

Pleas in law and main arguments

By means of this application the applicant seeks annulment of the Commission implied decision rejecting the applicant's request, pursuant to Regulation No 1049/2001 ⁽¹⁾, of the access to documents relating to State aid procedures concerning the presumed State aid granted through an agreement with the operator of Tampere-Pirkkala airport. The said decision was followed by the express decision of 31 October 2008. The annulment of the express decision is alternatively sought by the applicant in the present case.

The pleas in law and main arguments relied on by the applicant are identical to those relied on in Case T-494/08 *Ryanair v Commission*.

⁽¹⁾ 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 2001 L 145, p. 43.

Action brought on 7 November 2008 — Ryanair/Commission

(Case T-509/08)

(2009/C 32/85)

Language of the case: English

Parties

Applicant: Ryanair Ltd (Dublin, Ireland) (represented by: E. Vahida, I. Metaxas-Maragkidis, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- declare in accordance with Articles 230 and 231 EC that the Commission's implied decision refusing access to the documents for which access was requested by the applicant in an application dated 20 June 2008 is void and that the Commission's decision of 26 September 2008 refusing access to the same documents is non-existent;
- alternatively, declare in accordance with Articles 230 and 231 EC that the Commission's decision of 26 September 2008 refusing access to the documents for which access was requested by the applicant in an application dated 20 June 2008 is void;
- order the Commission to pay the costs incurred by the applicant in the proceedings; and

— take such further action as the Court may deem appropriate.

Pleas in law and main arguments

By means of this application the applicant seeks annulment of the Commission implied decision rejecting the applicant's request, pursuant to Regulation No 1049/2001 ⁽¹⁾, of the access to documents relating to State aid procedures concerning the presumed State aid granted through an agreement with the operator of Bratislava airport. The said decision was followed by the express decision of 26 September 2008. The annulment of the express decision is alternatively sought by the applicant in the present case.

The pleas in law and main arguments relied on by the applicant are identical to those relied on in Case T-494/08 *Ryanair v Commission*.

⁽¹⁾ 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 2001 L 145, p. 43.

Action brought on 27 November 2008 — Unity OSG FZE/Conseil et EUPOL Afghanistan

(Case T-511/08)

(2009/C 32/86)

Language of the case: English

Parties

Applicant: Unity OSG FZE (Dubai, United Arab Emirates) (represented by: C. Bryant and J. McEwen, lawyers)

Defendants: Council of the European Union and European Union Police Mission in Afghanistan ('EUPOL Afghanistan')

Form of order sought

- Annul the decision of the European Union Police Mission in Afghanistan ('EUPOL Afghanistan') (i) to reject the applicant's tender in relation to the contract for provision of guarding and close protection services in Afghanistan, (ii) to award the contract to another tenderer as communicated to the applicant by letter of 23 November 2008;
- order the defendant to bear the applicant's costs pursuant to Article 87 of the Rules of Procedure of the Court of First Instance.

Pleas in law and main arguments

On 19 December 2007, the applicant entered into a contract with the European Union Police Mission in Afghanistan ⁽¹⁾ ('EUPOL Afghanistan') for the provision of security services. In September 2008, EUPOL Afghanistan issued a public procurement notice concerning the provision of guarding and close protection services which was published ⁽²⁾ on the European Commission's website in relation to the 'EuropeAid' programme and in accordance to the provisions of Title V of Part One of the Financial Regulation 1605/2002 ⁽³⁾ ('the Financial Regulation') and the detailed rules for the implementation of the Financial Regulation contained in Commission Regulation 2342/2002 ⁽⁴⁾.

The applicant seeks the annulment of the decision of EUPOL Afghanistan of 23 November 2008, by which the applicant was informed that its tender had not been successful and that the contract would be awarded to Armor Group, on the basis of the following grounds:

First, the applicant claims that the defendant infringed the principles of equal treatment and non-discrimination provided for in Article 89(1) of the Financial Regulation.

Second, the applicant submits that the conditions applicable to contacts between the contracting authority and tenderers during the procurement process as set out in Article 99 of the Financial Regulation and in Articles 120(2)(d) and 148 of the Implementing Rules have been infringed.

Third, the applicant contends that the requirement to advertise a contract opportunity first in the *Official Journal of the European Union*, before being advertised elsewhere, as set out in Article 121 of the Implementing Rules, was infringed. According to the applicant, this requirement was infringed since the contract was advertised on the EuropeAid website first, rather than in the Official Journal.

Fourth, the applicant submits that the requirement to respect the minimum time-limits under the accelerated restricted procedure laid down in Article 142(1) of the Financial Regulation has been infringed.

Fifth, the applicant claims that the defendant failed to respect the requirement set out in Article 158(a) of the Implementing Rules, for a standstill period between the decision on contract award and signature of the contract. In addition, the applicant puts forward that the defendant failed to provide an adequate statement of reasons, in accordance with Article 253 EC.

⁽¹⁾ Established on 30 May 2007, pursuant to Council Joint Action 2007/369/CFSP (OJ 2007 L 139, p. 33).

⁽²⁾ The notice was published in the supplement to the Official Journal of 7 October 2008, 2008/S 194-255613.

⁽³⁾ OJ 2002 L 248, p. 1.

⁽⁴⁾ OJ 2002 L 357, p. 1.

Action brought on 28 November 2008 — Agatha Ruiz de la Prada de Sentmenat v OHIM — Mary Quant (AGATHA RUIZ DE LA PRADA)

(Case T-522/08)

(2009/C 32/87)

Language in which the application was lodged: Spanish

Parties

Applicant: Agatha Ruiz de la Prada de Sentmenat (Madrid, Spain) (represented by: R. Bercovitz Álvarez, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Mary Quant Ltd (Birmingham, United Kingdom)

Form of order sought

- Paragraphs 1 and 3 of the contested decision be annulled and replaced with a different decision in which registration of Community trade mark No 3.291.234 is granted in respect of all the goods requested in Class 3 of the Classification (including 'soaps; perfumery, essential oils, cosmetics, hair lotions'), and MARY QUANT Cosmetics Japan Ltd. be ordered to pay the costs of the opposition proceedings, and
- the defendant, and any intervening or other party, be ordered to pay the costs of the present proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: Agatha Ruiz de la Prada de Sentmenat.

Community trade mark concerned: Figurative mark representing a pink flower with a yellow centre on a light green background with the wording AGATHA RUIZ DE LA PRADA (application No 3.291.234) for goods in Classes 3, 4, 5, 8, 9, 11, 12, 14, 16, 18, 19, 20, 21, 24, 25, 27 and 28.

Proprietor of the mark or sign cited in the opposition proceedings: MARY QUANT Cosmetics Japan Ltd.

Mark or sign cited in opposition: Figurative mark representing a black flower with a black centre surrounded by a white outline: British trade marks for goods in Classes 9, 14, 16, 18, 20, 21, 24, 25 and 26 and Community trade mark for goods in Classes 9, 14, 16, 18, 20, 24, 25 and 26.

Decision of the Opposition Division: The opposition was rejected.

Decision of the Board of Appeal: The appeal was upheld in part.

Pleas in law: Incorrect application of Article 8(1)(b) of Regulation (EC) No 40/94 on the Community trade mark.