

The applicants claim, first of all, that the defendant declared it mandatory that a 'risk factor' be named in the application, although no such obligation results from Regulation No 1924/2006.

2. Second plea in law: Failure to take account of the actual naming of a 'risk factor' in the application.

The applicants allege that the defendant overlooked the fact that the applicants actually named a 'risk factor' in the wording of the health claim which they made.

3. Third plea in law: Infringement of the principle of proportionality

The applicants submit that, on the whole, Regulation No 1170/2011 is disproportionate.

4. Fourth plea in law: Absence of a sufficient legal basis

In the view of the applicants, the contested regulation lacks a sufficient legal basis, since it is based on Article 17, in conjunction with Article 14(1)(a) and Article 10(1), of Regulation No 1924/2006, which infringe European Union law and, in particular, the principle of proportionality.

5. Fifth plea in law: Inadmissible legislative act

The applicants submits that the defendant infringed essential procedural requirements in that, instead of issuing a decision, as provided for in Regulation No 1924/2006, it issued a regulation.

6. Sixth plea in law: Infringement of the division of competences

The applicants claim, in this regard, that the division of competences, provided for in Regulation No 1924/2006, between the defendant, the European food safety authority and the German Federal Office for consumer protection and food security, was not respected by the defendant in the procedure.

7. Seventh plea in law: Failure to adopt a decision within the time-limit prescribed

The applicants claim that the defendant failed to respect the imperative time-limits laid down in Regulation No 1924/2006 in relation to the forwarding of the application for authorisation, the issuing of the scientific opinion, and the issuing of the decision on whether the claim was to be authorised.

8. Eighth plea in law: Inadequate consideration of the submissions

The applicants submit that the defendant infringed essential procedural requirements since, in its decision on whether to

authorise the claim, it failed to take account of a significant part of the applicants' submissions and those of third parties involved in the procedure.

9. Ninth plea in law: Erroneous grounds

Finally, the applicants claim that the defendant did not sufficiently comply with its obligation under Article 296(2) TFEU to provide the grounds on which its decision was based.

⁽¹⁾ Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (OJ 2006 L 404, p. 9).

⁽²⁾ Commission Regulation (EU) No 1170/2011 of 16 November 2011 refusing to authorise certain health claims made on foods and referring to the reduction of disease risk (OJ 2011 L 299, p. 1).

Action brought on 17 January 2012 — Alfacam and Others v Parliament

(Case T-21/12)

(2012/C 89/45)

Language of the case: French

Parties

Applicants: Alfacam (Lint, Belgium); Via Storia (Schiltigheim, France); DB Video Productions (Aartselaar, Belgium); IEC (Rennes, France); and European Broadcast Partners (EUBROPA) (Aartselaar) (represented by: B. Pierart, lawyer)

Defendant: European Parliament

Form of order sought

— Annul the decision adopted by the European Parliament on 18 November 2011 which awards to the Belgian company WATCH TV S.A. the contract EP/DGCOMM/AV/11/11 lot 1 Provision of video, radio and multimedia services — Services to be provided to the European Parliament in Brussels;

— accordingly, annul the decision adopted by the European Parliament which did not accept the tender of the first four applicants, acting within the framework of the consortium EUROPEAN BROADCAST PARTNERS, that tender ranking second for the contract EP/DGCOMM/AV/11/11 lot 1 Provision of video, radio and multimedia services — Services to be provided to the European Parliament in Brussels;

— order the European Parliament to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on a sole plea alleging infringement of Article 94 of the Financial Regulation, ⁽¹⁾ in so far as the tenderer's tender contained false declarations, so that that tenderer should have been excluded from the award of the contract.

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 248, p. 1).

Action brought on 19 January 2012 — IDT Biologika v Commission

(Case T-30/12)

(2012/C 89/46)

Language of the case: German

Parties

Applicant: IDT Biologika GmbH (Dessau-Roßlau, Germany) (represented by: R. Gross and T. Kroupa, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Delegation of the European Union to the Republic of Serbia of 5 October 2011 rejecting the tender submitted in respect of Lot No 1 by IDT Biologika GmbH in response to the call for tenders, reference EuropeAid/130686/C/SUP/RS Re-launch LOT 1, for the supply of a rabies vaccine to the beneficiary Ministry of Agriculture, Forestry and Water Supply of the Republic of Serbia, and awarding the contract in question to a consortium of various companies led by 'Biovet a. s.';
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of its action the applicant alleges infringement of Article 252(3) of Regulation (EC) No 2342/2002 ⁽¹⁾ as the applicant takes the view that the successful tender does not fulfil the technical requirements specified in the tender documents with regard to the requisite non-virulence to humans of the vaccine offered and with regard to the requisite authorisations and should not therefore have been taken into account.

Furthermore, the taking into account of the successful tender of the consortium led by 'Biovet a. s.' constitutes discrimination as

regards price comparison since the applicant's tender alone satisfies all the actual requirements made with regard to the technical specifications in respect of the award procedure at issue and is therefore the only tender in the procedure which is in order.

⁽¹⁾ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 357, p. 1).

Action brought on 23 January 2012 — Pips v OHIM — s.Oliver Bernd Freier (ISABELLA OLIVER)

(Case T-38/12)

(2012/C 89/47)

Language in which the application was lodged: English

Parties

Applicant: Pips BV (Amsterdam, Netherlands) (represented by: J.A.K. van den Berg, lawyer)

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

Other party to the proceedings before the Board of Appeal: s.Oliver Bernd Freier GmbH & Co. KG (Rottendorf, Germany)

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 20 October 2011 in case R 2420/2010-1;
- Allow the Community trade mark application No 7024961 for the word mark 'ISABELLA OLIVER', for all the goods and services subject to the proceedings before the First Board of Appeal; and
- Order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'ISABELLA OLIVER', for goods and services in classes 3, 4, 12, 14, 16, 18, 20, 21, 24 and 25 — Community trade mark application No 7024961