

Action brought on 11 April 2012 — European Dynamics Luxembourg and Evropaiki Dinamiki v Commission

(Case T-165/12)

(2012/C 184/30)

Language of the case: Greek

Parties

Applicants: European Dynamics Luxembourg SA (Ettelbrück, Luxembourg) and Evropaiki Dinamiki — Proigmena Sistimata Tilepikinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: V Christianos, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

- annul the European Commission decision CMS/cms D(2012)/00008 of 8 February 2012, which was communicated to the applicants on 9 February 2012, whereby the European Commission rejected the applicants' tender in the closed tendering procedure EuropeAid/131431/C/SER/AL, and
- order the Commission to pay the entirety of the applicant's costs.

Pleas in law and main arguments

By this action, the applicants seek the annulment of the European Commission decision CMS/cms D(2012)/00008 of 8 February 2012, which was communicated to the applicants on 9 February 2012, whereby the European Commission rejected the applicants' tender in the closed tendering procedure EuropeAid/131431/C/SER/AL.

The applicants claim that the contested decision should be annulled, in accordance with Article 263 TFEU, because of contravention of the rules of European Union law and, in particular, on the following three grounds:

1. First, because of the infringement by the Commission of the principle of transparency, since the contested decision, even after the Commission's letter of 21 February 2012, did not allow the tenderers to have access to the record of the Commission's assessment.
2. Second, because of the infringement by the Commission of the duty to state reasons:
 - because, in respect of the characteristics and advantages of the successful tenderer, even after the Commission's letter of 21 February 2012, both the analytical score of

the successful tenderer's technical bid and the justification for that score were completely lacking in the contested decision.

- Because in respect of the technical bid of the applicants themselves, the contested decision, even after the Commission's letter of 21 February 2012, contained a completely inadequate statement of reasons for its score.

Appeal brought on 4 April 2012 by the Council of the European Union against the judgment of the Civil Service Tribunal of 8 February 2012 in Case F-23/11, AY v Council

(Case T-167/12 P)

(2012/C 184/31)

Language of the case: French

Parties

Appellant: Council of the European Union (represented by M. Bauer and A.-F. Jensen, acting as Agents)

Other party to the proceedings: AY (Bousval, Belgium)

Form of order sought by the appellant

- Set aside the judgment of the European Union Civil Service Tribunal (First Chamber) of 8 February 2012 in Case F-23/11 AY v Council;
- Refer the action back to the Civil Service Tribunal;
- Order the defendant to pay all the costs at first instance and at appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on two pleas in law.

1. First plea in law, alleging an error of law in the reasoning given by the CST when examining the plea in law raised at first instance alleging a disregard of Articles 24a and 45(1) of the Staff Regulations of Officials of the European Union in that the Council failed, in the comparative examination of the merits and, more particularly, vocational training, to take account of the success of the person concerned in the examination of the training programme provided for in the certification procedure of officials in function group AST to move to function group AD (paragraphs 23 to 32 of the judgment under appeal). The Council argues that the finding in paragraph 28 of the judgment that the certification of officials in function group AST constitutes, by definition, vocational training is incorrect in law or, at the very least, inexact.