

- order the European Community to pay compensation for the loss of income suffered by the applicant, amounting to euro 60 000, as a result of the fact that, owing to the rejection, it was unable to exploit and extend its expertise, together with interest at the legal rate until payment in full has been made;
- order the European Community to pay compensation for the consequential losses suffered by the applicant as a result of the lost chance to acquire a renewal contract. The consequential losses resulting from the reduced chance of a renewal contract are estimated at 10 % of the net income from the renewal contract, thus at euro 25 500;
- in the alternative, order the European Community to pay compensation for the damage suffered by the applicant as a result of the loss of the chance of the award of a contract in the amount of euro 26 400, together with interest at the legal rate until payment in full has been made;
- order the European Community to pay compensation for the costs which the applicant has incurred in submitting its tender, amounting to euro 10 000, together with interest at the legal rate until payment in full has been made;
- order the European Communities to pay compensation for the costs which the applicant has incurred in obtaining evidence and bringing the matter before the European Ombudsman, amounting to euro 40 000, together with interest at the legal rate until payment in full has been made;
- order the European Community to pay the costs of the proceedings.

Pleas in law and main arguments

In September 1996 the applicant submitted a tender for a public contract from the Commission in the context of services in relation to the Directive concerning water intended for human consumption⁽¹⁾. The applicant was not, however, selected.

According to the applicant, the Commission acted contrary to the requirements of transparency which must be observed in invitations to tender. The applicant submits that the European Ombudsman, after receiving a complaint from the applicant, came to the same conclusion in that respect.

The applicant also submits that the Commission acted contrary to Article 3 of Directive 92/50/EEC relating to the coordination of procedures for the award of public service contracts⁽²⁾. According to the applicant, the Commission infringed the principles of proper administration by treating the various tenderers differently.

According to the applicant, the Commission also infringed Article 12(1) of Directive 92/50/EEC by failing to inform the applicant of the reasons for the rejection within a period of 15 days after receipt of the written request in that regard.

The applicant also submits that if the Commission had acted in accordance with the rules of proper administration it would have been admitted to the award phase. In that case, according to the applicant, it would also have received a contract.

The applicant also claims that the Commission was obliged, under Articles 16 and 17(2) of Directive 92/50/EEC, no later than 48 days after the award of the contract, to send a notice concerning the outcome of the tender procedure to the Publications Office of the European Communities.

Finally, the applicant states that the Commission has attempted to mislead it.

⁽¹⁾ Open invitation to tender No XLD.1 (OJ 1996 C 232, p. 35).

⁽²⁾ Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ 1992 L 209, p. 1).

Action brought on 9 April 2004 by Lapin liitto, Enontekiön kunta, Inarin kunta, Utsjoen kunta and Unto Autto against the Commission of the European Communities

(Case T-141/04)

(2004/C 146/11)

(Language of the case: Finnish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 9 April 2004 by Lapin liitto (Lapland Region), Enontekiön kunta (municipality of Enontekiö), Inarin kunta (municipality of Inari), Utsjoen kunta (municipality of Utsjoki) and Unto Autto, reindeer herder, represented by Kari Marttinen, lawyer, and Professor Pertti Eilavaara.

The applicants claim that the Court should:

- annul and delete the data on sites concerning Finland from the Commission's decision as unlawful as explained in the application,

- annul in particular the Pallas-Ounastunturin kansallispuisto protected site (FI1300101) as infringing the rights of the applicant reindeer herder Unto Autto and unlawful,
- reimburse the legal costs of the proceedings in full with interest determined from the date of judgment.

Pleas in law and main arguments

The Commission's decision was adopted on the following principal unlawful bases:

- The Commission exceeded its jurisdiction when it approved the list of sites submitted by Finland.
- The Commission did not check the lawfulness of Finland's decision in accordance with the Treaty of Rome or as required by the nature directive, so that its own decision-making is based on a procedure contrary to Annex III to the nature directive.
- Finland drew up its own decision on sites contrary to Community law, since it did not apply the Community law

nature directive in accordance with Annex III to the directive, as confirmed by the Court of Justice of the European Communities in several judgments.

- Objectors were not heard as regards the formation of the alpine regional sites, and the other preparation of the matter was not based in Finland on the procedure laid down by the nature directive.
 - Reindeer herder Unto Autto in particular considers that the Commission's decision on the protection of alpine areas does not safeguard his fundamental rights, since the decision has legal effects but his fundamental rights are not safeguarded. Fundamental rights mean the rights under the Finnish constitution to protection of property, freedom to carry on an occupation, and protection of culture. The Commission's decision also infringes the fundamental rights recognised by the European Union and applied in consistent practice.
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