

Order of the General Court of 15 January 2013 — Alfacam and Others v Parliament

(Case T-21/12) ⁽¹⁾

(Action for annulment — Public service contracts — Procurement procedure — Supply of audiovisual services to the Parliament — Rejection of a tenderer's bid — Articles 94 and 103 of Regulation (EC, Euratom) no 1605/2002 — Action manifestly devoid of any basis in law)

(2013/C 71/34)

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 (represented initially by: P. López-Carceller and C. Braunstein, and subsequently by: P. López-Carceller and G. Hellinckx, acting as Agents)

Re:

Annulment of the Parliament's decision of 18 November 2011 to award lot No 1 in the call for tenders EP/DGCOMM/AV/11/11 relating to the provision of audiovisual services within the Parliament in Brussels (Belgium) to watch tv and of the Parliament's decision of 18 November 2011 rejecting Eubropa's bid for that lot.

Operative part of the order

1. *The action is dismissed.*
2. *The applicants shall bear their own costs and pay the costs incurred by the European Parliament.*

⁽¹⁾ OJ C 89, 24.3.2012.

Action brought on 16 October 2012 — Wojciech Gęšina Firma Handlowa Faktor B. i W. Gęšina v Commission

(Case T-468/12)

(2013/C 71/35)

Language of the case: Polish

Parties

Applicant: Wojciech Gęšina Firma Handlowa Faktor B. i W. Gęšina (Warsaw, Poland) (represented by: H. Mackiewicz, legal adviser)

Defendant: European Commission

Form of order sought

— annul Commission Implementing Regulation (EU) No 554/2012 of 19 June 2012 concerning the classification of certain goods in the Combined Nomenclature;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. The first plea concerns adoption of the contested regulation by the Commission in breach of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, ⁽¹⁾ in particular through an incorrect interpretation of the explanatory notes to heading CN 9505, which finds expression in the determination that, as the decorative article does not contain any festive imprints, ornaments, symbols or inscriptions, it has not been exclusively designed and manufactured as a festive article and is not recognised as such.

In the applicant's view, the content of heading CN 9505 and of the explanatory notes thereto shows that, in order for an article to be recognised as a festive article, it does not need to have specific imprints, ornaments, symbols or inscriptions directly referring to a particular festivity.

The question whether an article is exclusively designed, manufactured and recognised as a festive article must be assessed in the light of the festivity-related symbolism attaching to a given article in a Member State and of the article's connection with the festive tradition and culture in that State. Where such an article is recognisable in a given cultural circle as a festive article, it need not (but can) have additional symbols ornaments or inscriptions underlining its connection with a particular festivity.

2. The second plea concerns adoption of the contested regulation by the Commission in breach of the Explanatory Notes to the Combined Nomenclature of the European Communities ⁽²⁾ concerning heading CN 9505, through an incorrect interpretation of the notes which consists in the determination that, as the decorative article does not contain any festive imprints, ornaments, symbols or inscriptions, it has not been exclusively designed and manufactured as a festive article and is not recognised as such.