

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