

Action brought on 30 September 2008 — Agapiou Joséphidès v Commission and Education, Audiovisual and Culture Executive Agency

(Case T-439/08)

(2008/C 327/61)

Language of the case: French

Parties

Applicant: Kalliope Agapiou Joséphidès (Nicosia, Cyprus) (represented by: C. Joséphidès, lawyer)

Defendants: Commission of the European Communities and Education, Audiovisual and Culture Executive Agency

Form of order sought

- annul the decision of the Education, Audiovisual and Culture Executive Agency ('the Agency') of 1 August 2008, by which the Agency, acting under the Commission's supervision, denied the applicant access, requested by her letter of 3 March 2008, to certain documents in file No 07/0122 relating to the award of a Jean Monnet Centre of Excellence to the University of Cyprus;
- annul Commission Decision C(2007) 3749 of 8 August 2008 relating to the individual decision to award subsidies within the framework of the Lifelong Learning Programme, Jean Monnet sub-programme;
- order the Agency and the Commission to pay the applicant's costs in these proceedings.

Pleas in law and main arguments

By this action, the applicant seeks the annulment, first, of the decision of the Education, Audiovisual and Culture Executive Agency of 1 August 2008 denying her access to documents relating to the award of a Jean Monnet Centre of Excellence to the University of Cyprus and, second, of Commission Decision C(2007) 3749 of 8 August 2008 relating to an individual decision to award subsidies within the framework of the Lifelong Learning Programme, Jean Monnet sub-programme, to the extent that it recommends the award of a subsidy to the University of Cyprus for the creation of a Jean Monnet Centre of Excellence.

In support of her application for annulment of the decision of the Agency of 1 August 2008, she claims that the Agency infringed her personal right, as derived, in particular, from the principle of transparency contained in Article 1, second paragraph, and Article 6 TEU, Article 255 EC and the EU Charter of Fundamental Rights, to have access to certain documents in so far as her name was used by third parties (the University of Cyprus) in an administrative application file, with the aim of deriving benefit from it without her consent. She claims that in those circumstances, she is entitled to verify the precise content and/or the accuracy of the personal data and the aim and context of its use.

In addition, she submits that the Director of the Agency is not competent to decide on her confirmatory application for access

to the documents and that its decision of 1 August 2008 was taken in violation of Regulation No 1049/2001⁽¹⁾ and the Commission Rules of Procedure.

None the less, if the Court of First Instance were to consider that the Director of the Agency was competent to adopt the contested decision, the applicant claims that that decision was taken in violation of several provisions of Regulation No 1049/2001, in particular Articles 7(1), 8(1) and 15(1). According to the applicant, the Agency also misinterpreted several other provisions of the same regulation, in particular Articles 4(4), 4(5), 4(1)(b) and 4(2) and misapplied the principle of transparency and the concept of overriding public interest. The applicant also puts forward a plea alleging that the contested decision is insufficiently reasoned.

In support of her application for annulment of Commission Decision C(2007) 3749 of 8 August 2008, the applicant claims that the Commission erred in failing to verify whether the applicant had consented to her personal data appearing in the application form submitted to the Commission by the University of Cyprus. She takes the view that the Commission ought to have found a substantial irregularity in the draft submitted and revoked its decision or taken other necessary measures.

The applicant also submits that the Commission erred in its analysis of the eligibility criteria in respect of the application submitted by the University of Cyprus.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 1 October 2008 — 1-2-3.TV v OHIM — Zweites Deutsches Fernsehen and Televersal Film- und Fernseh-Produktion (1-2-3.TV)

(Case T-440/08)

(2008/C 327/62)

Language in which the application was lodged: German

Parties

Applicant: 1-2-3.TV GmbH (Unterföhring, Germany) (represented by: V. von Bomhard, A. Renck, T. Dolde und E. Nicolás Gómez, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other parties to the proceedings before the Board of Appeal of OHIM: Zweites Deutsches Fernsehen (Mainz, Germany) and Televersal Film- und Fernseh-Produktion GmbH (Hamburg, Germany)