

**Action brought on 7 March 2014 — ANKO v Commission****(Case T-154/14)**

(2014/C 175/63)

*Language of the case: Greek***Parties**

*Applicant:* ANKO AE Antiprosopeion, Emporiou kai Viomichanias (Athens, Greece) (represented by: V. Christianos, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

- Declare that the entire amount of EUR 185 664,10 which the Commission has already paid to the applicant in respect of the OASIS project and the entire amount of EUR 465 062,84 which the Commission has already paid to the applicant in respect of the PERFORM project constitute eligible costs;
- Declare that the amount of EUR 1 824,05 which the Commission has not paid in respect of the OASIS project and the amount of EUR 637 117,17 which the Commission has not paid as a portion in respect of the PERFORM project constitute eligible costs and consequently the Commission is under an obligation to pay those sums to ANKO, and
- order the Commission to pay the applicant's legal costs.

**Pleas in law and main arguments**

This action concerns the liability of the Commission under the contracts (a) 215 754 and (b) 215 952 for the performance of the (a) OASIS and (b) PERFORM projects respectively, under Article 272 TFEU.

In particular, the applicant maintains that, although it complied with its contractual obligations, the Commission, in breach of the abovementioned contracts, the principle of good faith, the prohibition of abuse of rights and the principle of proportionality, sought the recovery of sums paid to ANKO as not being eligible costs and refused to pay its outstanding portion. For that reason, the applicant maintains, first, that the rejection as constituting ineligible costs of almost all of the Commission's portion in respect of the OASIS and PERFORM projects is contrary to the Commission's contractual obligations to ANKO. Second, the applicant maintains that the attempt to recover almost all of those amounts is disproportionate and abusive.

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*Applicant:* ANKO AE Antiprosopeion, Emporiou kai Viomichanias (Athens, Greece) (represented by: V. Christianos, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

- Declare that the entire amount of EUR 325 823,16 which the Commission seeks to recover as constituting ineligible costs and which it has already paid to the applicant in respect of the PERSONA project and the entire amount of EUR 280 747,45 which the Commission seeks to recover as constituting ineligible costs and which it has already paid in respect of the TERREGOV project constitute eligible costs;

- Declare that the amount of EUR 6 752,74 constitutes eligible costs incurred by ANKO in the context of the PERSONA project and, consequently that the Commission is under an obligation to make payment to ANKO;
- Order the Commission to pay the applicant's legal costs.

### **Pleas in law and main arguments**

This action concerns the liability of the Commission under the contracts (a) 045 459 and (b) 507 749 for the performance of the (a) PERSONA and (b) TERREGOV projects respectively, under Article 272 TFEU.

In particular, the applicant maintains that, although it complied with its contractual obligations, the Commission, in breach of the abovementioned contracts, the principle of good faith, the prohibition of abuse of rights and the principle of proportionality, sought the recovery of sums paid to ANKO as not being eligible costs. For that reason, the applicant maintains, first, that the rejection of the eligibility of almost all the sums which the Commission paid in respect of the PERSONA and TERREGOV projects and the attempt to recover those sums as improperly paid is contrary to the Commission's contractual obligations to ANKO. Second, the applicant maintains that the attempt to recover the whole of those amounts is disproportionate and abusive.

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### **Action brought on 7 March 2014 — ANKO v Commission and REA**

**(Case T-165/14)**

(2014/C 175/65)

*Language of the case: Greek*

### **Parties**

*Applicant:* ANKO AE Antiprosopeion, Emporiou kai Viomichanias (Athens, Greece) (represented by: V. Christianos, lawyer)

*Defendant:* European Commission and Research Executive Agency (REA)

### **Form of order sought**

The applicant claims that the General Court should:

- Declare that the suspension of payment which was imposed and is maintained by the REA acting under powers delegated to it by the Commission in respect of the amount which the Commission remains liable to pay to the applicant as its portion in respect of the ESS project is a breach of the latter's contractual obligations;
- Declare that the amount of EUR 125 253,82 which the Commission continues not to have paid as its portion in respect of the ESS project constitutes eligible costs and, consequently, the Commission is under an obligation to pay it to ANKO;
- Declare that the entire amount of EUR 216 172,68 which the Commission has already paid to the applicant as its portion in respect of the ESS project constitutes eligible costs; and
- Order the REA and the Commission to pay the applicant's legal costs.

### **Pleas in law and main arguments**

This action concerns the liability of the REA and the Commission under the contract No 217 951 for the performance of the ESS project, under Article 272 TFEU.

In particular, the applicant maintains that the REA, acting under powers delegated to it by the Commission, without any justification and in the breach of the ESS project agreement, suspended payment to ANKO. Further, the applicant maintains that the Commission, by seeking to apply the 'extrapolation' method, disputed, without any legal basis and in breach of both the agreement and of applicable law, the eligibility of almost the whole of the costs declared by ANKO in respect of the ESS project.

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