



C/2024/750

22.1.2024

Action brought on 10 November 2023 — BT GS Belgium v Commission

(Case T-1081/23)

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Language of the case: English

Parties

Applicant: BT Global Services Belgium (Machelen, Belgium) (represented by: V. Dor, A. Lepière and M. Vilain XIII, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decision of the European Commission of unknown date, as published in the *Official Journal of the European Union* on 18 August 2023, announcing the modification of the contract with reference number DIGIT/A3/PN/2019/026 Trans-European Services for Telematics between Administrations — New Generation Extension (TESTA-ng II Ext), without launching a new procurement procedure;
- grant any other relief that the Court considers appropriate in the circumstances;
- and, in any event, order the Commission to pay the applicant's legal costs and other fees and expenses incurred in connection with this application.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law, from which it stems that the Commission erred in law by increasing the maximum value of the contract without launching a new procurement procedure.

1. First plea in law, alleging that the Commission erred in law, in that the conditions to modify the contract according to Article 72(1)(c) of Directive 2014/24/EU ⁽¹⁾ were not met, since the need for a modification has not been brought about by circumstances which a diligent contracting authority could not foresee and the consecutive modifications made to the initial contract were aimed at circumventing the Directive.
2. Second plea in law, alleging that the Commission erred in law, in that the conditions to modify the contract according to Article 172(3)(a) of the Financial Regulation ⁽²⁾ were not met either, since a change of contractor was possible without substantial duplication of costs for the contracting authority if it had acted diligently.
3. Third plea in law, alleging the Commission erred in law in that it was in any case not allowed to increase the maximum value of the framework agreement, in accordance with the fundamental principles of equality and transparency as enshrined in Article 18(1) of Directive 2014/24/EU and the case law of the Court of Justice.

⁽¹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65).

⁽²⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1).