in the event of any delay in repayment, on any sum that has fallen due at an annual rate of 3.5%, which is to take the place of the aforementioned rate of 1% (Article 3.02) (‘default interest’).

5 Since April 2012, the Syrian Arab Republic has failed to pay the instalments due under the loan agreement.

6 By judgment of 6 June 2019, *EIB* v *Syria* (T-589/17, not published, EU:T:2019:388), the Syrian Arab Republic was ordered to repay the EIB, first, the sum of EUR 820 451.25 in respect of the instalments that had not been paid by it on the due dates between 2 April 2012 and 31 March 2017 and the contractual and default interest for the period from 2 April 2012 to 25 August 2017, and, secondly, default interest from 25 August 2017 until the date that payment is made.

7 Between 25 August 2017 and 30 June 2022, three instalments under the loan agreement fell due and, since the Syrian Arab Republic failed to make the payments due, the EIB issued a payment reminder on each occasion as follows:

Due date	Principal amount	Contractual interest	Reminder
2 October 2017	EUR 66 500.10	EUR 1 004.50	12 October 2017
3 April 2018	EUR 66 850.10	EUR 672	13 April 2018
1 October 2018	EUR 67 550.10	EUR 337.75	11 October 2018

8 Nonetheless, the Syrian Arab Republic remained in default of payment.

Procedure and form of order sought by the EIB

9 By application lodged at the Court Registry on 22 July 2022, the EIB brought the present action.

10 Two attempts to serve the application on the Syrian Arab Republic, made by registered letters with acknowledgement of receipt of 1 August and 18 November 2022, were unsuccessful.

11 The Court Registry made a further attempt to serve the application on the defendant by express courier with acknowledgement of receipt of 15 June 2023. That letter was received on 6 July 2023. In accordance with Article 12.01 of the loan agreement, service was effected at the embassy, where the premises of the mission of the Syrian Arab Republic to the European Union in Brussels (Belgium) are located.

12 Since the Syrian Arab Republic did not lodge a defence within the period prescribed in Article 81 of the Rules of Procedure of the General Court, the EIB, by document lodged on 2 October 2023, applied to the Court for judgment by default, in accordance with Article 123(1) of those rules.

13 The EIB claims, in essence, that the Court should:

– declare that the Syrian Arab Republic failed to fulfil its contractual obligations under the loan agreement in so far as concerns payment of the principal amounts, contractual interest and default interest on each of the instalments due and unpaid between 2 October 2017 and 1 October 2018, and, consequently, order the Syrian Arab Republic to pay it, first, the sum of EUR 233 051.96 by way of the principal amount, contractual interest and default interest for the period from 25 August 2017 to 30 June 2022, and, secondly, additional default interest from 30 June 2022 up to the time that payment is made;

– order the Syrian Arab Republic to pay the costs.

Law

14 Under Article 123(1) of the Rules of Procedure, where the Court finds that a defendant on whom an application initiating proceedings has been duly served has failed to respond to the application within the prescribed time limit, the applicant may apply to the Court for judgment by default.

15 In the present case, it should be noted that, in accordance with Article 12.01 of the loan agreement, the application was served on the embassy, where the premises of the mission of the Syrian Arab Republic to the European Union in Brussels are located.

16 However, as is apparent from paragraph 12 above, although the EIB's application was duly served on the Syrian Arab Republic, the latter did not lodge a defence within the time limit prescribed in Article 81 of the Rules of Procedure.

17 Since the applicant has applied to the Court for judgment by default, it is appropriate to apply Article 123(3) of the Rules of Procedure, under which the Court is to give judgment in favour of the applicant, unless it is clear that the Court has no jurisdiction to hear and determine the action or that the action is manifestly inadmissible or manifestly lacking any foundation in law.

The jurisdiction of the General Court

18 In accordance with Article 272 TFEU, the Court of Justice of the European Union is to have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the European Union, whether that contract be governed by public or private law.

19 It should be noted that it is apparent from the preliminary provisions of the loan agreement that that agreement was concluded, inter alia, following Article 2(1)(b) of Protocol 1 on technical and financial cooperation, annexed to the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic, signed in Brussels on 18 January 1977, with the result that it must be regarded as having been concluded on behalf of the European Union.

20 Article 11.03 of the loan agreement contains an arbitration clause under which any disputes concerning that agreement are to be submitted to the Court of Justice of the European Union.

21 In addition, in accordance with Article 256(1) TFEU, the General Court is to have jurisdiction to hear and determine at first instance actions brought on the basis of an arbitration clause, as referred to in Article 272 TFEU.

22 In the light of the foregoing, it must be held that the General Court does not manifestly lack jurisdiction to hear and determine the present action.

Admissibility of the action

23 By its action, the EIB seeks that the Syrian Arab Republic be ordered to pay it the sum of EUR 233 051.96 by way of the principal amount and the contractual and default interest under the loan agreement and a sum representing the additional default interest from 30 June 2022 up to the time that payment is made.

24 For that purpose, it should be noted that, on the basis of the loan agreement, the EIB has, against the Syrian Arab Republic, the claims referred to in paragraph 7 above, with the result that it does not appear that the present action, brought on the basis of Article 272 TFEU, is manifestly inadmissible. In addition, the information in the file does not raise any other difficulties which would be such as to give reason to consider the present action manifestly inadmissible.

25 Consequently, it must be held that the present action is not manifestly inadmissible.

Substance of the action

26 In the first place, it is apparent from the documents before the Court that, on the basis of the loan agreement, the EIB granted the Syrian Arab Republic a loan repayable on the due dates referred to in paragraph 7 above.

27 In addition, it is apparent from the information provided by the EIB that the Syrian Arab Republic failed to make repayments on those due dates, in breach of Article 4.01 of the loan agreement.

28 Consequently, the claim that the Syrian Arab Republic be ordered to repay the sum of EUR 200 900.30 in respect of the principal amount that was borrowed by the Syrian Arab Republic and that should have been repaid between 2 October 2017 and 1 October 2018 inclusive is not manifestly lacking any foundation in law.

29 In the second place, it is apparent from Article 3.01 of the loan agreement that contractual interest is payable on the outstanding balance of the loan half-yearly in arrears, at the nominal annual rate of 1%, and that, under Article 3.02 of the loan agreement, in the event of any delay in repayment of the loan, the nominal annual rate of default interest is set at 3.5%.

30 Consequently, the claims that the Syrian Arab Republic be ordered to pay, first, the sum of EUR 32 151.66 in respect of the contractual and default interest for the period from 25 August 2017 to 30 June 2022, and, secondly, the default interest due on the sum of EUR 200 900.30, at the annual rate of 3.5%, from 30 June 2022 until the date that payment is made, are also not manifestly lacking any foundation in law.

31 Accordingly, it is necessary to uphold the form of order sought by the EIB, and to give a judgment by default against the Syrian Arab Republic, in accordance with Article 123 of the Rules of Procedure.

Costs

32 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Syrian Arab Republic has been unsuccessful, it must be ordered to pay the costs, in accordance with the form of order sought by the EIB.

On those grounds,

THE GENERAL COURT (Ninth Chamber)

hereby:

1. **Orders the Syrian Arab Republic to repay the European Investment Bank (EIB) the sum of EUR 233 051.96 representing the principal amounts and the contractual and default interest due on 30 June 2022;**

2. **Declares that the sum of EUR 200 900.30 comprising the principal amounts is to bear default interest at the annual rate of 3.5% from 30 June 2022 until the date that payment is made;**

3. **Orders the Syrian Arab Republic to pay the costs.**

Truchot Frendo Sampol Pucurull

Delivered in open court in Luxembourg on 20 December 2023.

V. Di Bucci M. van der Woude

Registrar President

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* Language of the case: English.