

GENERAL COURT

Judgment of the General Court of 22 May 2012 — EnBW Energie Baden-Württemberg v Commission(Case T-344/08) ⁽¹⁾

(Access to documents — Regulation (EC) No 1049/2001 — Administrative file relating to cartel proceedings — Refusal of access — Exception relating to protection of the purpose of investigations — Exception concerning the protection of the commercial interests of a third party — Exception concerning the protection of the decision-making process — Obligation of the institution concerned to carry out a concrete, individual examination of the content of the documents covered by the request for access)

(2012/C 194/27)

Language of the case: German

Parties

Applicant: EnBW Energie Baden-Württemberg AG (Karlsruhe, Germany) (represented by: A. Bach and A. Hahn, lawyers)

Defendant: European Commission (represented: initially by P. Costa de Oliveira, A. Antoniadis and O. Weber and subsequently by A. Bouquet, P. Costa de Oliveira and A. Antoniadis, Agents)

Interveners in support of the applicant: Kingdom of Sweden (represented by: K. Petkovska, S. Johannesson and A. Falk, acting as Agents)

Intervener in support of the defendant: Siemens AG (Berlin and Munich, Germany) (represented by: I. Brinker, C. Steinle and M. Holm-Hadulla, lawyers); and ABB Ltd (Zurich, Switzerland) (represented: initially by J. Lawrence, Solicitor, and E. Whiteford, Barrister, and subsequently by J. Lawrence and D. Howe, Solicitor)

Re:

Application for annulment of Commission Decision SG.E.3/MV/psi D(2008) 4931 of 16 June 2008 refusing access to the case-file in Case COMP/F/38.899 — Gas insulated switchgear

Operative part of the judgment

The Court:

1. Annuls Commission Decision SG.E.3/MV/psi D(2008) 4931 of 16 June 2008 refusing access to the case-file in Case COMP/F/38.899 — Gas insulated switchgear;
2. Orders the European Commission to bear its own costs and to pay those incurred by EnBW Energie Baden-Württemberg AG;
3. Orders the Kingdom of Sweden, ABB Ltd and Siemens AG to bear their own costs.

⁽¹⁾ OJ C 272, 25.10.2008.

Judgment of the General Court of 22 May 2012 — Sviluppò Globale v Commission(Case T-6/10) ⁽¹⁾

(Public service contracts — Call for tenders — Support for the customs and tax authorities in Kosovo — Rejection of a tenderer's bid — Act not amenable to review — Confirmatory act — Inadmissibility — Access to documents — Regulation (EC) No 1049/2001 — Documents relating to the call for tenders — Partial refusal of access — Exception concerning the protection of the commercial interests of a third party — Inadequate statement of reasons)

(2012/C 194/28)

Language of the case: Italian

Parties

Applicant: Sviluppò Globale GEIE (Rome, Italy) (represented by: F. Sciaudone, R. Sciaudone and A. Neri, lawyers)

Defendant: European Commission (represented by: P. Costa de Oliveira and F. Erlbacher, acting as Agents, and P. Manzini, lawyer)

Re:

Application, first, for annulment of the Commission's decision of 10 November 2009 rejecting the tender submitted by the consortium of which the applicant is a member in call for tenders EuropAid/127843/D/SER/KOS for the provision of support services to the customs and tax authorities in Kosovo (OJ 2009/S 4-003683) and, second, for annulment of the Commission's decision of 26 November 2009 refusing the consortium access to certain documents relating to the call for tenders.

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible in so far as it is directed against the Commission's decision of 10 November 2009 rejecting the tender submitted by the consortium of which the applicant is a member in call for tenders EuropAid/127843/D/SER/KOS for the provision of support services to the customs and tax authorities in Kosovo.
2. Annuls the Commission's decision of 26 November 2009 concerning access to certain documents relating to that call for tenders, in so far as it refuses to grant access, in the disclosed version of the evaluation report, to the scores awarded by the evaluation committee as set out on pages 3 to 5 of that report.
3. Dismisses the action as to the remainder.
4. Dismisses the applicant's application for the instigation of measures of inquiry.