

**Pleas in law and main arguments**

By judgment of 12 July 2007 in Case T-144/02 *Richard J. Eagle and Others v Commission* [2007] ECR II-0000 the Commission was ordered by the Court of First Instance to pay the applicant damages of a certain amount.

By payment of 16 November 2007 the Commission paid a reduced amount having set off the sum of EUR 36 551,58. The applicant challenges the decision of the Commission to reduce the sums due to him by this amount.

In support of its application, the applicant submits that the Commission erred in law in reaching the contested decision, as the decision was an unlawful abuse of process since the Commission had withdrawn its claim for set-off during the proceedings before the Court and therefore could not unilaterally pursue the issue subsequently.

The applicant furthermore contends that the contested decision was contrary to a binding legitimate expectation of the applicant, as the Commission had accepted the applicant's figures in correspondence following the judgment of the Court.

Finally, the applicant claims that the debit notes upon which the contested decision relied failed to provide a proper legal basis for the decision and that the decision was based upon a fundamental miscalculation in relation to interest claimed.

**Action brought on 22 January 2008 — Evropaiki Dynamiki v Commission**

(Case T-39/08)

(2008/C 92/69)

*Language of the case: English***Parties**

*Applicant:* Evropaiki Dynamiki — Proigmena Systemata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: N. Korogiannakis, lawyer)

*Defendant:* Commission of the European Communities

**Form of order sought**

— Annul the decision of the Commission to evaluate the applicant's bid as not successful and award the contract to the successful contractor;

— order the Commission to pay the applicant's damages suffered on account of the tendering procedure in question for an amount of EUR 441 564,50;

— order the Commission to pay the applicant's legal and other costs and expenses incurred in connection with this application, even if the current application is rejected;

— order the Commission to pay the applicant's legal and other costs and expenses incurred in connection with this application.

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The applicant submitted a bid in response to the defendant's call for an open tender concerning hosting, management, enhancement, promotion and maintenance of the Commission's Internet portal on eLearning (elearningeuropa.info) (O) 2007/S 87-105977). The applicant contests the defendant's decision of 12 November 2007 rejecting the applicant's bid and informing the applicant that the contract would be awarded to another tenderer. The applicant further requests compensation for the alleged damages caused by the tender procedure.

In support of its application, the applicant submits that the defendant committed manifest errors of assessment and failed to state reasons in accordance with Article 253 EC. Furthermore, the applicant alleges that the defendant confused evaluation criteria with award criteria when evaluating the bids and used evaluation criteria that were not disclosed to the tenderers before the deadline for submitting the offers. Finally, the applicant contends that the defendant violated the principle of non-discrimination.

**Action brought on 1 February 2008 — Vakakis v Commission**

(Case T-41/08)

(2008/C 92/70)

*Language of the case: English***Parties**

*Applicant:* Vakakis International — Symvouli gia Agrotiki Anaptixi AE (Athens, Greece) (represented by: B. O'Connor, Solicitor)

*Defendant:* Commission of the European Communities