

Form of order sought

— Declare the present action admissible and well founded.

Consequently:

- Annul the Parliament's decision, set out in the letter of 18 December 2015, by which it informed the applicant of the rejection of its tender submitted under public procurement procedure No 06B40/2015/M073 to the Mediterranean food concession in the Altiero Spinelli Building occupied by the European Parliament in Brussels;
- Annul the Parliament's decision, date unknown, to award the Mediterranean food concession in the Altiero Spinelli Building;
- In any event, order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the principle governing the qualitative selection criteria of the minimum thresholds to be applied by the service providers as regards their turnover, the competition principle and the principle of equality of tenderers.
2. Second plea in law, alleging infringement of the requirement to state reasons for the acts of the EU institutions.
3. Third plea in law, alleging infringement of the principles of proportionality, equal treatment in and openness of public procurement, manifest error of assessment, equal treatment of tenderers and free competition between tenderers.

Action brought on 19 February 2016 — Vereniging Gelijkberechtiging Grondbezitters and Others v Commission

(Case T-79/16)

(2016/C 118/48)

Language of the case: Dutch

Parties

Applicants: Vereniging Gelijkberechtiging Grondbezitters (Hoenderloo, Netherlands) and 21 other applicants (represented by: H. Viaene, D. Gillet and T. Ruys, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- declare the action for annulment admissible;
- annul Commission Decision of 2 September 2015 on avoeronderzokkleged illegal State aid in connection with the subsidised acquisition or free granting of nature land (State Aid SA.27301 (2015/NN) — Netherlands) as well as the implicit rejection of the Vereniging Gelijkberechtiging Grondbezitters's complaint;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: infringement of the procedural rights laid down in Article 108(2) TFEU. At the end of the preliminary investigation, the Commission could not, with sufficient certainty, have been capable of assessing the conformity of the subsidy scheme due to the following factors:

- the unusually long duration of the investigation;
- the frequent correspondence between the various relevant parties during the investigation;
- the fact that the subsidy scheme approved by the decision at the time of the investigation was replaced by another subsidy scheme;
- the content of the new subsidy scheme that was approved by the Commission.

2. Second plea in law: infringement of the principle of non-retroactivity and of legal certainty.

The Commission infringed the principles of non-retroactivity and of legal certainty in so far as it applied the framework for State aid ⁽¹⁾ in the form of public service compensation, with effect from 31 January 2012, to a subsidy scheme which had no longer been applied since 2011 and had been replaced by a new subsidy scheme, which was approved by the Commission.

3. Third plea in law: error of law and failure to state reasons in applying the framework.

- The Commission made manifest errors of assessment in applying the requirement of an act of entrustment of services of general economic interest, in particular as regards the length of the entrustment period. Furthermore, the Commission also made manifest errors in assessing the amount of compensation and disregarded the requirement of keeping separate accounts.
- In assessing whether the requirement of an act of entrustment of services of general economic interest had been satisfied, the Commission did not sufficiently address whether the gratuitous transfer of land is an act of entrustment. Furthermore, the Commission also made no assessment of the safeguards for avoiding over-compensation when land is transferred gratuitously.

4. Fourth plea in law: infringement of Article 106(2) TFEU.

- The gratuitous transfers and acquisition subsidies were manifestly unnecessary and unjustified to achieve the targeted objective of nature conservation.
- The fact that the aid provisions were claimed by only thirteen land stewardship organisations is not in the least necessary or justified in enabling the common good of nature conservation.

⁽¹⁾ Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ 2012 L 7, p. 3) and Communication from the Commission — European Union framework for State aid in the form of public service compensation (2011) (OJ 2012, C 8, p. 15).