

2. Second plea in law, alleging a failure of the contracting authority to state reasons, namely the characteristics and relative advantages of the successful tenders, in violation of Article 113(2) of the Financial Regulation, Article 161(3) of the Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation No 966/2012 of the European Parliament and the Council on the financial rules applicable to the general budget of the Union ('Rules of Application of the Financial Regulation'), Article 41 of the Charter of Fundamental Rights of the European Union and Article 296 TFUE.
3. Third plea in law, alleging a violation of the principle of transparency according to Article 102 of the Financial Regulation and Article 15(3) TFUE, as the contracting authority failed to provide information and evidence on whether the samples provided by the tenders for the re-evaluation of the tenders were identical to the samples originally evaluated in the first evaluation procedure that was subsequently cancelled.

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**Action brought on 26 June 2015 — NeXovation v Commission**

(Case T-353/15)

(2015/C 311/55)

*Language of the case: English*

**Parties**

*Applicant:* NeXovation, Inc. (Hendersonville, USA) (represented by: A. von Bergwelt, F. Henkel and M. Nordmann, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- partially annul the decision C(2014) 3634 final of the European Commission of 1 October 2014 (in the form of the corrigendum decision of 13 April 2015) on the State aid SA.31550 implemented by Germany for Nürburgring, in so far as:
- it comes to the decision that the sale of assets of Nürburgring GmbH, Motorsport Resort Nürburgring GmbH and Congress- und Motorsport Hotel Nürburgring GmbH does not constitute State aid as stated in the first bullet point of recital 285 of the contested decision;
- it comes to the decision that the sale of assets of Nürburgring GmbH, Motorsport Resort Nürburgring GmbH and Congress- und Motorsport Hotel Nürburgring GmbH does not lead to economic continuity between Nürburgring GmbH, Motorsport Resort Nürburgring GmbH and Congress- und Motorsport Hotel Nürburgring GmbH and Capricorn NÜRBURGRING Besitzgesellschaft GmbH, the new owner of the assets, or its subsidiaries as stated in the first sentence of the second bullet of recital 285 of the contested decision;
- it thus comes to the decision that any potential recovery of incompatible State aid will not concern Capricorn NÜRBURGRING Besitzgesellschaft GmbH, the buyer of the assets sold following the tender process, or its subsidiaries as stated in Article 3(2) of the operative part of the contested decision, following the second sentence of the second bullet point of recital 285 of the contested decision;
- order the Commission to pay its own costs and those incurred by the Applicant.

### **Pleas in law and main arguments**

The applicant contests the Commission decision of 1 October 2014 (with a corrigendum of 13 April 2015) as it decides that the sale of the assets of the Nürburgring complex does not constitute State aid, that the sale of the assets does not lead to a financial/economic continuity between the sellers and the acquirer of the assets and that any potential recovery of incompatible State aid will not concern the buyer of the assets.

In support of the action, the applicant relies on the following pleas in law:

1. First plea in law, alleging an erroneous application of Article 107(1) TFUE by the Commission as the Commission misunderstood the meaning of an open, transparent and non-discriminatory tender procedure with the sale to the highest bidder and further failed to investigate the State involvement in the sale process appropriately;
2. Second plea in law, alleging an erroneous application of Article 107(1) TFUE by the Commission when it comes to the conclusion that the temporary lease contract of the ring's asset does not lead to State aid and that the sellers did not illegitimately influence the further sale of the assets to a Russian investor;
3. Third plea in law, alleging an erroneous application of the principle of financial/economic continuity by the Commission;
4. Fourth plea in law, alleging a failure to initiate a formal investigation procedure by the Commission;
5. Fifth plea in law, alleging an infringement of the applicant's rights under Article 20(2) of Regulation No 659/1999 by the Commission;
6. Sixth plea in law, alleging an infringement of the principles of an impartial and diligent investigation by the Commission;
7. Seventh plea in law, alleging an erroneous application of Article 296(2) TFUE by the Commission.

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**Appeal brought on 9 July 2015 by CJ against the judgment of the Civil Service Tribunal of 29 April 2015 in joined cases F-159/12 and F-161/12, CJ v ECDC**

**(Case T-370/15 P)**

(2015/C 311/56)

*Language of the case: English*

### **Parties**

*Appellant:* CJ (Agios Stefanos, Greece) (represented by: V. Koliass, lawyer)

*Other party to the proceedings:* European Centre for Disease Prevention and Control (ECDC)

### **Form of order sought by the appellant**

The appellant claims that the Court should:

- set aside the judgment of the European Union Civil Service Tribunal of 29 April 2015 in Joined Cases F-159/12 and F-161/12, *CJ v ECDC*, insofar as it:
  - dismissed the action in Case F-159/12 in part and ordered the appellant to bear his own costs;
  - dismissed the action in Case F-161/12 in whole and ordered the appellant to bear his own costs and pay those incurred by the ECDC;