

Fourthly, the applicant contends that the Commission violated its rights of defence by denying it full access to the file, including communications between the Commission, on the one hand, and its experts, on the other.

Finally, the applicant suggests that the amount of the periodic penalty payment is excessive and disproportionate as the Commission failed to take into account the complexity of the compliance obligation, while it completely disregarded the applicant's substantial good faith efforts to comply with the Commission's previous decisions.

Action brought on 29 September 2006 — Evropaïki Dynamiki v Court of Justice

(Case T-272/06)

(2006/C 294/116)

Language of the case: English

Parties

Applicant: Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: N. Korogiannakis and N. Keramidas, lawyers)

Defendant: Court of Justice of the European Communities

Form of order sought

- Annulment of the decision of the Court of Justice to evaluate the applicant's bid as not successful and award the contract to the successful contractor;
- order the Court of Justice to pay the applicant's legal and other costs and expenses incurred in connection with this application, even if the current application is rejected.

Pleas in law and main arguments

By means of its application, the applicant seeks annulment of the decision of the Court of Justice of 20 July 2006, rejecting its bid filed in response to the open Call for Tenders AM CJ 13/04 for the maintenance, development and support of computer applications (OJ 2005/S 127-125162 & 2005/S 171-169521) and awarding the same Call for Tender to another bidder.

The applicant claims that the contested decision was taken in violation of the Financial Regulation (EC) No 1605/2002 (OJ L 248, 16/09/02, p. 1), its Implementing Rules and Directive 2004/18/EC, through an alleged misinterpretation of the selection criteria, violation of the principles of transparency and equal treatment of the participants.

Moreover, the applicant submits that the contracting authority's decision contains evident errors of assessment in the framework of the evaluation of its offer, exceeding, thus, the discretion that European Institutions dispose in procurement procedures.

Action brought on 11 September 2006 — ISD Polska and Industrial Union of Donbass v Commission

(Case T-273/06)

(2006/C 294/117)

Language of the case: French

Parties

Applicants: ISD Polska sp. z.o.o. (Częstochowa, Poland) and Industrial Union of Donbass Corp. (Donetsk, Ukraine) (represented by: C. Rapin and E. Van den Haute, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- declare this action admissible;
- annul Article 3 of the Commission decision of 5 July 2005 concerning the aid granted by Poland to Huta Częstochowa SA (notified under C(2005) 1962);
- in the alternative, declare that on the date of this action there is no obligation on Poland to recover the aid and interest referred to in Article 3 of the decision and therefore that the amounts of that aid and interest is not payable;
- in the further alternative, annul the second subparagraph of Article 3(2) of the decision and refer the question of the interest to the Commission for a new decision in accordance with Annex A to this application, or with such other consideration as the Court may indicate in the grounds of the judgment;
- in any event, order the Commission to pay all of the costs;
- if the Court should decide that there is no need to adjudicate, order the Commission to pay the costs pursuant to the combined provisions of Article 87(6) and Article 90(a) of the Rules of Procedure of the Court of First Instance.