

Defendant: European Parliament

Form of order sought

- First, annul the decision of 9 December 2011;
- In the alternative, annul call for tenders No PL/2011/EP;
- Order the Parliament to pay the costs of the proceedings;
- Reserve to the applicant all other rights, pleas and actions.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging abuse of power in that the European Parliament did not communicate, or communicated late, the information requested by the applicant following the reallocation of the contract in the context of a procurement procedure concerning the provision of translation services into Polish. ⁽¹⁾
2. Second plea in law, alleging infringement of the rules and principles of the European Union, including the Financial Regulation, ⁽²⁾ and the Regulation implementing the Financial Regulation, ⁽³⁾ the successful tenderer being debarred when it requested the re-evaluation of its tender and the Parliament therefore no longer being entitled to revisit its decision to award the contract to the applicant without either suspending or annulling the call for tenders.

⁽¹⁾ OJ 2011/S 56-090361.

⁽²⁾ 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).

⁽³⁾ 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 7 February 2012 — Lafarge v Commission

(Case T-49/12)

(2012/C 109/44)

Language of the case: French

Parties

Applicant: Lafarge (Paris, France) (represented by: A. Winckler, F. Brunet and C. Medina, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul, in accordance with Article 263 TFEU, Commission decision C(2011) 8890 of 25 November 2011 in proceedings pursuant to Article 24(1)(d) of Council Regulation (EC) No 1/2003 in Case 39520 — Cement and related products;

- order the European Commission to pay the costs in their entirety.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging infringement of Regulation No 1/2003, ⁽¹⁾ in so far as the Commission exceeded the powers conferred on it by Article 24(1)(d) thereof by requiring the applicant to confirm that its response was complete, correct and precise or to communicate the missing information or the necessary amendments so that the response would be complete, correct and precise.
2. Second plea in law, alleging breach of the principle of proportionality, since the Commission went beyond what was appropriate and necessary in order to achieve the objective pursued — by adopting a decision requiring the applicant to confirm that its response was complete, correct and precise or to communicate the missing information or the necessary amendments so that the response would be complete, correct and precise — whereas, in view of the extent of the information requested, such confirmation was impossible, and the Commission could have taken more appropriate measures to ensure that the applicant's response could provide a reliable basis for assessing whether the undertakings' conduct was compatible with Articles 101 and 102 TFEU.
3. Third plea in law, alleging breach of the rights of the defence and of the right to a fair hearing, in that the contested decision effectively requires the applicant to withdraw all the reservations qualifying its response, whereas, in view of the complexity of the information requested, it had to weigh a large number of issues.

4. Fourth plea in law, alleging breach of the principle of sound administration in that the contested decision was taken without regard being had to the specific aspects of the case raised by the applicant in its response and without the applicant's being heard first.

(¹) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [101 TFEU] and [102 TFEU] (OJ 2003 L 1, p. 1).

Action brought on 7 February 2012 — AMC-Representações Têxteis v OHIM — MIP Metro (METRO KIDS COMPANY)

(Case T-50/12)

(2012/C 109/45)

Language in which the application was lodged: English

Parties

Applicant: AMC-Representações Têxteis L^{da} (Taveiro, Portugal) (represented by: V. Caires Soares, lawyer)

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

Other party to the proceedings before the Board of Appeal: MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, 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 24 November 2011 in case R 2314/2010-1;

— Order the Defendant and, as appropriate, the Intervener in the proceedings to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark 'METRO KIDS COMPANY', for goods and services in classes 24, 25 and 39 — Community trade mark application No 8200909

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: International trade mark registration No 852751 of the figurative mark 'METRO', for goods

and services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45

Decision of the Opposition Division: Upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal erred in finding that the confronted marks were similar and the likelihood of confusion and/or association could not be excluded.

Action brought on 8 February 2012 — Scooters India v OHIM — Brandconcern (LAMBRETTA)

(Case T-51/12)

(2012/C 109/46)

Language in which the application was lodged: English

Parties

Applicant: Scooters India Ltd (Sarojiniagar, India) (represented by: B. Brandreth, Barrister)

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

Other party to the proceedings before the Board of Appeal: Brandconcern BV (Amsterdam, Netherlands)

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 1 December 2011 in case R 2312/2010-1, insofar as the applicant's appeal against the revocation of the mark in respect of its registration for goods in class 12 was dismissed;

— Remit the case back to OHIM with a recommendation by the General Court that it find that the mark has been put to genuine use in relation to goods in class 12, namely 'scooters, parts and fittings for vehicles and apparatus for locomotion by land'; and

— Order the Defendant to pay the applicant's costs incurred before the Board of Appeal and the General Court.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: The word mark 'LAMBRETTA', for goods in classes 3, 12, 14, 18 and 25 — Community trade mark registration No 1495100