

Case 548: CISG 35(2)(b)

Spain: Provincial Court of Madrid, Thirteenth Division, 290/2002

Manuel Fernández Fernández S.A. v. Kuhne Heitz N.V.

8 May 2003

Background: Court of First Instance No. 2 of Alcobendas, 14 February 2002

Full text: <http://www.uc3m.es/cisg/sespan38.htm>

Abstract prepared by María del Pilar Perales Viscasillas (National Correspondent)

The buyer claimed that the seller was in breach of paragraph (2)(b) of article 35 CISG. The court, without referring to any provisions of the Convention, concluded from the evidence adduced that the seller had failed to meet its obligation to package pieces of meat separately, which had led to the loss of the buyer's European subsidy and the payment of fines.

買主は売主が CISG35 条(2)(b)に違反していると主張した。裁判所は、CISG のいかなる条文にも言及することなく、提示された証拠に基づき、売主は肉片を分別して包装する義務に違反しており、その結果買主は欧州の助成金が得られなくなり、かつ、罰金を支払うことになったと結論づけた。