

consultations and that his participation in those consultations was covered by the half time discharge from duties for trade union purposes which he enjoyed (paragraphs 41 to 45 of the order under appeal).

2. Second plea in law alleging an error of law in that the CST found that the special procedure for the assessment of staff representatives covers all trade union activities and incorrectly interpreted the reasons for which the appellant did not work for the department to which he had been assigned and held that the appellant could no longer challenge the competence of the assessors (points 50 and 51 of the order under appeal).
3. Third plea in law alleging an error of law in that the CST based its decision on incorrect findings concerning, in particular, the powers of the assessors to evaluate the appellant solely on the basis of his work for the department to which he was assigned, and the fact that he relied on the half time discharge from the performance of his duties for trade union purposes in order to justify the fact that he did not work for the service to which he was assigned (paragraphs 59 and 60 of the order under appeal).
4. Fourth plea in law alleging an error of law in that the CST concluded that the facts in the present case are distinguishable from those that gave rise to the judgment in Case F-36/07 *Lebedef v Commission* ECR Staff Cases I-A-1-143 and II-A-1-759 and that performance level IV could legitimately be attributed to the appellant (paragraphs 69 to 70 of the order under appeal).

Appeal brought on 25 February 2013 by Giorgio Lebedef against the order of the Civil Service Tribunal of 12 December 2012 in Case F-109/11, *Lebedef v Commission*

(Case T-117/13 P)

(2013/C 147/36)

Language of the case: French

Parties

Appellant: Giorgio Lebedef (Senningerberg, Luxembourg) (represented by F. Frabetti, lawyer)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the order of the CST of 12 December 2012 in Case F-109/11 *Lebedef v Commission* seeking the annulment of the

appellant's appraisal report for the period 1.1.2009 — 31.12.2009 and, more specifically, the part of the report drafted by EUROSTAT for the same period;

- uphold the appellant's form of order sought at first instance;
- alternatively, refer the case back to the Civil Service Tribunal;
- make an order as to costs and order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on six pleas in law, of which the first, second, third and six are essentially the same as or similar to those relied on in Case T-116/13 P *Lebedef v Commission*.

The fourth plea in law alleges an error of law in that, according to the appellant, the CST concluded that the report covering his activities in a professional or trade union organisation (OSP report) which should appear only as a document attached to the report concerning the appellant's duties at the Statistical Office of the European Union (Eurostat) (paragraphs 68 to 70 of the order under appeal).

The fifth plea in law alleges an error of law in that the appellant claims that the CST held that the appellant wished to challenge his appraisal reports prior to 2009 and the Commission decision not to promote him (paragraphs 74 and 75 of the order under appeal).

Action brought on 1 March 2013 — Direct Way and Direct Way Worldwide v Parliament

(Case T-126/13)

(2013/C 147/37)

Language of the case: French

Parties

Applicants: Direct Way (Brussels, Belgium); and Direct Way Worldwide (Machelen, Belgium) (represented by: E. van Nuffel d'Heynsbroeck, lawyer)

Defendant: European Parliament

Form of order sought

The applicants claim that the Court should:

- declare the action admissible and well founded;

— consequently,

— annul:

— the Parliament's decision, of unknown date, to abandon the tendering procedure implemented on the ground that 'the bids received in response to the tender were unacceptable in view of the award criteria, in particular the proposed prices, which are too high compared to the value set out in the contract notice', brought to the attention of the Direct Way group by letter dated 3 September 2012;

— the Parliament's decision, of unknown date, to apply the negotiated procedure without publication for the purpose of awarding the contract, brought to the attention of the Direct Way group by the tendering procedure invitation communicated to it on 19 September 2012;

— the Parliament's decision, of unknown date, to award the contract to a competing tenderer, brought to the attention of the Direct Way group by e-mail of 21 December 2012 and confirmed by letter of 3 January 2013;

— accordingly, declare void the contract concluded between the Parliament and the s.c.s. TMS Limousines;

— order the Parliament to pay to the Direct Way group the provisional amount of EUR 199 500 per year as compensation for the loss sustained;

— order the Parliament to pay the costs in their entirety, in accordance with Article 87(2) of the Rules of Procedure of the General Court.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. The first plea alleges infringement of Article 101 of the Financial Regulation ⁽¹⁾, of Article 127(1)(a) of the Regulation implementing the Financial Regulation ⁽²⁾ and of the principle of equality, and a manifest error of assessment, as the Parliament awarded the contract by negotiated procedure at a price above that submitted by the applicants in the context of the initial invitation to tender.
2. A second, alternative, plea alleges infringement of Article 127(1)(a) of the Regulation implementing the Financial Regulation and of the principle of equality, as the Parliament substantially amended the initial conditions of the contract (i) by awarding the contract at a price above that considered unacceptable in the initial invitation to tender (first part) and

(ii) by lowering the estimate of the volume to be provided in relation to the volume set out in the initial conditions of the contract, thus affecting the assessment of the price of the negotiated bids (second part).

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 248, p. 1).

⁽²⁾ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 357, p. 1).

Action brought on 8 March 2013 — Eltek/OHIM — Eltec Elektronik (ELTEK)

(Case T-139/13)

(2013/C 147/38)

Language in which the application was lodged: English

Parties

Applicant: Eltek SpA (Casale Monferrato, Italy) (represented by: G. Floridia and R. Floridia, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Eltec Elektronik AG (Mainz, Germany)

Form of order sought

The applicant claims that the Court should:

- Annul the Board of Appeal's decision of 7 January 2013 (as rectified by corrigendum of 22 January 2013) notified and received on 10 January 2013 in Case R 511/2012-1, pertaining to opposition proceedings No B 992 851, and application for Community trade mark registration no. 4 368 064, by reason of the full satisfaction of all the requirements for valid registration of each product;
- Order OHIM to pay the costs with regard to the proceedings before the Court and order the opponent to pay the costs with regard to the proceedings before the Opposition Division and the Board of Appeal.