

Re:

Primarily, an application for a suspension of operation of the Commission's decision by which that institution awarded Lot No 1 of the call for tenders OIB.DR.2/PO/2014/055/622 — 'Provision of furniture' to another tenderer and, in the alternative, an application seeking an order for the production of documents concerning the financial analysis of the tenders and for suspension of operation of that decision until the expiry of a new standstill period of ten days from the date on which those documents are sent.

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *The order of 26 August 2015 delivered in Case T-482/15 R is set aside.*
3. *Costs are reserved.*

Action brought on 18 September 2015 — De Capitani v Parlement**(Case T-540/15)**

(2015/C 398/72)

*Language of the case: English***Parties**

Applicant: Emilio De Capitani (Brussels, Belgium) (represented by: O. Brouwer and J. Wolfhagen, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- annul the decision A(2015)4931 of the European Parliament of 8 July 2015 to refuse full access to documents LIBE-2013-0091-02 and LIBE-2013-0091-03 related to the legislative proposal for a regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA;
- order the defendant to pay the costs of the procedure, including the costs of any intervening parties.

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 an error in law and a misapplication of Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, p. 43).

The applicant puts forward that the Parliament committed an error in law and misapplied Article 4(3) first subparagraph of Regulation 1049/2001 in that:

- access to the requested documents, which are part of the legislative process, does not specifically, effectively and in a non-hypothetical manner undermine the legislative decision-making process;
- the Parliament ignores that, notably after the Lisbon Treaty, legislative preparatory documents are subject to the principle of widest possible access;
- if Article 4(3) would still be applicable to legislative preparatory works after the entry into force of the Lisbon Treaty and of the Charter of Fundamental Rights of the European Union, the Parliament has committed an error in law and misapplied the overriding public interest test.

2. Second plea in law, alleging a failure to state reasons in accordance with Article 296 TFUE.

According to the applicant, the Parliament has failed to state reasons as to why it denied access to the requested documents on the basis of Article 4(3), first subparagraph of Regulation 1049/2001, by not stating reasons as to (i) why full disclosure of the documents requested would effectively and specifically undermine the decision-making process in question, and (ii) why no overriding public interest exists in this case.

Action brought on 22 September 2012 — Guiral Broto v OHIM — Gastro & Soul (Café del Sol)

(Case T-548/15)

(2015/C 398/73)

Language in which the application was lodged: Spanish

Parties

Applicant: Ramón Guiral Broto (Marbella, Spain) (represented by: J. de Castro Hermida, lawyer)

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

Other party to the proceedings before the Board of Appeal: Gastro & Soul GmbH (Hildesheim, Germany)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community word mark 'Café del Sol' — Application for registration No 6 105 985

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 16 July 2015 in Case R 2755/2014-5