

- Dismiss the opposition against Application No 009 877 391 in its entirety;
- Order OHIM 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 containing the word element 'TRECLORE' for goods and services in Classes 18, 25 and 35 — Community trade mark application No 9 877 391

Proprietor of the mark or sign cited in the opposition proceedings: Aeronautica Militare — Stato Maggiore

Mark or sign cited in opposition: The community and national word and figurative mark 'FRECCE TRICOLORI', for goods and services in Classes 9, 14, 16, 18, 20, 25, 28 and 41

Decision of the Opposition Division: Partially rejected the opposition.

Decision of the Board of Appeal: Dismissed the appeal.

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009

Action brought on 28 April 2014 — Argus Security Projects v Commission

(Case T-266/14)

(2014/C 245/26)

Language of the case: French

Parties

Applicant: Argus Security Projects Ltd (Limassol, Cyprus) (represented by: T. Bontinck and E. van Nuffel d'Heynsbroeck, lawyers)

Defendant: European Commission

Form of order sought

- Annulment of the decision of the EUBAM Libya not to accept the tender submitted by Argus in the a call for tender negotiated procedure concerning the supply of security services as part of the European Union Integrated Border Management Assistance Mission in Libya (contract EUBAM-13-020), and the decision to award the contract to Garda;
- Order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on 3 pleas in law.

1. First plea in law, alleging an infringement of Article 110 of the Financial Regulation ⁽¹⁾, of the rules laid down in the specifications for the award of the contract, in particular points 4.1 and 12.1 of the instructions to tenderers, and of the principles of equal treatment of tenderers and non-discrimination, in so far as the EUBAM did not check the abilities of the successful tenderer to perform the contract in accordance with the requirements of the contract or failed to exercise its discretion as regards the expected technical qualities of the successful tender with the minimum rigour reasonably to be expected.

The applicant submits that the serious failings by the successful tenderer and its inability to carry out the contract awarded to it show that the tender was unrealistic and ought not to have been accepted by the adjudicating authority.

2. Second plea in law, alleging a substantive amendment to the initial conditions of the contract liable to distort the result of the call for tenders.

The applicant submits that the relation between the points awarded to the successful tenderer and to the applicant for all the assessment criteria would have been reversed if the successful tender had been assessed taking into account the conditions in which the successful tenderer performs the contract.

3. Third plea in law, alleging an infringement of the duty to state reasons, in so far as the adjudicating authority failed to comply with Article 113 of the Financial Regulation and Article 161(2) of the Delegated Regulation⁽²⁾, since the characteristics and relative advantages of the successful tender were not communicated within 15 calendar days following the applicant's request.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ 2012 L 362, p. 1).

Action brought on 5 May 2014 — Dyckerhoff Polska v Commission

(Case T-284/14)

(2014/C 245/27)

Language of the case: Polish

Parties

Applicant: Dyckerhoff Polska sp. z o.o. (Nowiny, Poland) (represented by: K. Kowalczyk, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Commission Decision 2013/448/EU of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (OJ 2013 L 240, p. 27).

Pleas in law and main arguments

In support of its action, the applicant puts forward three pleas in law.

1. First plea in law:

- The adopted decision is incompatible with EU law, in particular with Directive 2003/87/EC of the European Parliament and the Council of 13 October 2003 and Commission Decision 2010/2/EU of 24 December 2009.

2. Second plea in law:

- Infringement of the principle of equal treatment by reason of the establishment of a uniform cross-sectoral correction factor for all sectors, failing thereby to take into account the fact that the sectors which are deemed to be exposed to a significant risk of carbon leakage, including that of cement production, ought to be treated in a manner different to sectors which are not exposed to such a significant risk;

and infringement of the principle of proportionality.