

Defendant: European Institute for Gender Equality (EIGE)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the European Institute for Gender Equality adopted in the procurement procedure for the award of a 'Framework contract for online services' EIGE/2016/OPER/03-Lot 1, notified to the applicant by letter of 28 October 2016, to rank the applicant's tender in second place and to award the framework contract for lot 1 to a third company;
- award damages to the applicant for loss of opportunity and/or for loss of the contract itself in the amount of EUR 72 270;
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of the principles of equal treatment and transparency, the contract award criteria being imprecise and the evaluation process lacking transparency, thus conferring on the defendant unrestricted freedom of choice as regards awarding of the contract in question.
2. Second plea in law, alleging that the defendant has committed manifest errors of assessment in evaluating the applicant's tender, which, once corrected, would lead to a different result of the procurement procedure, i.e. the applicant's tender should have been ranked first and the framework contract awarded to the applicant.
3. Third plea in law, alleging breach of the principle of equal treatment by interpreting the award criteria in such a way that the third company concerned benefited from the knowledge acquired during performance of a previous similar contract with EIGE.

Action brought on 16 January 2017 — Hungary v European Commission

(Case T-20/17)

(2017/C 078/50)

Language of the case: Hungarian

Parties

Applicant: Hungary (represented by: M.Z. Fehér and E.Zs. Tóth)

Defendant: European Commission

Form of order sought

- Annul Commission Decision C(2016) 6929 final of 4 November 2016 on the measure SA.39235 (2015/C) (ex 2015/NN) implemented by Hungary on the taxation of advertisement turnover;
- In the alternative, annul the part of the contested decision which classifies the version of the legislation following the amendment of 2015 as unlawful State aid;
- Order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three plea(s) in law.

1. First plea in law, alleging that the tax on advertisement was erroneously classified as State aid.

The contested decision is unlawful because the Commission erroneously classifies the Hungarian legislation in question as State aid; neither the system of progressive rates in bands, with bands and rates based on objective criteria, nor the reduction in the tax base for failing undertakings, or the applicability of the new system of rates to previous tax years constitute State aid.

2. Second plea in law, alleging breach of the obligation to state reasons

The Commission failed to fulfill its obligation to state reasons in classifying as unlawful State aid the legislation on tax on advertisement both in the version amended in 2014 and in the version amended in 2015 without having examined the substantive difference between the two laws. The contested decision did not indicate which legislative exemption allowed an undertaking to enjoy a financial advantage compared with another undertaking in the same position; it did not explain why the progressive rate system was not part of the reference system; it did not indicate what category of undertaking was placed at an exclusive advantage by the system of progressive tax rates in bands and did not indicate why it did not consider the demonstration by the Hungarian authorities of the costs arising for taxable persons and for the tax authorities to be satisfactory.

3. Third plea in law, alleging abuse of powers

The Commission misused the power granted in the area of review of State aid in adopting the contested decision, that is when it prohibited as unlawful State aid the collection of taxes on the basis of tax legislation falling exclusively within the competence of the Member States, disregarding the fact that there is no case-law whatsoever of either the Court of Justice or the General Court on the question of whether or not the tax system in question can be classified as State aid.

Action brought on 20 January 2017 — Skyleader v EUIPO — Sky International (SKYLEADER)

(Case T-34/17)

(2017/C 078/51)

Language in which the application was lodged: English

Parties

Applicant: Skyleader a.s. (Ústí nad Labem, Czech Republic) (represented by: K. Malmstedt, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Sky International AG (Zug, Switzerland)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark containing the word element 'SKYLEADER' — EU trade mark No 6 347 827

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 21 November 2016 in Case R 805/2016-4