

Action brought on 30 January 2009 — Evropaiki Dynamiki v Commission

(Case T-49/09)

(2009/C 90/45)

Language of the case: English

Parties

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

Defendant: Commission of the European Communities

Form of order sought

— annul the Commission's decision to reject the bid of the applicant, filed in response to the open call for tender REGIO-A4-2008-01 for the "Maintenance and development of the Directorate-General for Regional Policy's Information System" ⁽¹⁾ communicated to the applicant by letter dated 21 November 2008 and all further related decisions including the one to 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 4 520 845,05;

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

Pleas in law and main arguments

In the present case the applicant seeks the annulment of the defendant's decision to reject its bid submitted in response to a call for an open tender REGIO-A4-2008-01 for the "Maintenance and Development of the Directorate-General for Regional Policy's Information System" and to award the contract to the successful contractor. The applicant further requests compensation for the alleged damages in account of the tender procedure.

In support of its claims the applicant puts forward four pleas in law.

First, it argues that the Commission infringed the principle of equal treatment by introducing *a posteriori* the criteria which were unknown to the tenderers and by using a discriminatory evaluation formula.

Second, the applicant contends that the evaluation committee did not provide sufficient motivation of its decision.

Third, the applicant submits that the Commission failed to observe essential procedural requirements by introducing a complementary evaluation committee.

Fourth, the applicant claims that the defendant based its evaluation of the applicant's tender on unfounded considerations and assumptions thus committing serious and manifest errors of assessment and misusing its power.

⁽¹⁾ OJ 2008/S 117-155067

Action brought on 3 February 2009 — Ifemy's v OHIM — Dada & Co Kids (Dada & Co. kids)

(Case T-50/09)

(2009/C 90/46)

Language in which the application was lodged: English

Parties

Applicant: Ifemy's Holding GmbH (Munich, Germany) (represented by: H.G. Augustinowski, lawyer)

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

Other party to the proceedings before the Board of Appeal: Dada & Co Kids Srl (Prato, Italy)

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 November 2008 in case R 911/2008-4; and

— Order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for the Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark 'Dada & Co. kids', for goods in class 25