

- consequently,
- annul:
  - the Parliament's decision, of unknown date, to abandon the tendering procedure implemented on the ground that 'the bids received in response to the tender were unacceptable in view of the award criteria, in particular the proposed prices, which are too high compared to the value set out in the contract notice', brought to the attention of the Direct Way group by letter dated 3 September 2012;
  - the Parliament's decision, of unknown date, to apply the negotiated procedure without publication for the purpose of awarding the contract, brought to the attention of the Direct Way group by the tendering procedure invitation communicated to it on 19 September 2012;
  - the Parliament's decision, of unknown date, to award the contract to a competing tenderer, brought to the attention of the Direct Way group by e-mail of 21 December 2012 and confirmed by letter of 3 January 2013;
- accordingly, declare void the contract concluded between the Parliament and the s.c.s. TMS Limousines;
- order the Parliament to pay to the Direct Way group the provisional amount of EUR 199 500 per year as compensation for the loss sustained;
- order the Parliament to pay the costs in their entirety, in accordance with Article 87(2) of the Rules of Procedure of the General Court.

### Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. The first plea alleges infringement of Article 101 of the Financial Regulation <sup>(1)</sup>, of Article 127(1)(a) of the Regulation implementing the Financial Regulation <sup>(2)</sup> and of the principle of equality, and a manifest error of assessment, as the Parliament awarded the contract by negotiated procedure at a price above that submitted by the applicants in the context of the initial invitation to tender.
2. A second, alternative, plea alleges infringement of Article 127(1)(a) of the Regulation implementing the Financial Regulation and of the principle of equality, as the Parliament substantially amended the initial conditions of the contract (i) by awarding the contract at a price above that considered unacceptable in the initial invitation to tender (first part) and

(ii) by lowering the estimate of the volume to be provided in relation to the volume set out in the initial conditions of the contract, thus affecting the assessment of the price of the negotiated bids (second part).

<sup>(1)</sup> 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).

<sup>(2)</sup> 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 8 March 2013 — Eltek/OHIM — Eltec Elektronik (ELTEK)

(Case T-139/13)

(2013/C 147/38)

*Language in which the application was lodged: English*

### Parties

*Applicant:* Eltek SpA (Casale Monferrato, Italy) (represented by: G. Florida and R. Florida, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Eltec Elektronik AG (Mainz, Germany)

### Form of order sought

The applicant claims that the Court should:

- Annul the Board of Appeal's decision of 7 January 2013 (as rectified by corrigendum of 22 January 2013) notified and received on 10 January 2013 in Case R 511/2012-1, pertaining to opposition proceedings No B 992 851, and application for Community trade mark registration no. 4 368 064, by reason of the full satisfaction of all the requirements for valid registration of each product;
- Order OHIM to pay the costs with regard to the proceedings before the Court and order the opponent to pay the costs with regard to the proceedings before the Opposition Division and the Board of Appeal.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* The word mark 'ELTEK', for goods in class 9 — Community trade mark application No 4 368 064

*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:* German trade mark and International registration 'ELTEC', designating the Benelux, Spain, France, Italy, Austria and Portugal, for goods and services in classes 9, 37, 38, 41 and 42

*Decision of the Opposition Division:* Partially dismissed the opposition

*Decision of the Board of Appeal:* Allowed the appeal and rejected the Community trade mark applied for with respect to certain goods of class 9

*Pleas in law:* Infringement of Articles 8(1)(b) Council Regulation No 207/2009.

**Action brought on 8 March 2013 — Scheepsbouw Nederland v Commission**

(Case T-140/13)

(2013/C 147/39)

*Language of the case:* English

**Parties**

*Applicant:* Scheepsbouw Nederland (Rotterdam, Netherlands) (represented by: K. Struckmann, lawyer, and G. Forwood, Barrister)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the European Commission of 20 November 2012 in case SA.34736 (Early depreciation of certain assets acquired through a financial leasing), published in the Official Journal of the European Union on 13 December 2012 (OJ 2012 C 384, p. 2); and
- Order the defendant to pay the costs of these proceedings.

**Pleas in law and main arguments**

In support of the action, the applicant relies on one plea in law, alleging that the Commission failed to comply with Article 108(3) TFEU and Article 4(2) and 4(3) of Council Regulation (EC) No 659/1999 <sup>(1)</sup>.

In this respect, the applicant argues that, in view of the circumstances of the case, as well as the insufficient and incomplete nature of the substantive examination carried out by the Commission during the preliminary examination procedure, there is sufficient evidence of the existence of serious difficulties as to the assessment of the proposed measure. The Commission was therefore not properly able to conclude, following its preliminary examination, that the measure in question was not State aid within the meaning of Article 107(1) TFEU. The Commission had no choice but to open the formal investigation procedure under Article 108(2) TFEU.

<sup>(1)</sup> Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1)

**Action brought on 11 March 2013 — Ziegler Relocation v Commission**

(Case T-150/13)

(2013/C 147/40)

*Language of the case:* French

**Parties**

*Applicant:* Ziegler Relocation SA (Brussels, Belgium) (represented by: J.-F. Bellis, M. Favart and A. Bailleux, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- join the present action to Case T-539/12;
- declare the present action admissible and well-founded;
- hold that the European Union has incurred non-contractual liability as regards the applicant;
- order the European Union to pay the applicant the sum of EUR 112 872,50 per year from 11 March 2008, together with interest until payment in full;
- order the European Union to pay the costs.

**Pleas in law and main arguments**

The damage in respect of which the applicant seeks compensation from the European Union concerns the loss of earnings which it claims to have suffered since the adoption of the Commission's decision of 11 March 2008 in Case COMP/38.543 — *International removal services* as a result of the practice of European Union officials to request cover quotes in the context of removals the costs of which are reimbursed in accordance with the status of European Union officials has not ceased. The applicant's refusal to respond