

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging the Commission's lack of jurisdiction

According to the Slovak Republic, the Commission does not have the jurisdiction to issue the contested decision. No provision of EU law confers jurisdiction on the Commission to act in the way it acted by issuing the contested decision or the jurisdiction, following the quantification of the amount of the loss of traditional own resources in the form of uncollected import duty, to order a Member State, which was not responsible for the assessment or collection of that duty, to make available the funds in the amount specified in the decision, which, the Slovak Republic submits, does not correspond to the stated loss.

2. Second plea in law, alleging infringement of the principle of legal certainty

Even if the Commission had the jurisdiction to issue the contested decision (*quod non*), the Slovak Republic submits that, in that event, the Commission infringed the principle of legal certainty. The obligation on the Slovak Republic, imposed on it by the contested decision, was, in the opinion of that Member State, not possible to predict before that decision was issued.

3. Third plea in law, alleging that the Commission exercised its jurisdiction incorrectly

Even if the Commission had the jurisdiction to issue the contested decision and, in issuing that decision, it also acted in accordance with the principle of legal certainty (*quod non*), the Slovak Republic submits that, in that event, did not exercise that jurisdiction correctly. First, the Commission committed a manifest error of assessment in so far as it demands payment of the funds from the Slovak Republic despite the fact that the loss of traditional own resources did not occur at all, or did not occur as a direct result of the events which the Commission attributes to the Slovak Republic. Secondly, the Commission infringed the Slovak Republic's rights of the defence and the principle of sound administration.

4. Fourth plea in law, alleging inadequate reasons were stated for the contested decision

In connection with this plea, the Slovak Republic argues that there are several flaws in the statement of reasons for the contested decision, as a result of which it must be regarded as inadequate. This constitutes an infringement of basic procedural legislation and also fails to meet the requirements of legal certainty. According to the Slovak Republic, the Commission failed in the contested decision to state its legal basis. It also provided no explanation of the origin and basis of some of its findings. Lastly, the Slovak Republic submits that the statement of reasons for the contested decision is contradictory.

**Action brought on 19 September 2014 — European Dynamics Luxembourg and Evropaiki Dynamiki
v European Commission**

(Case T-698/14)

(2014/C 448/37)

Language of the case: Greek

Parties

Applicants: European Dynamics Luxembourg and Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (Ettelbruck, Luxembourg) (represented by: V. Khristianos, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

- annul the European Commission decision No DIGIT/R/3/MB/pt 2431467 (2014) of 11/07/2014, whereby the Commission classified the applicants' tender in fourth position in the call for tenders at issue with respect to Lot 1;
- annul the European Commission decision DIGIT/R/3/MB/pt 2703722 (2014) of 31/07/2014, whereby the Commission eliminated the applicants' tender in the call for tenders at issue with respect to Lot 2;
- annul the European Commission decision DIGIT/R/3/MB/pt 2711165 (2014) 31/07/2014, whereby the Commission classified the applicants' tender in third position in the call for tenders at issue with respect to Lot 3;
- order the Commission to pay compensation for the damage suffered by the applicants in respect of the lost opportunity to be classified in first position for the three lots of the framework contract, which they estimate at eight hundred thousand euros (EUR 800 000) with respect to Lot 1, four hundred thousand euros (EUR 400 000) with respect to Lot 2 and two hundred thousand euros (EUR 200 000) with respect to Lot 3, with interest from the date of delivery of the judgment, and
- order the Commission to pay the entirety of the applicants' costs.

Pleas in law and main arguments

The applicants maintain that the contested decisions, by which the Commission rejected the applicant's tender in the open call for tenders No DIGIT/R2/PO/2013/029 — ESP DESIS III for three separate projects (lots), should be annulled, under Article 263 TFEU, by reason of infringement of rules of EU law and, in particular, for the following three reasons:

1. First, by reason of the Commission's infringement of the obligation to state reasons, since it provided an inadequate statement of reasons with regards to the applicants' technical tender.
2. Second, by reason of the Commission's infringement of the Financial Regulation and the rules for its application and of the tendering documents, with regard to the question of abnormally low tenders.
3. Second, by reason of the Commission's infringement of the principle of free competition, since the Commission imposed binding conditions with regard to the submission of the financial tenders and did not permit the tenderers freely to construct their financial tenders, in order to choose the most economically advantageous tender.

Action brought on 27 September 2014 — Topps Europe v Commission

(Case T-699/14)

(2014/C 448/38)

Language of the case: English

Parties

Applicant: Topps Europe Ltd (Milton Keynes, United Kingdom) (represented by: R. Vidal and A. Penny, Solicitors and B. Kennelly, Barrister)

Defendant: European Commission